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The Constitution of Zimbabwe

LRF

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THE CONSTITUTION OF ZIMBABWE

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CONSTITUTION OF ZIMBABWE

As amended at the 1st January, 1994

The Constitution of Zimbabwe was published as a Schedule to the Zimbabwe Constitution Order 1979 (S.I. 1979/1600 of the United Kingdom). It has been amended by the following Acts —

<i>Number and year</i>	<i>Short Title</i>	<i>Date of commencement</i>
27 of 1981	Constitution of Zimbabwe Amendment Act, 1981	10.6.81
25 of 1981	Constitution of Zimbabwe Amendment (No. 2) Act, 1981	31.7.81
1 of 1983	Constitution of Zimbabwe Amendment (No. 3) Act, 1983	
	(Sections 14 and 15)	22.4.83
	(Remainder of Act)	1.9.83
4 of 1984	Constitution of Zimbabwe Amendment (No. 4) Act, 1984	27.4.84
4 of 1985	Constitution of Zimbabwe Amendment (No. 5) Act, 1985	5.4.85
15 of 1987	Constitution of Zimbabwe Amendment (No. 6) Act, 1987	21.9.87
23 of 1987	Constitution of Zimbabwe Amendment (No. 7) Act, 1987	
	(Sections 1 and 21)	20.11.87
	(Remainder of Act)	31.12.87
4 of 1989	Constitution of Zimbabwe Amendment (No. 8) Act, 1989	31.3.89
31 of 1989	Constitution of Zimbabwe Amendment (No. 9) Act, 1989	
	(Section 22(b), (d) and (e))	11.5.90
	(Remainder of Act)	27.3.90
15 of 1990	Constitution of Zimbabwe Amendment (No. 10) Act, 1990	3.8.90
30 of 1990	Constitution of Zimbabwe Amendment (No. 11) Act, 1990	17.4.91
4 of 1993	Constitution of Zimbabwe Amendment (No. 12) Act, 1993	
	(Sections 1 to 5 and 12)	1.11.93
9 of 1993	Constitution of Zimbabwe Amendment (No. 13) Act, 1993	5.11.93

The Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980 (S.I. 1980/395 of the United Kingdom) is set out, for information, in the Annexure.

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THE CONSTITUTION OF ZIMBABWE**CHAPTER I****THE REPUBLIC AND THE CONSTITUTION****1. The Republic**

Zimbabwe is a sovereign republic and shall be known as "the Republic of Zimbabwe".

[Section as amended by section 2 of Act 30 of 1990]

2. Public seal

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

[Section as amended by section 3 of Act 30 of 1990]

3. Supreme law

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

CHAPTER II**CITIZENSHIP****4. Citizens of Zimbabwe on Independence**

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

5. Citizenship by birth

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

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

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

(ii) is not a citizen of Zimbabwe;

or

(b) at the time of his birth —

(i) his father is an enemy alien; and

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

or

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

Provided that, if subsequent to his birth his father or mother, as the case may be, is accepted for permanent residence in Zimbabwe under any law in force in Zimbabwe,

he shall be a citizen of Zimbabwe by birth; or

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

- (i) not a citizen of Zimbabwe; and
- (ii) not ordinarily resident in Zimbabwe.

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

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

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

and

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

6. Citizenship by descent

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

- (a) his father or, in the case of an illegitimate child, his mother is at the time of his birth a citizen of Zimbabwe otherwise than by descent; and
- (b) his birth is registered in accordance with the law relating to the registration of births.

7. Citizenship by registration

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

- (a) upon making application at any time during the period of five years from the appointed day in such manner as may be prescribed by or under an Act of Parliament; and
- (b) after satisfying the Minister for the time being responsible for citizenship as to those matters;

to be registered as a citizen of Zimbabwe.

(2) Any woman who —

- (a) is, on the appointed day, married to a person who —
 - (i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or
 - (ii) after the appointed day, becomes a citizen of Zimbabwe while the marriage still subsists;

or

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

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

or

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

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

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

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

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

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

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

- (a) if the father is dead or the mother has been given custody of the child by order of a court or has custody of the child by virtue of the provisions of a law relating to the guardianship of children or the child is illegitimate, the mother of the child;
- (b) in any other case, the father of the child.

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

- (a) of full age if he has attained the age of majority or if, being under that age, he is or has been married; and
- (b) of full capacity if he is not of unsound mind.

8. Dual citizenship

[Section repealed by section 2 of Act 1 of 1983]

9. Powers of Parliament in relation to citizenship

Notwithstanding the provisions of this Chapter, an Act of Parliament may make provision in respect of citizenship and, without prejudice to the generality of the foregoing, may provide for —

- (a) the acquisition of citizenship of Zimbabwe by persons who are not eligible or who are no longer eligible to become citizens of Zimbabwe under this Chapter;
- (b) the circumstances in which a person may cease to be a citizen of Zimbabwe;
- (c) the deprivation of any person of his citizenship of Zimbabwe;
- (d) the renunciation by any person of his citizenship of Zimbabwe;

Provided that no such law shall provide for the cessation by, or deprivation of, any person of his citizenship of Zimbabwe where such person is a citizen thereof by birth except on the grounds that he is or has become a citizen of some other country.

[Section as substituted by section 3 of Act 1 of 1983]

10. Interpretation

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

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

CHAPTER III**THE DECLARATION OF RIGHTS****11. Fundamental rights and freedoms of the individual**

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

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association; and
- (c) protection for the privacy of his home and other property and from the compulsory acquisition of property without compensation;

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

12. Protection of right to life

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

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

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

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

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

13. Protection of right to personal liberty

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

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

- (a) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Zimbabwe or elsewhere, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in execution of the order of Parliament punishing him for a contempt;

[Paragraph as amended by section 26 of Act 31 of 1989]

- (c) in execution of the order of a court made in order to secure the fulfilment of an obligation imposed on him by law;

[Paragraph as amended by section 4 of Act 30 of 1990]

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

[Paragraph as amended by section 26 of Act 31 of 1989
and by section 9 of Act 15 of 1990]

- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;
- (f) in execution of the order of a court or with the consent of his parent or guardian, for the purposes of his education or welfare during a period beginning before he attains the age of twenty-one years and ending not later than the date when he attains the age of twenty-three years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) if he is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care, treatment or rehabilitation or the protection of the community; or
- (i) for the purpose of preventing his unlawful entry into Zimbabwe or for the purpose of effecting his expulsion, extradition or other lawful removal from Zimbabwe or the taking of proceedings relating thereto.

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

(4) Any person who is arrested or detained —

- (a) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court; or
- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;

and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

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

Provided that —

- (a) any judicial officer acting in his judicial capacity reasonably and in good faith; or
- (b) any other public officer, or person assisting such public officer, acting reasonably and in good faith and without culpable ignorance or negligence;

may be protected by law from liability for such compensation.

14. Protection from slavery and forced labour

- (1) No person shall be held in slavery or servitude or required to perform forced labour.
- (2) For the purposes of subsection (1) "forced labour" does not include —
 - (a) any labour required in consequence of the sentence or order of a court;
 - (b) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court —
 - (i) is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained; or
 - (ii) is reasonably required for the purposes referred to in section 13(2)(f) or (h);
 - (c) any labour required of a member of a disciplined force in pursuance of his duties as such or any labour required of any person by virtue of a written law in place of service as a member of such force;
 - (d) any labour required by way of parental discipline; or
 - (e) any labour required by virtue of a written law during a period of public emergency or in the event of any other emergency or disaster that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or disaster, for the purpose of dealing with that situation.

15. Protection from inhuman treatment

- (1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.
- (2) No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of subsection (1) on the ground that it is degrading.
- (3) No moderate corporal punishment inflicted —
 - (a) in appropriate circumstances upon a person under the age of eighteen years by his parent or guardian or by someone *in loco parentis* or in whom are vested any of the powers of his parent or guardian; or
 - (b) in execution of the judgment or order of a court, upon a male person under the age of eighteen years as a penalty for breach of any law;

shall be held to be in contravention of subsection (1) on the ground that it is inhuman or degrading.

[Subsection as inserted by section 5 of Act 30 of 1990]

- (4) The execution of a person who has been sentenced to death by a competent court in respect of a criminal offence of which he has been convicted shall not be held to be in contravention of subsection (1) solely on the ground that the execution is carried out in the manner prescribed in section 315(2) of the Criminal Procedure and Evidence Act [*Chapter 59*] as that section existed on the 1st October, 1990.

[Subsection as inserted by section 5 of Act 30 of 1990]

- (5) Delay in the execution of a sentence of death, imposed upon a person in respect of a

criminal offence of which he has been convicted, shall not be held to be a contravention of subsection (1).

[Subsection as inserted by section 2 of Act 9 of 1993]

(6) A person upon whom any sentence has been imposed by a competent court, whether before, on or after the date of commencement of the Constitution of Zimbabwe Amendment (No. 13) Act, 1993, in respect of a criminal offence of which he has been convicted, shall not be entitled to a stay, alteration or remission of sentence on the ground that, since the sentence was imposed, there has been a contravention of subsection (1).

[Subsection as inserted by section 2 of Act 9 of 1993]

16. Protection from deprivation of property

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

(a) requires —

(i) in the case of land or any interest or right therein, that the acquisition is reasonably necessary for the utilization of that or any other land —

A. for settlement for agricultural or other purposes; or

B. for purposes of land reorganization, forestry, environmental conservation or the utilization of wild life or other natural resources; or

C. for the relocation of persons dispossessed in consequence of the utilization of land for a purpose referred to in subparagraph A or B;

or

(ii) in the case of any property, including land, or any interest or right therein, that the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the utilization of that or any other property for a purpose beneficial to the public generally or to any section of the public;

and

[Paragraph as substituted by section 6 of Act 30 of 1990]

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

[Paragraph as substituted by section 6 of Act 30 of 1990]

(c) subject to the provisions of subsection (2), requires the acquiring authority to pay fair compensation for the acquisition before or within a reasonable time after acquiring the property, interest or right; and

[Paragraph as substituted by section 6 of Act 30 of 1990]

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

[Paragraph as amended by section 9 of Act 15 of 1990]

(e) enables any person whose property has been acquired to apply to the High Court or some other court for the prompt return of the property if the court does not confirm the acquisition, and to appeal to the Supreme Court; and

[Paragraph as substituted by section 3 of Act 9 of 1993]

(f) except where the property concerned is land or any interest or right therein, enables any claimant for compensation to apply to the High Court or some other court for the

determination of any question relating to compensation and to appeal to the Supreme Court.

[Paragraph as inserted by section 3 of Act 9 of 1993]

(2) A law referred to in subsection (1) which provides for the compulsory acquisition of land or any interest or right therein may —

- (a) specify the principles on which, and the manner in which, compensation for the acquisition of the land or interest or right therein is to be determined and paid;
- (b) fix, in accordance with principles referred to in paragraph (a), the amount of compensation payable for the acquisition of the land or interest or right therein;
- (c) fix the period within which compensation shall be paid for the acquisition of the land or interest or right therein;

and so such law shall be called into question by any court on the ground that the compensation provided by that law is not fair.

[Subsection as substituted by section 6 of Act 30 of 1990]

(3) Where any person, by virtue of a law, contract or scheme relating to the payment of pensions benefits, has a right, whether vested or contingent, to the payment of pensions benefits or any commutation thereof or a refund of contributions, with or without interest, payable in terms of such law, contract or scheme, any law which thereafter provides for the extinction of or a diminution in such a right shall be regarded for the purposes of subsection (1) as a law providing for the acquisition of a right in property.

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

- (a) requires the acquiring authority promptly to give reasonable notice of the taking of possession to any person owning or possessing the property;
- (b) enables any such person to notify the acquiring authority in writing that he objects to the taking of possession;
- (c) requires the acquiring authority to apply within thirty days of such notification to the High Court or some other court for a determination of its entitlement to take possession;

[Paragraph as amended by section 13 of Act 25 of 1981]

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

[Paragraph as amended by section 13 of Act 25 of 1981]

(e) requires —

- (i) when possession is no longer reasonably justifiable as referred to in paragraph (d), wherever possible, the prompt return of the property in the condition in which it was at the time of the taking of possession; and
- (ii) the payment within a reasonable time of fair compensation for the taking of possession and, where appropriate, for the failure to return the property in accordance with subparagraph (i) or for any damage to the property;

and

[Subparagraph as amended by section 6 of Act 30 of 1990]

- (f) enables any claimant for compensation to apply to the High Court or some other court for the prompt return of the property and for the determination of any question relating to compensation, and to appeal to the Supreme Court.

[Paragraph as amended by section 13 of Act 25 of 1981]

- (5) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question imposes or authorizes the imposition of restrictions or limitations, to the extent permitted by paragraph 2 of Schedule 6, on the remittability of any commutation of a pension.

[Subsection as inserted by section 3 of Act 9 of 1993]

- (6)

[Subsection repealed by section 6 of Act 30 of 1990]

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

- (a) in satisfaction of any tax or rate;
- (b) by way of penalty for breach of any law, including any law of a foreign country which, by or in terms of an Act of Parliament, is recognised or applied for any purpose in Zimbabwe, whether under civil process or after conviction of an offence, or forfeiture in consequence of a breach of the law or in pursuance of any order referred to in section 13(2)(b);

[Paragraph as amended by section 6 of Act 30 of 1990]

- (c) upon the removal or attempted removal of the property in question out of or into Zimbabwe in contravention of any law;
- (d) as an incident of a contract, including a lease or mortgage, which has been agreed between the parties to the contract, or of a title deed to land fixed at the time of the grant or transfer thereof or at any other time with the consent of the owner of the land;
- (e) in execution of the judgment or order of a court in proceedings for the determination of civil rights or obligations;
- (f) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human, animal or vegetable life or having been constructed or grown on any land in contravention of any law relating to the occupation or use of that land;
- (g) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;
- (h) as a condition in connection with the granting of permission for the utilization of that or other property in any particular manner;
- (i) by way of the taking of a sample for the purposes of a law;
- (j) where the property consists of an animal, upon its being found trespassing or straying;
- (k) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry;
- (l) in the case of land, for so long only as may be necessary for the purpose of the carrying out thereon of —
 - (i) work for the purpose of the conservation of natural resources of any description; or
 - (ii) agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable or lawful excuse refused or failed, to carry out;
- (m) in consequence of any law requiring copies of any book or other publication published in Zimbabwe to be lodged with the National Archives or a public library;

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

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

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

- (a) for the purpose of the administration, care or custody of any property of a deceased person or a person who is unable, by reason of any incapacity, to administer it himself, on behalf and for the benefit of the person entitled to the beneficial interest therein;
- (b) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or any organization which is, in the interests of defence, public safety or public order, proscribed or declared by a written law to be an unlawful organisation;
- (c) by way of the administration of moneys payable or owing to a person outside Zimbabwe or to the government of some other country where restrictions have been placed by law on the transfer of such moneys outside Zimbabwe;
- (d) as an incident of —
 - (i) a composition in insolvency accepted or agreed to by a majority in number of creditors who have proved claims and by a number of creditors whose proved claims represent in value more than fifty *per centum* of the total value of proved claims; or
 - (ii) a deed of assignment entered into by a debtor with his creditors;
- (e) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class thereof.

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

- (a) the orderly marketing of any agricultural produce or mineral or any article or thing prepared for market or manufactured therefor in the common interests of the various persons otherwise entitled to dispose of that property or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of lessees or other persons having rights in or over such property; or
- (b) the taking of possession or acquisition in the public interest of any property or any interest or right therein where that property, interest or right is held by body corporate established directly by law for a public purpose in which no moneys have been invested other than moneys provided from public funds.

(9a) Nothing in this section shall affect the making or operation of any Act of Parliament in so far as it provides for the extinction of any debt or other obligation gratuitously assumed by the State or any other person.

[Subsection as inserted by section 6 of Act 30 of 1990]

(10) In this section —

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

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

"land" includes anything permanently attached to or growing on land;

[Definition as inserted by section 6 of Act 30 of 1990]

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

- (a) which is payable from the Consolidated Revenue Fund to any person;
- (b) for any person in respect of his service with an employer or for any spouse, child or dependant of such person in respect of such service;
- (c) for any person in respect of his ill-health or injury arising out of and in the course of his employment or for any spouse, child or dependant of such person upon the death of such person from such ill-health or injury; or
- (d) for any person upon his retirement on account of age or ill-health or other termination of service;

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

17. Protection from arbitrary search or entry

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

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

- (a) in the interests of defence, public safety, public order, public morality, public health or town and country planning;
- (b) without derogation from the generality of the provisions of paragraph (a), for the enforcement of the law in circumstances where there are reasonable grounds for believing that the search or entry is necessary for the prevention, investigation or detection of a criminal offence, for the seizure of any property which is the subject-matter of a criminal offence or evidence relating to a criminal offence, for the lawful arrest of a person or for the enforcement of any tax or rate;
- (c) for the purposes of a law which provides for the taking of possession or acquisition of any property or interest or right therein and which is not in contravention of section 16;
- (d) for the purpose of protecting the rights and freedoms of other persons;
- (e) that authorizes any local authority or any body corporate established directly by or under an Act of Parliament for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax or rate or in order to carry out work connected with any property of that authority or body which is lawfully on those premises; or
- (f) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order;

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

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

18. Provisions to secure protection of law

(1) Subject to the provisions of this Constitution, every person is entitled to the protection of the law.

[Subsection as amended by section 3 of Act 4 of 1993]

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

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

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself in person or, save in proceedings before a local court, at his own expense by a legal representative of his own choice;
- (e) shall be afforded facilities to examine in person or, save in proceedings before a local court, by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge;

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

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

(5) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(6) No person who shows that he has been tried by a competent court for a criminal offence upon a good indictment, summons or charge upon which a valid judgment could be entered and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save —

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

[Paragraph as amended by section 9 of Act 15 of 1990]

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

[Paragraph as amended by section 3 of Act 4 of 1993]

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

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

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

[Subsection as amended by section 3 of Act 4 of 1993]

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

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

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

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

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

or

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

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

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

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

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

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

(d) subsection (6) to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the appropriate disciplinary law, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law; or

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

(14) In the case of a person who is held in lawful detention, the provisions of subsection (2) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention, save that the case of such person shall be afforded a fair

hearing within a reasonable time, and the person or authority conducting the trial shall be regarded as a court for the purposes of this section.

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

- (a) the fact that a member of the court has an interest in the proceedings because of his position in the tribal society; or
- (b) the traditional or customary tribal practices and procedures.

19. Protection of freedom of conscience

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

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

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

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

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

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purposes of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief; or
- (c) with respect to standards or qualifications to be required in relation to places of education, including any instruction not being religious instruction, given at such places;

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

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

20. Protection of freedom of expression

(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

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

- (a) in the interests of defence, public safety, public order, the economic interests of the State, public morality or public health;
- (b) for the purpose of —
 - (i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;

- (ii) preventing the disclosure of information received in confidence;
- (iii) maintaining the authority and independence of the courts or tribunals or Parliament;

[Subparagraph as amended by section 26 of Act 31 of 1989]

- (iv) regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields;
- (v) in the case of correspondence, preventing the unlawful dispatch therewith of other matter;

or

- (c) that imposes restrictions upon public officers;

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

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

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

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

- (b) for regulating such schools in the interests of persons receiving instruction therein;

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

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

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

21. Protection of freedom of assembly and association

(1) Except with his own consent or by way of parental discipline, no person shall be hindered in his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or trade unions or other associations for the protection of his interests.

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

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

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

- (b) for the purpose of protecting the rights or freedom of other persons;

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

- (d) that imposes restrictions upon public officers;

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

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

22. Protection of freedom of movement

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

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

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

- (a) for the imposition of restrictions on the freedom of movement of persons generally or any class of persons that are required in the interests of defence, public safety, public order, public morality or public health;
- (b) for the imposition of restrictions on the acquisition or use of land or other property in Zimbabwe;
- (c) for the imposition of restrictions by order of a court on the movement or residence within Zimbabwe of any person or on any person's right to leave Zimbabwe —
 - (i) in consequence of his having been found guilty of a criminal offence under the law of Zimbabwe or for the purpose of ensuring that he appears before a court for trial for such a criminal offence or for proceedings preliminary to trial;
 - (ii) for proceedings relating to his extradition or lawful removal from Zimbabwe; or
 - (iii) for the purpose of ensuring that he appears before a court as a witness for the purposes of any criminal proceedings;
- (d) for the imposition of restrictions on the movement or residence within Zimbabwe of persons who are neither citizens of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe or for excluding or expelling from Zimbabwe any person who is not a citizen of Zimbabwe;
- (e) for the imposition of restrictions by order of a court on the right of any person to leave Zimbabwe that are required for the purpose of ensuring that he appears before a court or other adjudicating authority as a party or a witness or to secure the jurisdiction of the court or other adjudicating authority for the purposes of any civil proceedings; or
- (f) for the imposition of restrictions on the residence within Communal Land of persons who are not tribespeople to the extent that such restrictions are reasonably required for the protection of the interests of tribespeople or their well-being;

[Paragraph as amended by section 23 of Act 23 of 1987]

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

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

23. Protection from discrimination on the grounds of race, etc.

(1) Subject to the provisions of this section —

- (a) no law shall make any provision that is discriminatory either of itself or in its effect; and
- (b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) For the purposes of subsection (1), a law shall be regarded as making a provision that is discriminatory and a person shall be regarded as having been treated in a discriminatory

manner if, as a result of that law or treatment, persons of a particular description by race, tribe, place of origin, political opinions, colour or creed are prejudiced —

- (a) by being subjected to a condition, restriction or disability to which other persons of another such description are not made subject; or
- (b) by the according to persons of another such description of a privilege or advantage which is not accorded to persons of the first-mentioned description;

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

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

- (a) adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (b) the application of African customary law in any case involving Africans or an African and one or more persons who are not Africans where such persons have consented to the application of African customary law in that case;
- (c) restrictions on entry into or employment in Zimbabwe or on the enjoyment of services provided out of public funds in the case of persons who are neither citizens of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe;
- (d) qualifications, not being qualifications specifically relating to race, tribe, place of origin, political opinions, colour or creed, for service as a public officer or as a member of a disciplined force or for service with any public authority or any body corporate established directly by or under an Act of Parliament for a public purpose;
- (e) the appropriation of public revenues or other public funds; or
- (f) the according to tribespeople to the exclusion of other persons of rights or privileges relating to Communal Land.

[Paragraph as amended by section 20 of Act 23 of 1987]

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

- (a) anything that is expressly or by necessary implication authorized to be done by section 75(2), 94(2) or 98(2), or by any provision of a law that is referred to in subsection (3); or
- (b) the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court vested in any person by or under this Constitution or any other law.

24. Enforcement of protective provisions

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

[Subsection as amended by section 9 of Act 15 of 1990]

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

[Subsection as amended by section 9 of Act 15 of 1990]

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

[Subsection as amended by section 13 of Act 25 of 1981]

(4) The Supreme Court shall have original jurisdiction —

- (a) to hear and determine any application made by any person pursuant to subsection (1) or to determine without a hearing any such application which, in its opinion, is merely frivolous or vexatious; and
- (b) to determine any question arising in the case of any person which is referred to it pursuant to subsection (2);

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

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

[Subsection as amended by section 20 of Act 23 of 1987
and by section 9 of Act 15 of 1990]

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

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

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

[Subsection as amended by section 9 of Act 15 of 1990]

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

- (a) of the Supreme Court in relation to the jurisdiction and powers conferred upon it by or under this section; and
- (b) of subordinate courts in relation to references to the Supreme Court under subsection (2);

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

[Subsection as amended by section 13 of Act 25 of 1981]

25. Savings in the event of public emergencies

Notwithstanding the foregoing provisions of this Chapter, an Act of Parliament may in accordance with Schedule 2 derogate from certain provisions of the Declaration of Rights in respect of a period of public emergency or a period when a resolution under section 31J(6) is in effect.

[Section as amended by section 20 of Act 23 of 1987]

26. Interpretation and other savings

(1) In this Chapter, unless the context otherwise requires -

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

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

“legal representative” means a legal practitioner who is lawfully in Zimbabwe;

[Definition as substituted by section 20 of Act 23 of 1987]

“parental discipline” includes school or other quasi-parental discipline.

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

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

(b)

[Paragraph repealed by section 20 of Act 23 of 1987]

(c)

[Paragraph repealed by section 20 of Act 23 of 1987]

(d)

[Paragraph repealed by section 20 of Act 23 of 1987]

(3)

[Subsection repealed by section 20 of Act 23 of 1987]

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

(a)

[Paragraph repealed by section 20 of Act 23 of 1987]

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

[Subsection as amended by section 20 of Act 23 of 1987]

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

(6) In relation to any person who is a member of a disciplined force that is not a disciplined force of Zimbabwe and who is present in Zimbabwe under arrangements made between the Government and the government of some other country or an international organization,

nothing contained in or done under the authority of the disciplinary law of that force shall be held to be in contravention of the Declaration of Rights.

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

CHAPTER IV

THE EXECUTIVE

PART 1

THE PRESIDENT

27. The President

- (1) There shall be a President who shall be Head of State and Head of Government and Commander-in-Chief of the Defence Forces.
- (2) The President shall take precedence over all other persons in Zimbabwe.

28. Qualifications and election of President

- (1) A person shall be qualified for election as President if —
 - (a) he is a citizen of Zimbabwe by birth or by descent; and
 - (b) he has attained the age of forty years; and
 - (c) he is ordinarily resident in Zimbabwe.
- (2) The President shall be elected by voters registered on the common roll.

[Subsection as amended by section 2 of Act 15 of 1990]
- (3) An election of the office of President shall take place within ninety days —
 - (a) before the term of office of the President expires in terms of section 29; or
 - (b) after the office of President becomes vacant by reason of his death or his resignation or removal from office in terms of this Constitution;as the case may be.
- (4) The procedure for the nomination of candidates for election in terms of subsection (2) and the election of the President shall be as prescribed in the Electoral Law.

[Subsection as amended by section 2 of Act 15 of 1990]

- (5) A person elected as President shall assume office —
 - (a) where he has been elected in accordance with paragraph (a) of subsection (3), on the expiry of the term of office of the previous President;
 - (b) where he has been elected in accordance with paragraph (b) of subsection (3), on the day upon which he is declared to be elected.

[Subsection as amended by section 2 of Act 15 of 1990]

- (6) Before entering upon his office, a person elected as President shall take and subscribe before the Chief Justice or other judge of the Supreme Court or the High Court the oaths of loyalty and office in the forms set out in Schedule 1.

29. Tenure of office of President

(1) The term of office of the President shall be a period of six years:

Provided that —

(i) the President shall continue in office until the person elected as President at the next election of President assumes office;

(ii)

[Paragraph repealed by section 9 of Act 15 of 1990]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(3) The President shall cease to hold office if a report prepared by a committee of Parliament, appointed by the Speaker upon the request of not fewer than one-third of the members of Parliament, has recommended the removal of the President on the ground —

(a) that he has acted in wilful violation of this Constitution; or

(b) that he is incapable of performing the functions of his office by reason of physical or mental incapacity; or

(c) of gross misconduct;

and the members of Parliament have resolved by the affirmative votes of not less than two-thirds of their total number that the President should be removed from office.

[Subsection as amended by section 26 of Act 31 of 1989]

30. Presidential immunity

(1) The President shall not, while in office, be personally liable to any civil or criminal proceedings whatsoever in any court.

(2) Without prejudice to the provisions of subsection (1), it shall be lawful to institute civil or criminal proceedings against a person after he has ceased to be President, in respect of —

(a) things done or omitted to be done by him before he became President; or

(b) things done or omitted to be done by him in his personal capacity during his term of office as President;

and, notwithstanding any provision contained in any law relating to prescription or to the limitation of actions, the running of prescription in relation to any debt or liability of the President, whether incurred or accrued before or during his term of office, shall be suspended during his term of office as President.

31. Acting President

(1) Whenever the office of President is vacant or the President is absent from Zimbabwe or is unable to perform the functions of his office by reason of illness or any other cause, his functions shall be assumed and performed —

(a) where there is only one Vice-President, by that Vice-President; or

(b) where there are two Vice-Presidents —

(i) by the Vice-President whom the President has designated for such an eventuality; or

(ii) by the Vice-President who last acted as President in terms of this section, where neither Vice-President has been designated for such an eventuality in terms of subparagraph (i); or

(c) during the absence or incapacity of the Vice-President or of both Vice-Presidents, as the case may be, by such Minister as may be designated for such an eventuality —

- (i) by the President; or
- (ii) by the Cabinet, where no Minister has been designated by the President in terms of subparagraph (i).

[Subsection as substituted by section 3 of Act 15 of 1990]

(2) Except in accordance with a resolution passed by a majority of the whole membership of the Cabinet, a person performing the functions of the office of President in terms of subsection (1) shall not exercise the power of the President —

- (a) to declare war or to make peace; or
- (b) to enter into any international convention, treaty or agreement; or
- (c) subject to the provisions of section 51, to dissolve or prorogue Parliament; or
- (d) to appoint or revoke the appointment of a Vice-President, Minister or Deputy Minister; or

[Paragraph as amended by section 9 of Act 15 of 1990]

- (e) to assign or reassign functions to a Vice-President, Minister or Deputy Minister, including the administration of any Act of Parliament or of any Ministry or department, or to cancel any such assignment of functions.

[Paragraph as amended by section 9 of Act 15 of 1990]

31A. Remuneration of President

- (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President and any Acting President such salary, allowances, pension and other benefits as may from time to time be prescribed by or under an Act of Parliament.
- (2) The salary, allowances and other benefits payable to the President or an Acting President shall not be reduced during the period he holds the office of President.

31B. President and former Presidents not to hold other offices

- (1) While he continues in office as President, the President shall not directly or indirectly hold any other public office or any paid office in the employment of any person.
- (2) After ceasing to be President, a person shall not directly or indirectly hold any public office or any paid office in the employment of any person while he is receiving a pension from the State in respect of his former office of President.

PART 2

VICE-PRESIDENTS, MINISTERS AND CABINET

31C. Vice-Presidents

- (1) There shall be not more than two Vice-Presidents of Zimbabwe, who shall be appointed by the President.

[Subsection as substituted by section 4 of Act 15 of 1990]

- (2) The Vice-President or Vice-Presidents, as the case may be, shall assist the President in the discharge of his executive functions, and shall perform such other functions, including the administration of any Act of Parliament or of any Ministry or department, as the President may assign to him or them, as the case may be.

[Subsection as substituted by section 4 of Act 15 of 1990]

- (3) A Vice-President shall, before entering upon his office, take and subscribe before the President or some other person authorized by the President in that behalf the oaths of loyalty and office in the forms set out in Schedule 1.

[Subsection as amended by section 9 of Act 15 of 1990]

(4) During his tenure of office, a Vice-President shall not directly or indirectly hold any other public office or any paid office in the employment of any person.

[Subsection as amended by section 9 of Act 15 of 1990]

(5) Whenever a Vice-President is absent from Zimbabwe, or is unable to perform the functions of his office by reason of illness or any other cause, the President may appoint a Minister to assume and perform those functions, and any Minister so appointed may discharge those functions accordingly.

[Subsection as amended by section 9 of Act 15 of 1990]

(6) A Minister appointed in terms of subsection (5) shall cease to perform the functions of the office of Vice-President —

- (a) if the appointment is revoked by the President; or
- (b) if he ceases to hold the office of Minister; or
- (c) upon the assumption of office of a new President.

31D. Ministers and Deputy Ministers

(1) The President —

- (a) shall appoint Ministers and may assign functions to such Ministers, including the administration of any Act of Parliament or of any Ministry or department; and
- (b) may appoint Deputy Ministers of any Ministry or department or of such other description as the President may determine, and may authorize any Deputy Minister to exercise or perform on behalf of a Minister any of the functions entrusted to such Minister.

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

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

(4) During his tenure of office, no Minister or Deputy Minister shall directly or indirectly hold any other public office or any paid office in the employment of any person.

31E. Tenure of office of Vice-Presidents, Ministers and Deputy Ministers

(1) The office of a Vice-President, Minister or Deputy Minister shall become vacant —

- (a) if the President removes him from office; or
- (b) if he resigns his office by notice in writing addressed and delivered to the President;
or
- (c) upon the assumption of office of a new President.

[Subsection as amended by section 9 of Act 15 of 1990]

(2) No person shall hold office as Vice-President, Minister or Deputy Minister for longer than three months unless he is a member of Parliament:

Provided that if during that period Parliament is dissolved, he may continue to hold such office without being a member of Parliament until Parliament first meets after the dissolution.

[Subsection as substituted by section 2 of Act 31 of 1989]

(3) A person who has held office as Vice-President, Minister or Deputy Minister without also being a member of Parliament shall not be eligible for reappointment to that office before Parliament is next dissolved unless in the meantime he has become a member of Parliament.

[Subsection as substituted by section 2 of Act 31 of 1989]

31F. Vote of no confidence in Government

(1) Parliament may, by resolution supported by the votes of not less than two-thirds of all its members, pass a vote of no confidence in the Government.

[Subsection as substituted by section 3 of Act 31 of 1989]

(2) A motion for the resolution referred to in subsection (1) shall not be moved in Parliament unless —

- (a) not less than seven days' notice of the motion has been given to the Speaker; and
- (b) the notice of the motion has been signed by not less than one-third of all the members of Parliament;

and shall be debated in Parliament within twenty-one days after the receipt by the Speaker of the notice of the motion.

[Subsection as amended by section 26 of Act 31 of 1989]

(3) Where a vote of no confidence in the Government is passed by Parliament in terms of this section, the President shall within fourteen days do one of the following —

- (a) dissolve Parliament; or
- (b) remove every Vice-President, Minister and Deputy Minister from his office unless he has earlier resigned in consequence of the resolution; or
- (c) himself resign his office.

[Subsection as amended by section 26 of Act 31 of 1989
and by section 9 of Act 15 of 1990]

31G. Cabinet

(1) There shall be a cabinet consisting, subject to the provisions of section 76(3b), of the President, the Vice-President or Vice-Presidents, as the case may be, and such Ministers as the President may from time to time appoint.

[Subsection as amended by section 4 of Act 4 of 1989
and by section 9 of Act 15 of 1990]

(2) A Minister who is a member of the Cabinet shall hold office as a member of the Cabinet during the pleasure of the President:

Provided that —

- (i) he shall cease to hold office as a member of the Cabinet if he ceases to be a Minister;
- (ii) he may at any time, by notice in writing addressed and delivered to the President, resign his office as a member of the Cabinet.

(3) Every Minister who becomes a member of the Cabinet shall, before entering upon his office, take and subscribe before the President or some other person authorised by the President in that behalf, the oath of a member of the Cabinet in the form set out in Schedule 1.

[Subsection as amended by section 4 of Act 4 of 1989]

PART 3**EXECUTIVE FUNCTIONS****31H. Executive functions of President**

(1) The executive authority of Zimbabwe shall vest in the President and, subject to the provisions of this Constitution, may be exercised by him directly or through the Cabinet, a Vice-President, a Minister or a Deputy Minister.

[Subsection as amended by section 9 of Act 15 of 1990]

(2) It shall be the duty of the President to uphold this Constitution and ensure that the provisions of this Constitution and of all other laws in force in Zimbabwe are faithfully executed.

(3) The President shall have such powers as are conferred upon him by this Constitution or by or under any Act of Parliament or other law or convention and, subject to any provision made by Parliament, shall, as Head of State, in addition have such prerogative powers as were exercisable before the appointed day.

(4) Without prejudice to the generality of subsection (3), the President shall have power, subject to the provisions of this Constitution —

- (a) to appoint, accredit, receive and recognize diplomatic agents and consular officers; and
- (b) to enter into international conventions, treaties and agreements; and
- (c) to proclaim and to terminate martial law; and
- (d) to declare war and to make peace; and
- (e) to confer honours and precedence.

(5) In the exercise of his functions the President shall act on the advice of the Cabinet, except in cases where he is required by this Constitution or any other law to act on the advice of any other person or authority:

Provided that the President shall not be obliged to act on the advice of the Cabinet with respect to —

- (a) the dissolution or prorogation of Parliament; or
- (b) the appointment or removal of a Vice-President or any Minister or Deputy Minister; or

[Paragraph as amended by section 9 of Act 15 of 1990]

- (b1) subject to the provisions of an Act of Parliament such as is referred to in section 111A, the appointment or removal of a Provincial Governor in terms of such Act; or

[Paragraph as inserted by section 5 of Act 4 of 1989
and as amended by section 9 of Act 15 of 1990]

- (c) the assignment or reassignment of functions to a Vice-President or any Minister or Deputy Minister or with respect to the cancellation of any such assignment or reassignment of functions; or

[Paragraph as amended by section 9 of Act 15 of 1990]

- (c1) the designation of a Vice-President or Minister in terms of section 31(1); or

[Paragraph as inserted by section 5 of Act 15 of 1990]

- (c2) the appointment of members of Parliament in terms of section 38(1)(d); or

[Paragraph as inserted by section 5 of Act 15 of 1990]

- (d) the appointment of any person to an office or post in terms of this Constitution or any other law, or the removal of any person from such an office or post, where the President is required by this Constitution or by the law concerned, as the case may be, to consult any other person or authority before making the appointment or effecting the removal.

(6) Nothing in this section shall prevent Parliament from conferring or imposing functions on persons or authorities other than the President.

31L Prerogative of mercy

(1) The President may, subject to such lawful conditions as he may think fit to impose —

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

- (b) grant a respite, either indefinite or for a specified period, from the execution of any sentence for such an offence; or
 - (c) substitute a less severe punishment for that imposed by any sentence for such an offence; or
 - (d) suspend for a specified period or remit the whole or part of any sentence for such an offence or any penalty of forfeiture otherwise imposed on account of such an offence.
- (2) Where a person resident in Zimbabwe has been convicted in another country of a criminal offence against a law in force in that country, the President may declare that that conviction shall not be regarded as a conviction for the purposes of this Constitution or any other law in force in Zimbabwe.

31J. Public emergencies

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

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

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

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

- (a) is not approved by resolution under subsection (2), the President shall forthwith, after Parliament has considered the resolution and failed to approve it or, if Parliament has not considered the resolution, on the expiration of the appropriate period specified in subsection (2), by proclamation in the *Gazette*, revoke the declaration;
- (b) is approved by resolution under subsection (2), the declaration shall, subject to the provisions of subsection (4), continue in effect for a period of six months beginning with the day of publication of the proclamation in the *Gazette*:

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

- (5) Notwithstanding any other provision of this section, Parliament may at any time —

- (a) resolve that a declaration under subsection (1) should be revoked; or
- (b) whether in passing a resolution under subsection (2) or (4) or subsequently, resolve that a declaration under subsection (1) should relate to such lesser area as Parliament may specify;

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

[Subsection as amended by section 26 of Act 31 of 1989]

(6) Without prejudice to the provisions of subsections (1) to (5), Parliament may at any time resolve in relation to the whole of Zimbabwe or any part thereof that a situation exists which —

- (a) if allowed to continue, may lead to a state of public emergency; and
- (b) may require the preventive detention of persons in the interests of defence, public safety or public order.

[Subsection as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(8) Parliament may continue a resolution under subsection (6) for a further period, not exceeding one year.

[Subsection as amended by section 9 of Act 15 of 1990]

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

- (a) that a resolution under subsection (6) shall cease to have effect; or
- (b) that a resolution under subsection (6) shall relate to such lesser area as Parliament may specify.

[Subsection as amended by section 26 of Act 31 of 1989]

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

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(13)

[Subsection repealed by section 4 of Act 4 of 1993]

31K. Extent to which exercise of President's functions justiciable

(1) Where the President is required or permitted by this Constitution or any other law to act on his own deliberate judgement, a court shall not, in any case, inquire into any of the following questions or matters —

- (a) whether any advice or recommendation was tendered to the President or acted on by him; or
- (b) whether any consultation took place in connection with the performance of the act; or
- (c) the nature of any advice or recommendation tendered to the President; or
- (d) the manner in which the President has exercised his discretion.

(2) Where the President is required or permitted by this Constitution or any other law to act on the advice or recommendation of or after consultation with any person or authority, a court

shall not, in any case, inquire into either of the following questions or matters —

- (a) the nature of any advice or recommendation tendered to the President; or
- (b) the manner in which the President has exercised his discretion.

[Chapter as substituted by section 2 of Act 23 of 1987]

CHAPTER V

PARLIAMENT

PART 1

PARLIAMENT

32. Legislative authority

- (1) The legislative authority of Zimbabwe shall vest in the Legislature which shall consist of the President and Parliament.
- (2) The provisions of subsection (1) shall not be construed as preventing the Legislature from conferring legislative functions on any person or authority.

[Subsection as inserted by section 5 of Act 4 of 1993]

[Section as substituted by section 4 of Act 31 of 1989]

PART 2

THE SENATE

[Part repealed by section 5 of Act 31 of 1989]

PART 3

COMPOSITION OF PARLIAMENT, SPEAKER AND DEPUTY SPEAKER AND PARLIAMENTARY LEGAL COMMITTEE

38. Composition of Parliament

- (1) There shall be a Parliament which, subject to the provisions of section 76(3b), shall consist of one hundred and fifty members qualified in accordance with Schedule 3 for election or appointment to Parliament, of whom —
 - (a) one hundred and twenty shall be elected by voters registered on the common roll for one hundred and twenty common roll constituencies; and
 - (b) eight shall be Provincial Governors, appointed by the President as members of Parliament *ex officio*; and
 - (c) ten shall be chiefs elected in accordance with the Electoral Law; and
 - (d) twelve shall be appointed by the President.
- (2) The procedure for the nomination of candidates for election under subsection (1), the election of members of Parliament and the filling of vacancies among elected members of Parliament shall be as prescribed in the Electoral Law.

[Section as substituted by section 6 of Act 31 of 1989]

39. Election of Speaker and Deputy Speaker

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

[Subsection as amended by section 26 of Act 31 of 1989]

(2) The Speaker shall be elected in accordance with Standing Orders from among persons who are or have been members of Parliament and who are not members of the Cabinet, Ministers or Deputy Ministers:

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

[Subsection as amended by section 20 of Act 23 of 1987
and by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 20 of Act 23 of 1987, by section 26
of Act 31 of 1989 and by section 9 of Act 15 of 1990]

40. Tenure of office of Speaker and Deputy Speaker

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

[Subsection as amended by section 26 of Act 31 of 1989]

(2) The Speaker shall vacate his office —

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

(b) if he becomes a Vice-President, a Minister or Deputy Minister;

[Paragraph as amended by section 20 of Act 31 of 1989
and by section 9 of Act 15 of 1990]

(c) if he becomes a member of Parliament;

[Paragraph as substituted by section 7 of Act 31 of 1989]

(d) if any circumstance arises that, if he had been a member of Parliament —

(i) the provisions of section 41(j), (k), (n), (o), (p) or (q) would apply to him and his seat as a member would become vacant; or

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

or

[Paragraph as amended by section 26 of Act 31 of 1989
and by section 9 of Act 15 of 1990]

(e) if he accepts office as a Provincial Governor; or

[Paragraph as inserted by section 3 of Act 4 of 1985
and as amended by section 26 of Act 31 of 1989]

- (f) if he was a Provincial Governor at the time he was elected Speaker and he fails to terminate his appointment as such within fourteen days of being elected Speaker.

[Paragraph as inserted by section 3 of Act 4 of 1985
and as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

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

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

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

- (a) he ceases to be a member of Parliament;

[Paragraph as amended by section 26 of Act 31 of 1989]

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

[Paragraph as amended by section 26 of Act 31 of 1989]

- (c) he becomes a Vice-President, a Minister or Deputy Minister; or

[Paragraph as amended by section 20 of Act 23 of 1987
and by section 9 of Act 15 of 1990]

- (d) he accepts office as a Provincial Governor; or

[Paragraph as inserted by section 3 of Act 4 of 1985
and as amended by section 26 of Act 31 of 1989]

- (e) he was a Provincial Governor at the time he was elected Deputy Speaker and he fails to terminate his appointment as such within fourteen days of being elected Deputy Speaker.

[Paragraph as inserted by section 3 of Act 4 of 1985
and as amended by section 26 of Act 31 of 1989]

40A. Parliamentary Legal Committee

- (1) As soon as practicable the Committee on Standing Rules and Orders shall appoint a committee to be known as the Parliamentary Legal Committee.

- (2) The Parliamentary Legal Committee shall consist of such number of members of Parliament, other than members of the Cabinet or Ministers, being not less than three, as the Committee on Standing Rules and Orders may from time to time determine, the majority of whom shall be legally qualified as provided in subsection (3).

[Subsection as amended by section 9 of Act 15 of 1990]

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

- (a) has been a judge of the Supreme Court or the High Court; or
(b) is and has been for not less than five years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe; or
(c) has been a magistrate in Zimbabwe for not less than five years; or

- (d) possesses such legal qualifications and has such legal experience as the Committee on Standing Rules and Orders considers suitable and adequate for his appointment to the Parliamentary Legal Committee.

(4) In computing, for the purposes of subsection (3)(b), the period during which any person has been qualified to practise as a legal practitioner, any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

[Section as inserted by section 8 of Act 31 of 1989]

40B. Functions of Parliamentary Legal Committee

(1) The Parliamentary Legal Committee shall examine —

- (a) every Bill, other than a Constitutional Bill, which has been introduced into Parliament; and
- (b) every Bill, other than a Constitutional Bill, which is amended after its examination by the Committee, before the Bill is given its final reading in Parliament;
- (c) every draft Bill transmitted by a Minister to the Secretary to Parliament for reference to the Committee; and
- (d) every statutory instrument published in the *Gazette*; and
- (e) every draft statutory instrument transmitted by the authority empowered to make it to the Secretary to Parliament for reference to the Committee;

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

(2) The Parliamentary Legal Committee —

- (a) may, in examining any statutory instrument or draft statutory instrument in terms of subsection (1), report to Parliament or to the Minister or authority concerned, as the case may be, whether in its opinion any provision of the statutory instrument or draft statutory instrument would, if enacted, be or, as the case may be, is *ultra vires* the enabling Act;
- (b) shall perform such other functions as may be prescribed by or under an Act of Parliament or in Standing Orders.

(3) Standing Orders shall make provision for matters relating to the Parliamentary Legal Committee.

(4) The provisions of paragraphs 2 and 3 of Schedule 4 shall apply in respect of the reports of the Parliamentary Legal Committee on Bills and statutory instruments.

[Section as inserted by section 8 of Act 31 of 1989]

PART 4

GENERAL MATTERS RELATING TO PARLIAMENT

41. Tenure of seats of members

(1) Subject to the provisions of this section, the seat of a member of Parliament shall become vacant only —

- (a) on his death;
- (b) on the dissolution of Parliament next following his election or appointment;
- (c) if he resigns his seat by notice, in writing, to the Speaker or to the Secretary to Parliament;

- (d) if he is absent from twenty-one consecutive sittings during any session without the leave of Parliament and Parliament has resolved, by the affirmative votes of more than one-half of its total membership, that the seat shall become vacant;
- (e) if, being a member referred to in section 38(1)(a) and having ceased to be a member of the political party of which he was a member at the date of his election to Parliament, the political party concerned, by written notice to the Speaker, declares that he has ceased to represent its interests in Parliament;
- (f) if he becomes President;
- (g) if he becomes Speaker;
- (h) if, being a member referred to in section 38(1)(a), he accepts office as Provincial Governor;
- (i) if, being a member referred to in section 38(1)(b), he ceases to hold office as Provincial Governor;
- (j) if he accepts any public office or office as a member of a statutory body or local authority or employment as an employee of a statutory body or local authority;
- (k) if, being a public officer or a member or employee of a statutory body or local authority at the time he became a member of Parliament, he fails to terminate his appointment or employment as such within fourteen days of the date he became a member of Parliament;
- (l) in the circumstances set out in section 42;
- (m) if he is required, by virtue of the provisions of section 43, to vacate his seat;
- (n) if he is found or declared in accordance with any Act relating to mental health to be mentally disordered or defective as defined in that Act;
- (o) if he is declared by order of the High Court to be incapable of managing his own affairs;
- (p) if he has been convicted of an offence under the Electoral Law and has been declared by the High Court under the powers conferred by the Electoral Law to be disqualified for registration as a voter or from voting at any election;
- (q) if for a continuous period of six months or more he has been the subject of a preventive detention order under any law providing for the preventive detention of persons.

[Subsection as substituted by section 9 of Act 31 of 1989]

(2) For the purposes of paragraphs (j) and (k) of subsection (1), a person shall not be deemed to hold public office solely by reason of —

- (a) being a Vice-President, a Minister, Deputy Minister or Provincial Governor; or

[Paragraph as amended by section 9 of Act 15 of 1990]

- (b) being a member of any of the Defence Forces whose services in peace-time are not wholly in the service of the State; or
- (c) being a member of the reserve forces of the Police Force whose services are not wholly in the employment of the State; or
- (d) holding office for which he is not entitled to be paid any remuneration, other than payment by way of travelling and subsistence allowances or out-of-pocket expenses; or
- (e) being a member of the Council of Chiefs.

[Subsection as substituted by section 9 of Act 31 of 1989]

(3) For the purposes of this section —

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

(b) "statutory body" means —

- (i) any Commission established by this Constitution;
- (ii) any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister, any other statutory body or by a Commission established by this Constitution.

[Subparagraph as amended by section 8 of Act 4 of 1989
and by section 9 of Act 15 of 1990]

(4) The provisions of this section shall not apply to the Attorney-General.

[Subsection as inserted by section 8 of Act 4 of 1989]

42. Members sentenced to death or to imprisonment

(1) Subject to the provisions of this section, in the event of a member of Parliament being convicted —

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

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

[Subsection as amended by section 9 of Act 4 of 1989
and by section 26 of Act 31 of 1989]

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

- (a) he is granted a free pardon;
- (b) his conviction is set aside;
- (c) his sentence is reduced to a term of imprisonment of less than six months; or
- (d) a punishment other than imprisonment is substituted.

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

(4) For the purposes of this section —

- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;
- (b) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;
- (c) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;
- (d) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

(5) The provisions of this section shall not apply to the Attorney-General.

[Subsection as inserted by section 9 of Act 4 of 1989]

43. Expulsion or suspension of members convicted of certain offences**(1) Subject to the provisions of this section, if —**

- (a) a member of Parliament is convicted of an offence referred to in section 42(1) and is sentenced to imprisonment for a lesser period than that specified in that subsection or to a fine or other punishment not specified in that subsection; and
- (b) Parliament, after taking into account the nature of the offence and the sentence imposed, resolves, by the affirmative votes of not less than two-thirds of its total membership, that the member is unfit to continue as a member or that the member should be suspended from the service of Parliament for such period, not exceeding six months, as Parliament may specify;

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

[Subsection as substituted by section 10 of Act 31 of 1989]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(3) The provisions of this section shall not apply to the Attorney-General.

[Subsection as inserted by section 10 of Act 4 of 1989]

44. Oath of loyalty

Every member of Parliament shall, before taking part in any proceedings thereof, other than proceedings necessary for the purposes of this section, take and subscribe before Parliament the oath of loyalty in the form set out in Schedule 1.

[Section as substituted by section 11 of Act 31 of 1989]

45. Remuneration of Speaker**(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the Speaker such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.****(2) The salary payable to the Speaker shall not be reduced during the period he holds that office.****(3) A person who was the Speaker immediately before a dissolution of Parliament shall continue to receive the salary and allowances of that office until such time as Parliament first meets after the dissolution or until he ceases sooner to perform the functions of the Speaker in the circumstances referred to in section 40(4).**

[Section as substituted by section 11 of Act 31 of 1989]

46. President's power to address and attend Parliament**(1) The President —**

- (a) may at any time address Parliament; and
- (b) shall have the right to sit and speak in Parliament but shall not have the right to vote therein.

(2) The President may send messages to Parliament and any such message shall be read by the Speaker or by a Vice-President or a Minister.

[Section as substituted by section 12 of Act 31 of 1989
and as amended by section 9 of Act 15 of 1990]

47. Vice-Presidents, Ministers, Deputy Ministers and Attorney-General in Parliament

(1) A Vice-President or a Minister or a Deputy Minister shall have a right to sit and speak in Parliament but shall only have the right to vote in Parliament if he is a member thereof.

[Subsection as amended by section 9 of Act 15 of 1990]

(2) The Attorney-General shall have the right to sit and speak in Parliament but shall not have the right to vote therein.

[Section as substituted by section 13 of Act 31 of 1989]

48. Secretary to Parliament and other staff thereof

(1) There shall be a Secretary to Parliament appointed by the Committee on Standing Rules and Orders.

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

(3) Subject to any wishes which may be expressed from time to time by Parliament, the Committee on Standing Rules and Orders shall appoint such other staff of Parliament as it may from time to time consider necessary.

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

[Section as substituted by section 14 of Act 31 of 1989]

49. Privileges of Parliament and members and officers thereof

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

[Section as substituted by section 15 of Act 31 of 1989]

PART 5

POWERS AND PROCEDURE OF PARLIAMENT

50. Legislative powers

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

51. Mode of exercising legislative powers

(1) Subject to the provisions of section 52 and Schedule 4, the power of Parliament to make laws shall be exercised by Bills passed by Parliament and assented to by the President.

[Subsection as amended by section 26 of Act 31 of 1989]

(2) When a Bill is presented to the President for assent he shall, subject to the provisions of this section, within twenty-one days, either assent or withhold his assent.

[Subsection as amended by section 4 of Act 23 of 1987]

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

(3a) Where the President withholds his assent to a Bill, the Bill shall be returned to Parliament and, subject to the provisions of subsection (3b), the Bill shall not again be presented for assent.

[Subsection as inserted by section 4 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

(3b) If, within six months after a Bill has been returned to Parliament in terms of subsection (3a), Parliament resolves upon a motion supported by the votes of not less than two-thirds of all the members of Parliament that the Bill should again be presented to the President for assent, the Bill shall be so presented and, on such presentation, the President shall assent to the Bill within twenty-one days of the presentation, unless he sooner dissolves Parliament.

[Subsection as inserted by section 4 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

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

[Subsection as amended by section 16 of Act 31 of 1989]

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

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

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

52. Alteration of the Constitution

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

Provided that, except as provided in subsection (6), no law shall be deemed to amend, add to or repeal any provision of this Constitution unless it does so in express terms.

[Proviso as amended by section 7 of Act 30 of 1990]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(2a) A Constitutional Bill shall not be deemed to have been duly passed by Parliament unless, at the final vote thereon in Parliament, it received the affirmative votes of not less than two-thirds of the total membership of Parliament.

[Subsection as inserted by section 17 of Act 31 of 1989
and as amended by section 6 of Act 15 of 1990]

(3)

[Subsection repealed by section 6 of Act 15 of 1990]

(4)

[Subsection repealed by section 6 of Act 15 of 1990]

(5) Subject to the provisions of subsection (8), a Constitutional Bill shall not be submitted to the President for assent unless it is accompanied by a certificate from the Speaker that on the final vote thereon in Parliament, the Bill received the affirmative votes of not less than two-thirds of the total membership of Parliament.

[Subsection as inserted by section 17 of Act 31 of 1989]

(6) An Act of Parliament that provides for a revision of the written law such as is referred to section 53(2) may make provision for —

- (a) renumbering the provisions of this Constitution so as to reflect amendments that have been made thereto; and

- (b) amending the provisions of this Constitution where it is necessary to do so as a consequence of any renumbering referred to in paragraph (a);

and any such renumbering or amendment shall be valid as if it had been affected by means of an Act of Parliament passed in accordance with the provisions of this section.

[Subsection as inserted by section 7 of Act 30 of 1990]

(7)

[Subsection repealed by section 6 of Act 15 of 1990]

(8)

[Subsection repealed by section 6 of Act 15 of 1990]

(9)

[Subsection repealed by section 6 of Act 15 of 1990]

53. Enrolment of Acts

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

(2) Notwithstanding the provisions of subsection (1), an Act of Parliament may provide for the publication of a revision of the whole or any part of the written law in force, including, subject to the provisions of section 52(6), this Constitution, and may further provide that —

- (a) upon such publication the revision shall in all courts of justice and for all purposes whatsoever be the sole version of the law or part thereof concerned;
- (b) a copy of the revision, authenticated in the manner provided for in the Act of Parliament, shall be deposited in the office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of the law or part thereof concerned.

[Subsection as substituted by section 4 of Act 1 of 1983
and as amended by section 8 of Act 30 of 1990]

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

[Subsection as substituted by section 4 of Act 1 of 1983]

54. Quorum

(1)

[Subsection repealed by section 18 of Act 31 of 1989]

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

[Subsection as amended by section 9 of Act 15 of 1990]

55. Validity of proceedings

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

[Section as amended by section 26 of Act 31 of 1989]

56. Voting

- (1) Save as otherwise provided in this Constitution, all questions proposed for decision at a sitting of Parliament shall be determined by a majority of the votes of the members present and voting.
- (2) If, upon any question before Parliament, the votes of the members are equally divided, the motion shall be lost.
- (3) The person presiding at a sitting of Parliament shall not have a deliberative or a casting vote.

[Section as amended by section 26 of Act 31 of 1989]

57. Standing Orders

- (1) Subject to the provisions of this Constitution and any other law, Parliament may make Standing Orders with respect to —
 - (a) the passing of Bills;
 - (b) presiding over Parliament;
 - (c) any matter in connection with which Standing Orders are required to be made by this Constitution; and
 - (d) generally with respect to the regulation and orderly conduct of proceedings and business in Parliament.
- (2) Standing Orders made in terms of subsection (1) shall provide for the appointment, membership and functions of a Committee on Standing Rules and Orders.

[Section as substituted by section 19 of Act 31 of 1989]

PART 6**ELECTIONS AND SESSIONS****58. Elections**

- (1) A general election shall be held on such day or days within a period not exceeding four months after the issue of a proclamation dissolving Parliament under section 63(7) or, as the case may be, the dissolution of Parliament under section 63(4) as the President may, by proclamation in the *Gazette*, fix.
- (2)

[Subsection repealed by section 20 of Act 31 of 1989]

- (3) The qualifications and disqualifications for registration as a voter and for voting at elections shall be as prescribed in Schedule 3 and, subject thereto, by the Electoral Law.
- (4) An Act of Parliament shall make provision for the election of members of Parliament, including elections for the purpose of filling casual vacancies.

[Subsection as amended by section 20 of Act 31 of 1989]

59. Delimitation Commission

- (1) From time to time, as may be required for the purposes of this Constitution, the President shall appoint a Delimitation Commission which shall consist of —
 - (a) a chairman, who shall be the Chief Justice or some other judge of the Supreme Court or the High Court appointed after consultation with the Chief Justice; and

[Paragraph as amended by section 13 of Act 25 of 1981
and by section 20 of Act 23 of 1987]

- (b) three other members appointed after consultation with the Chief Justice:

[Paragraph as amended by section 20 of Act 23 of 1987]

Provided that a person shall not be eligible for appointment if he is a member of Parliament.

[Proviso as amended by section 26 of Act 31 of 1989]

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

- (a) in the case of the chairman, appoint the Chief Justice or, after consultation with the Chief Justice, some other judge of the Supreme Court or the High Court to be chairman;

[Paragraph as amended by section 13 of Act 25 of 1981
and by section 20 of Act 23 of 1987]

- (b) in the case of any other member, appoint in his place, after consultation with the chairman, some other person.

[Paragraph as amended by section 20 of Act 23 of 1987]

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

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

Provided that a Delimitation Commission may be convened before the expiration of any five-year period if it appears to the President necessary to do so.

[Proviso as amended by section 6 of Act 15 of 1987]

60. Delimitation of constituencies

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

Provided that, if the President notifies the Delimitation Commission of an anticipated alteration in the number of constituencies, the Delimitation Commission shall determine the limits of the anticipated number of constituencies accordingly.

[Proviso as inserted by section 7 of Act 15 of 1987]

- (2) Zimbabwe shall be divided into one hundred and twenty common roll constituencies.

[Subsection as amended by section 7 of Act 15 of 1987
and by section 21 of Act 31 of 1989]

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

[Subsection as amended by section 10 of Act 15 of 1987]

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

- (a) its physical features;
- (b) the means of communication within the area;
- (c) the geographical distribution of voters registered on the common roll;
- (d) any community of interest as between voters registered on the common roll; and
- (e) in the case of any delimitation after the first delimitation consequent upon an alteration in the number of constituencies, existing electoral boundaries;

[Paragraph as amended by sections 7 and 10 of Act 15 of 1987]

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

[Subsection as amended by section 10 of Act 15 of 1987]

- (5) The Delimitation Commission shall submit to the President a report comprising —
- (a) a list of constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
 - (b) a map or maps showing the constituencies into which Zimbabwe has been divided by the Commission; and
 - (c) any further information or particulars which the Commission considers necessary.
- (6) The President may refer back to the Delimitation Commission for its further consideration and final decision any matter arising out of its report.
- (7) If there appears to be any discrepancy between the description of the boundaries of any constituency and the map or maps, the description shall prevail.
- (8) As soon as may be after the Delimitation Commission has completed its report, the President shall, by proclamation in the *Gazette*, declare the names and boundaries of the constituencies as finally settled by the Commission to be the constituencies of Zimbabwe which shall have effect for the purposes of the next and any subsequent general election.

61. Electoral Supervisory Commission

- (1) There shall be an Electoral Supervisory Commission which shall consist of —
- (a) a chairman and two other members appointed by the President after consultation with the Judicial Service Commission; and

[Paragraph as substituted by section 5 of Act 23 of 1987]

- (b) two other members appointed by the President after consultation with the Speaker.

[Paragraph as substituted by section 5 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

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

- (a) he is a member of Parliament or any local authority; or

[Paragraph as amended by section 5 of Act 1 of 1983
and by section 26 of Act 31 of 1989]

- (b) he is a public officer.

- (3) The electoral Supervisory Commission shall supervise the registration of voters and the conduct of elections of members of Parliament and shall consider any proposed Bill or proposed statutory instrument relating to the registration of voters or to the election of members of Parliament that may be referred to it.

[Subsection as amended by section 26 of Act 31 of 1989
and by section 9 of Act 30 of 1990]

- (4)

[Subsection repealed by section 9 of Act 30 of 1990]

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

[Subsection as amended by section 26 of Act 31 of 1989]

(6) The Electoral Supervisory Commission shall not, in the exercise of its functions in terms of subsection (3) or (5), be subject to the direction or control of any person or authority.

[Subsection as inserted by section 4 of Act 4 of 1985
and as amended by section 9 of Act 30 of 1990]

(7) An Act of Parliament may make provision for the powers and functions of the Electoral Supervisory Commission and, without prejudice to the generality of the foregoing, may make provision for the disqualifications, tenure of office and remuneration of the members thereof.

[Subsection as inserted by section 4 of Act 4 of 1985]

(8) Where the members of the Electoral Supervisory Commission are not unanimous in regard to any matter, the view of the majority shall prevail.

[Subsection as inserted by section 4 of Act 4 of 1985]

(9) The salary paid to a member of the Electoral Supervisory Commission shall not be reduced during his tenure of office.

[Subsection as inserted by section 4 of Act 4 of 1985]

62. Sessions

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

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

[Subsection as amended by section 26 of Act 31 of 1989]

63. Prorogation or dissolution

(1) The President may at any time prorogue Parliament.

[Subsection as substituted by section 6 of Act 23 of 1987]

(2) Subject to the provisions of this Constitution, the President may at any time dissolve Parliament.

[Subsection as substituted by section 6 of Act 23 of 1987]

(3)

[Subsection repealed by section 6 of Act 23 of 1987]

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

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

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

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

(6) At any time when there is in effect a declaration under section 31J(1), Parliament may from time to time extend the period specified in subsection (4) by not more than six months at a time:

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

[Subsection as amended by section 26 of Act 23 of 1987]

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

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

CHAPTER VI

THE EXECUTIVE

[Chapter repealed by section 7 of Act 23 of 1987]

CHAPTER VII

THE PUBLIC SERVICE

73. Public Service and Prison Service

- (1) There shall be a Public Service for the administration of the country.
- (2) There shall be a Prison Service for the administration of the prisons and that service shall be under the command of the Director of Prisons who shall be appointed by the President after consultation with the Public Service Commission.

[Subsection as substituted by section 8 of Act 23 of 1987]

- (3) If the appointment of a Director of Prisons is not consistent with any recommendation made by the Public Service Commission in terms of subsection (2), the President shall cause Parliament to be informed as soon as practicable.

[Subsection as inserted by section 8 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

74. Public Service Commission

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

[Subsection as amended by section 20 of Act 23 of 1987]

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

[Subsection as amended by section 3 of Act 27 of 1981]

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

75. Functions of Public Service Commission

- (1) The functions of the Public Service Commission shall be —
- (a) to regulate and control the general organization of the Public Service and the Prison Service;
 - (b) to appoint persons to hold a post or grade in the Public Service, whether as officers or employees or on special contract, and to fix and regulate their conditions of service;

- (c) to appoint persons to hold a post or rank in the Prison Service and to fix and regulate their conditions of service;
 - (d) to exercise disciplinary powers in relation to persons employed in the Public Service or the Prison Service and to remove such persons from office;
 - (e) to ensure the general well-being and good administration of the Public Service and the Prison Service and the maintenance thereof in a high state of efficiency;
 - (f) to make regulations for the purposes stated in paragraph (e) and for the conditions of service of members of the Public Service and the Prison Service, which may include provision for the punishment of members of the Public Service found guilty of misconduct or of members of the Prison Service found guilty of offences against discipline;
 - (g) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (f).
- (2) The President may give general directions of policy to the Public Service Commission with the object of achieving a suitable representation of the various elements of the population in the Public Service and the Prison Service.
- (3) When considering candidates for appointments in the Public Service or the Prison Service, the Public Service Commission shall have regard to the principle that preference should be given to that person who, in its opinion, is the most efficient and suitable for appointment to the post and in so doing shall take account of any directions given under subsection (2).
- (4) The Public Service Commission shall consult the Judicial Service Commission before appointing any person to any post of magistrate or to any post in the office of the Attorney-General which is required to be held by a legally qualified person.

76. Attorney-General

- (1) There shall be an Attorney-General who shall be the principal legal advisor to the Government and whose office shall be a public office but shall not form part of the Public Service.

[Subsection as substituted by section 12 of Act 4 of 1989]

- (2) The Attorney-General shall be appointed by the President after consultation with the Judicial Service Commission.

[Subsection as substituted by section 12 of Act 4 of 1989]

- (3) Before entering upon his office, the Attorney-General shall take and subscribe before the President or some person authorized by the President in that behalf the oaths of loyalty and office in the forms set out in Schedule 1.

[Subsection as substituted by section 12 of Act 4 of 1989]

- (3a) A person shall not be qualified to hold or act in the office of Attorney-General unless he is qualified for appointment as a judge of the Supreme Court or the High Court.

[Subsection as inserted by section 12 of Act 4 of 1989]

- (3b) The Attorney-General shall, *ex officio*, be —

- (a) a member of the Cabinet, but shall not have the right to vote therein; and
- (b) a member of Parliament, but —
 - (i) shall not have the right to vote therein; and
 - (ii) shall not be eligible for election or appointment to any office, post or committee of Parliament.

[Subsection as inserted by section 12 of Act 4 of 1989
and as amended by section 22 of Act 31 of 1989]

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

- (a) to institute and undertake criminal proceedings before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in such proceedings;
- (b) to take over and continue criminal proceedings that have been instituted by any other person or authority before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in proceedings so taken over by him; and
- (c) to discontinue at any stage before judgment is delivered any criminal proceedings he has instituted under paragraph (a) or taken over under paragraph (b) or any appeal prosecuted or defended by him from any determination in such proceedings.

(4a) The Attorney-General may require the Commissioner of Police to investigate and report to him on any matter which, in the Attorney-General's opinion, relates to any criminal offence or alleged or suspected criminal offence, and the Commissioner of Police shall comply with that requirement.

[Subsection as inserted by section 12 of Act 4 of 1989]

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

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

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

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

[Subsection as amended by section 12 of Act 4 of 1989]

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

(9) There shall be one or more Deputy Attorneys-General whose offices shall be public offices but shall not form part of the Public Service.

[Subsection as inserted by section 12 of Act 4 of 1989
and as amended by section 22 of Act 31 of 1989]

(10) A Deputy Attorney-General shall be appointed by the President after consultation with the Judicial Service Commission.

[Subsection as inserted by section 12 of Act 4 of 1989]

(11) A person shall not be qualified to hold or act in the office of Deputy Attorney-General unless he is qualified for appointment as a judge of the Supreme Court or the High Court.

[Subsection as inserted by section 12 of Act 4 of 1989]

(12) A Deputy Attorney-General shall assist the Attorney-General in the exercise of his functions, and shall perform such other functions as the Attorney-General may assign to him.

[Subsection as inserted by section 12 of Act 4 of 1989]

(13) The Deputy Attorney-General or, if there is more than one such Deputy, a Deputy Attorney-General designated by the President, shall act as Attorney-General whenever the office of Attorney-General is vacant or the Attorney-General is for any reason unable to perform the functions of his office:

Provided that a Deputy Attorney-General who acts shall not —

- (a) be a member of the Cabinet; or
- (b) be entitled to sit or speak in Parliament.

[Subsection as inserted by section 12 of Act 4 of 1989
and as amended by section 22 of Act 31 of 1989]

(14) There shall be charged upon and paid out of the Consolidated Revenue Fund to a person who holds or is acting in the office of Attorney-General such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

[Subsection as inserted by section 12 of Act 4 of 1989]

(14a) Every Deputy Attorney-General shall hold office on such terms and conditions, including terms and conditions relating to the payment of salary, allowances and pension, as the President may fix, and any amounts so payable shall be charged upon and paid out of the Consolidated Revenue Fund.

[Subsection as inserted by section 22 of Act 31 of 1989]

(15) The salary and allowances payable to the Attorney-General or a Deputy Attorney-General under subsection (14) or (14a) shall not be reduced during the period he holds or acts in that office.

[Subsection as inserted by section 12 of Act 4 of 1989
and as amended by section 22 of Act 31 of 1989]

77. Secretaries of Ministries, etc.

- (1) The power to appoint persons to hold the office of Secretary to the Cabinet or Secretary of a Ministry shall vest in the President after consultation with the Public Service Commission.
- (2) If the appointment of a Secretary by the President is not consistent with any recommendation made by the Public Service Commission in terms of subsection (1), the President shall cause Parliament to be informed as soon as is practicable.

[Section as substituted by section 10 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

78. Principal representatives of Zimbabwe abroad

The power to appoint persons to hold the office of ambassador or other principal representative of Zimbabwe in any other country or accredited to any international organization and to remove such persons from office shall vest in the President:

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

[Section as amended by section 11 of Act 23 of 1987]

CHAPTER VIII

THE JUDICIARY

79. Judicial authority

- (1) The judicial authority of Zimbabwe shall vest in —
 - (a) the Supreme Court; and
 - (b) the High Court; and
 - (c) such other courts subordinate to the Supreme Court and the High Court as may be established by or under an Act of Parliament.

(2) The provisions of subsection (1) shall not be construed as preventing an Act of Parliament from —

- (a) vesting adjudicating functions in a person or authority other than a court referred to in subsection (1); or
- (b) vesting functions other than adjudicating functions in a court referred to in subsection (1) or in a member of the judiciary.

[Section as substituted by section 10 of Act 30 of 1990]

79A. Judiciary

The judiciary of Zimbabwe shall consist of —

- (a) the Chief Justice, who shall be the head of the judiciary; and
- (b) the judges of the Supreme Court; and
- (c) the Judge President and the other judges of the High Court; and
- (d) persons presiding over other courts subordinate to the Supreme Court and the High Court that are established by or under an Act of Parliament.

[Section as inserted by section 10 of Act 30 of 1990]

79B. Independence of judiciary

In the exercise of his judicial authority, a member of the judiciary shall not be subject to the direction or control of any person or authority, except to the extent that a written law may place him under the direction or control of another member of the judiciary.

[Section as inserted by section 10 of Act 30 of 1990]

80. Supreme Court

(1) There shall be a Supreme Court which shall be a superior court of record and the final court of appeal for Zimbabwe and shall have such jurisdiction and powers as may be conferred upon it by or in terms of this Constitution or any Act of Parliament.

[Subsection as amended by section 11 of Act 30 of 1990]

(2) The Supreme Court shall consist of —

- (a) the Chief Justice;
- (b) such other judges of the Supreme Court, being not less than two, as the President may deem necessary;
- (c) such other judges as have been appointed under subsection (3).

(3) If the services of an additional judge are required for a limited period, the Chief Justice may appoint a person who holds the office of judge of the High Court or who has held office as a judge of the Supreme Court or the High Court to act as a judge of the Supreme Court for such period as may be specified by the Chief Justice.

(4) An Act of Parliament may provide for the conferring, by way of rules of court, upon a registrar of the Supreme Court, duly appointed thereto, of the jurisdiction and powers of the Supreme Court in civil cases in respect of —

- (a) the making of orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
- (b) deciding preliminary or interlocutory matters, including applications for directions but not including matters affecting the liberty of the subject:

Provided that any such Act of Parliament shall provide for the right of any person who is aggrieved by the order or decision of any such registrar to have the order or decision reviewed

by a judge of the Supreme Court who may, on such review, amend, vary, set aside or confirm the order or decision concerned or give such other order or decision as he deems fit.

[Subsection as inserted by section 8 of Act 1 of 1983]

[Section as substituted by section 3 of Act 25 of 1981]

81. High Court and criminal jurisdiction of other courts

(1) There shall be a High Court which shall be a superior court of record and shall have such jurisdiction and powers as may be conferred upon it by or in terms of this Constitution or any Act of Parliament.

[Subsection as amended by section 12 of Act 30 of 1990]

(2) The High Court shall consist of —

- (a) the Chief Justice;
- (b) the Judge President of the High Court who shall, subject to the directions of the Chief Justice, be in charge of the High Court;
- (c) such other judges of the High Court as may from time to time be appointed.

(3) The Chief Justice may, from time to time, after consultation with the Judge President of the High Court, appoint a judge of the Supreme Court to act as a judge of the High Court.

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

Provided that the provisions of this subsection shall not apply to a law which confers any such jurisdiction on a court in terms of which the only penalty that may be imposed by the court is a monetary one.

(5) An Act of Parliament may provide for the conferring, by way of rules of court, upon a registrar of the High Court, duly appointed thereto, of the jurisdiction and powers of the High Court in civil cases in respect of —

- (a) the making of orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
- (b) deciding preliminary or interlocutory matters, including applications for directions but not including matters affecting the liberty of the subject:

Provided that any such Act of Parliament shall provide for the right of any person who is aggrieved by the order or decision of any such registrar to have the order or decision reviewed by a judge of the High Court who may, on such review, amend, vary, set aside or confirm the order or decision concerned or give such other order or decision as he deems fit.

[Subsection as inserted by section 9 of Act 1 of 1983]

[Section as substituted by section 3 of Act 25 of 1981]

82. Qualifications of judges

(1) A person shall not be qualified for as a judge of the Supreme Court or the High Court unless —

- (a) he is or has been a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language; or
- (b) he is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner —
 - (i) in Zimbabwe;
 - (ii) in a country in which the common law is Roman-Dutch and English is an official language; or

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

[Subsection as amended by sections 4 and 13 of Act 25 of 1981]

(2) In computing, for the purposes of subsection (1)(b), the period during which any person has been qualified to practise as a legal practitioner —

- (a) any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included; and
- (b) any period during which he has held judicial office, whether in or outside Zimbabwe, after having so qualified as a legal practitioner shall be included;

and the reference in subsection (1)(b) to a legal practitioner shall include a reference to persons in other jurisdictions who have comparable functions or who have been admitted to practise the profession of law as advocates or attorneys by whatever name they may be called.

[Subsection as substituted by section 4 of Act 25 of 1981]

83. Oath of office

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

Provided that where a person is appointed in terms of section 80(3) or 81(3) to act as a judge of the Supreme Court or the High Court, as the case may be, it shall not be necessary for such person to take and subscribe the oaths referred to in this section in respect of such appointment.

[Section as substituted by section 5 of Act 25 of 1981]

84. Appointment of judges

(1) The Chief Justice and other judges of the Supreme Court and the High Court shall be appointed by the President after consultation with the Judicial Service Commission.

[Subsection as substituted by section 12 of Act 23 of 1987]

(2) If the appointment of a Chief Justice or a judge of the Supreme Court or the High Court is not consistent with any recommendation made by the Judicial Service Commission in terms of subsection (1), the President shall cause Parliament to be informed as soon as is practicable.

[Subsection as substituted by section 12 of Act 23 of 1987
and as amended by section 13 of Act 31 of 1989]

(3) The appointment of a judge in terms of this section, whether made before, on or after the date of commencement of the Constitution of Zimbabwe Amendment (No. 4) Act, 1984, may be made for a fixed period and any judge so appointed may, notwithstanding that the period of his appointment has expired, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings commenced or heard by him while he was in office.

[Subsection as inserted by section 2 of Act 4 of 1984]

85. Acting judges

(1) If the office of the Chief Justice is vacant or the Chief Justice is for any reason unable to perform the functions of his office, the president may, after consulting the Judicial Service Commission, appoint some person holding the office of judge of the Supreme Court or Judge President of the High Court to act as Chief Justice.

[Subsection as amended by section 13 of Act 25 of 1981
and by section 20 of Act 23 of 1987]

(2) If the office of a judge of the Supreme Court or the High Court other than the Chief Justice is vacant or such judge is appointed to act in some other judicial capacity or is for any reason unable to perform the functions of his office, or if the services of an additional judge of the High

Court are required for a limited period, the President may, as the case requires and after consultation with the Judicial Service Commission, appoint some person qualified for appointment as a judge of the Supreme Court or the High Court to act in that office.

[Subsection as amended by section 13 of Act 25 of 1981, by section 7 of Act 4 of 1984 and by section 20 of Act 23 of 1987]

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

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

[Paragraph as amended by section 7 of Act 4 of 1984 and by section 20 of Act 23 of 1987]

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

86. Tenure of office of judges

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

Provided that —

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

(b) the provisions of this subsection shall not apply to an acting judge or a judge who has been appointed for a fixed period of office;

[Subsection as amended by section 13 of Act 25 of 1981, by sections 3 and 7 of Act 4 of 1984 and by section 20 of Act 23 of 1987]

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

[Subsection as amended by section 13 of Act 25 of 1981]

87. Removal of judges from office

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

[Subsection as amended by section 13 of Act 23 of 1987]

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

[Subsection as amended by section 13 of Act 25 of 1981, by section 6 of Act 4 of 1985 and by section 20 of Act 23 of 1987]

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

- (a) persons who have held office as a judge of the Supreme Court or the High Court;
- (b) persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language;
- (c) legal practitioners of not less than seven years' standing who have been nominated under subsection (5);
- (d)

[Paragraph repealed by section 6 of Act 25 of 1981]

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

[Subsection as amended by sections 6 and 13 of Act 25 of 1981]

(4a) In computing, for the purposes of subsection (4)(c), the period during which a person has had standing as a legal practitioner, any period during which he has had standing as an advocate or attorney in Zimbabwe shall be included.

[Subsection as inserted by section 6 of Act 25 of 1981]

(5) It shall be the duty of the association which is constituted under an Act of Parliament and which represents legal practitioners practising in Zimbabwe to nominate a panel containing the names of not less than three duly qualified legal practitioners for the purposes of subsection (4)(c) when so required by the President.

[Subsection as amended by section 6 of Act 25 of 1981]

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

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

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

88. Remuneration of judges

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

[Subsection as amended by section 13 of Act 25 of 1981]

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

89. Law to be administered

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

[Section as amended by section 13 of Act 25 of 1981]

90. Judicial Service Commission

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

- (a) the Chief Justice or, if there is no Chief Justice or acting Chief Justice or the Chief Justice is not available, the most senior judge of the Supreme Court who is available;
- (b) the Chairman of the Public Service Commission;
- (c) the Attorney-General;
- (d) no less than two or more than three other members appointed, subject to the provisions of subsection (2), by the President.

[Paragraph as amended by section 20 of Act 23 of 1987]

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

- (a) is or has been a judge of the Supreme Court or the High Court; or
- (b) is and has been for not less than five years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe; or
- (c) possesses such legal qualifications and has had such legal experience as the President considers suitable and adequate for his appointment to the Judicial Service Commission;

and the other members shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment.

[Subsection as amended by section 13 of Act 30 of 1990]

(3) In computing, for the purpose of subsection (2)(b), the period during which any person has been qualified to practise as a legal practitioner, any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

[Section as substituted by section 4 of Act 4 of 1984]

91. Functions of Judicial Service Commission

The functions of the Judicial Service Commission shall be to tender such advice and do such things in relation to the judiciary as are provided for by this Constitution or by or under an Act of Parliament.

[Section as substituted by section 14 of Act 30 of 1990]

92. Persons presiding over special courts

(1) The power to appoint persons to preside over a special court shall vest in the President, after consultation with the Judicial Service Commission:

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

[Subsection as amended by section 13 of Act 25 of 1981, by section 7 of Act 4 of 1984 and by section 20 of Act 23 of 1987]

- (2) During the term of office of a person appointed to preside over a special court his conditions of service shall not be amended and his office shall not be abolished without his consent.
- (3) Notwithstanding the provisions of subsection (2), an Act of Parliament may —
- (a) vest the functions of a special court in another special court if such Act provides that any person who has been appointed to preside over the first-mentioned court shall be deemed to have been appointed to preside over the second-mentioned court; and
 - (b) effect a change in the designation of the person referred to in paragraph (a).
- (4) In this section, "special court" means —
- (a) any court or other adjudicating authority established by law which exercises all or any of the functions previously exercised by —
 - (i) the Fiscal Appeal Court established by section 3 of the Fiscal Appeal Court Act [Chapter 180];
 - (ii) the Special Court established by section 53 of the Income Tax Act [Chapter 181];
 - (iii) the Water Court established by section 22(1) of the Water Act, 1976;
 - (iv) the Compensation Court established by section 3 of the Land Acquisition Act, 1979;
 - (b) any court or other adjudicating authority established by law, other than a local court or a court established by or under a disciplinary law, if there is no right of appeal, directly or indirectly, from a decision of that court or other adjudicating authority to the Supreme Court or the High Court;
- [Paragraph as amended by section 13 of Act 25 of 1981]
- (c) any court or other adjudicating authority established by law which is declared by that law to be a special court for the purposes of this section.

CHAPTER IX

THE POLICE FORCE

93. Police Force and Commissioner of Police

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

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

(2) The Police Force shall be under the command of the Commissioner of Police, who shall be appointed by the President after consultation with the board established in accordance with subsection (6).

[Subsection as substituted by section 13 of Act 23 of 1987]

(2a) If the appointment of a Commissioner of Police by the President is not consistent with any recommendation made by the board established in accordance with subsection (6), the President shall cause Parliament to be informed as soon as is practicable.

[Subsection as inserted by section 13 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

(3) The President may give to the Commissioner of Police such general directions of policy as he may consider necessary and the Commissioner of Police shall comply with such directions or cause them to be complied with.

[Subsection as amended by section 13 of Act 23 of 1987]

(4) Subject to the provisions of subsection (3) and section 76(4a) and to regulations made under section 96, the Commissioner of Police shall be responsible for the administration of, and determining the use and controlling the operations of, the Police Force and, save as aforesaid, shall not, in his command of the Police Force and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority:

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

[Subsection as amended by section 13 of Act 4 of 1989]

(5) The Commissioner of Police may be removed from office by the President after consultation with the Cabinet and the President shall cause Parliament to be informed as soon as is practicable of any such removal.

[Subsection as substituted by section 13 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

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

- (a) the chairman of the Police Service Commission, who shall be chairman;
- (b) the retiring Commissioner of Police, if he is available; and
- (c) one other member (or in the absence of the member referred to in paragraph (b) two other members) appointed by the President from among the Secretaries of Ministries.

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

94. Members of Police Force

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

- (a) in relation to the rank of Inspector or any more senior rank, in the President, after consultation with the Commissioner of Police;

[Paragraph as amended by section 7 of Act 4 of 1984
and by section 20 of Act 23 of 1987]

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

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

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

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

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

95. Police Service Commission

- (1) There shall be a Police Service Commission which shall consist of —
- (a) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and
 - (b) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President.

[Paragraph as amended by section 20 of Act 23 of 1987]

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

96. Functions of Police Service Commission

- (1) The functions of the Police Service Commission shall be —
- (a) to consider any grievance by a member of the Police Force in regard to any administrative action, decision or order which has been made within the time and in the manner prescribed in regulations made under paragraph (c) and thereafter to make such recommendations as it thinks fit to the Commissioner of Police;
 - (b) to consider any proposal submitted to it in accordance with the requirements of section 94(4) that a person who has served in the Police Force for more than two years should be removed from office or reduced in rank and to confirm such proposal if deemed fit;
 - (c) to make regulations for the general well-being and good administration of the Police Force, the maintenance thereof in a high state of efficiency and the conditions of service of members of the Police Force, which may include provision for the punishment of members found guilty of offenses against discipline;
 - (d) to make recommendations to the Commissioner of Police concerning the recruitment and promotion policy for, examinations for entry to and advancement in, and the grading of posts in, the Police Force; and
 - (e) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (c).
- (2) The Commissioner of Police shall comply with any recommendation made by the Police Service Commission under subsection (1)(a).
- (3) Regulations shall not be published in the *Gazette* until they have been approved by the Commissioner of Police.

CHAPTER X**THE DEFENCE FORCES****97. Defence Forces and commanders thereof**

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

[Subsection as amended by section 14 of Act 23 of 1987]

- (1a) The supreme command of the Defence Forces shall vest in the President as Commander-in-Chief and, in the exercise of his functions as such, the President shall have power to

determine the operational use of the Defence Forces.

[Subsection as inserted by section 14 of Act 23 of 1987]

(2) A Commander shall be appointed by the President after consultation with the board established in accordance with subsection (7).

[Subsection as substituted by section 14 of Act 23 of 1987]

(2a) If the appointment of a Commander by the President is not consistent with any recommendation made by the board established in accordance with subsection (7), the President shall cause Parliament to be informed as soon as is practicable.

[Subsection as inserted by section 14 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

(3) If the President, after consulting the Commanders of the Army and the Air Force, considers that some authority should be established to co-ordinate the operations of the various branches of the Defence Forces, he may appoint a person recommended by the said Commanders, who shall be a member of the Army or the Air Force or a former Commander of the Army or the Air Force, to be Commander of Combined Operations or Deputy Commander of Combined Operations on such conditions and with such functions relating to the command and control of operations as the President may specify.

[Subsection as amended by section 14 of Act 23 of 1987]

(4) The President may give to a Commander such general directions of policy as he may consider necessary and the Commander shall comply with such directions or cause them to be complied with.

[Subsection as amended by section 14 of Act 23 of 1987]

(5) Subject to the provisions of subsections (1a), (3) and (4) and to regulations made under section 100, the Commander concerned shall be responsible for the administration of, and controlling the operations of, the Army, Air Force or other branch of the Defence Forces, as the case may be:

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

[Subsection as substituted by section 14 of Act 23 of 1987]

(6) A Commander may be removed from his command by the President after consultation with the Cabinet, and the President shall cause Parliament to be informed as soon as is practicable of any such removal.

[Subsection as substituted by section 14 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

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

- (a) the chairman of the Defence Forces Service Commission, who shall be chairman;
- (b) the retiring Commander of the branch of the Defence Forces concerned or, if he is not available, the Commander of any other branch of the Defence Forces, as the President may appoint; and
- (c) one other member appointed by the President from among the Secretaries of Ministries.

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

(9) An Act of Parliament may regulate the exercise of the powers conferred upon the President by or under this section.

[Subsection as inserted by section 14 of Act 23 of 1987]

98. Members of Defence Forces

(1) Subject to the provisions of this section, section 97 and section 100 and regulations made thereunder, the power to make appointments to any office or rank in a branch of the Defence Forces and the power of removal from office or reduction in rank shall vest —

(a) in relation to the rank of —

- (i) Second Lieutenant or any more senior rank in the Army;
 - (ii) Air Sub-lieutenant or any more senior rank in the Air Force; or
 - (iii) any rank in any other branch of the Defence Forces which is a commissioned rank;
- in the President, after consultation with the Commander of the branch concerned;

[Paragraph as amended by section 7 of Act 4 of 1984
and by section 20 of Act 23 of 1987]

(b) in relation to any rank below that referred to in paragraph (a), in the Commander of the branch concerned.

(2) The President may give general directions of policy to the Commander concerned with the object of achieving a suitable representation of the various elements of the population in the Defence Forces.

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

(4) Except as otherwise provided in section 97 or in regulations made under section 100, a person who has served in the Defence Forces for more than two years shall not be removed from office or reduced in rank except with the confirmation of the Defence Forces Service Commission.

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

99. Defence Forces Service Commission

(1) There shall be a Defence Forces Service Commission which shall consist of —

- (a) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and
- (b) not less than two and not more than four other members appointed, subject to the provisions of subsection (2), by the President.

[Paragraph as amended by section 20 of Act 23 of 1987]

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

100. Functions of Defence Forces Service Commission

(1) The functions of the Defence Forces Service Commission shall be —

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

- (b) to consider any proposal submitted to it in accordance with the requirements of section 98(4) that a person who has served in the Defence Forces for more than two years should be removed from office or reduced in rank and to confirm such proposal if deemed fit;
 - (c) to make regulations for the general well-being and good administration of the Defence Forces, the maintenance thereof in a high state of efficiency and the conditions of service of members of the Defence Forces, which may include provision for the punishment of members found guilty of offences against discipline;
 - (d) to make recommendations to the appropriate Commander concerning the recruitment and promotion policy for, examinations for entry to and advancement in, and the grading of posts in, the Army, Air Force or other branch of the Defence Forces; and
 - (e) to do such other things not inconsistent with the provisions of this Constitution as may be required by or under an Act of Parliament or regulations made under paragraph (c).
- (2) The appropriate Commander shall comply with any recommendation made by the Defence Forces Service Commission under subsection (1)(a).
- (3) Regulations shall not be published in the *Gazette* until they have been approved by the Commanders of the Army and the Air Force.

CHAPTER XI

FINANCE

101. Consolidated Revenue Fund

All fees, taxes and other revenues of Zimbabwe from whatever source arising, not being moneys that —

- (a) are payable by or under an Act of Parliament into some other fund established for a specific purpose; or
- (b) may, by or under an Act of Parliament, be retained by the authority that received them for the purpose of defraying the expenses of that authority;

shall be paid into and form one Consolidated Revenue Fund.

102. Withdrawals from Consolidated Revenue Fund or other public fund

- (1) No moneys shall be withdrawn from the Consolidated Revenue Fund except —
 - (a) to meet expenditure that is charged upon that Fund by this Constitution or by an Act of Parliament; or
 - (b) where the issue of those moneys has been authorized by an Appropriation or other Act made pursuant to the provisions of section 103.
- (2) Where any moneys are charged by this Constitution or an Act of Parliament upon the Consolidated Revenue Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.
- (3) No moneys shall be withdrawn from any public fund, other than the Consolidated Revenue Fund, unless the issue of those moneys has been authorized by or under an Act of Parliament.
- (4) An Act of Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Revenue Fund or any other public fund.
- (5) The investment of moneys forming part of the Consolidated Revenue Fund shall be made in such manner as may be prescribed by or under an Act of Parliament.
- (6) Notwithstanding the provisions of subsection (1), provision may be made by or under an

Act of Parliament authorizing withdrawals to be made from the Consolidated Revenue Fund for the purpose of making repayable advances.

103. Authorization of expenditure from Consolidated Revenue Fund

(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before Parliament, on a day on which Parliament sits, before or not later than thirty days after the start of each financial year estimates of the revenue and expenditure of Zimbabwe for that financial year:

Provided that if, by reason of the prorogation or dissolution of Parliament, the provisions of this subsection cannot be complied with, the estimates of the revenue and expenditure shall be laid before Parliament on a day on which Parliament sits not later than thirty days after the date on which Parliament first meets after that prorogation or dissolution.

(2) When the estimates of expenditure, other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or an Act of Parliament, have been approved by Parliament, a Bill to be known as an Appropriation Bill, shall be introduced into Parliament providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(3) If in respect of any financial year it is found that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums required shall be laid before Parliament and, when such estimates have been approved by Parliament, a supplementary Appropriation Bill shall be introduced into Parliament providing for the issue of such sums from the Consolidated Revenue Fund and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(4) An Act of Parliament may make provision for the President, where he is satisfied that there is an urgent need for expenditure which was unforeseen or the extent of which was unforeseen and for which no other provision exists, to authorize the withdrawal from the Consolidated Revenue Fund of moneys for the purpose of meeting that expenditure and any moneys so withdrawn shall be included in supplementary or additional estimates which shall be laid before Parliament on one of the fourteen days on which Parliament sits next after the authorization of such withdrawal and, when such estimates have been approved by Parliament, a supplementary or additional Appropriation Bill shall be introduced into Parliament providing that the sums so withdrawn shall be charged upon the Consolidated Revenue Fund and that they shall be appropriated, under separate votes for the several heads of expenditure approved, to the purposes specified therein:

Provided that the aggregate of all moneys so authorized to be withdrawn shall not at any one time prior to the consequential estimates having been approved by Parliament exceed one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act.

(5) If in respect of any financial year it is found that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose under this Chapter or for a purpose to which no amount has been appropriated under this Chapter, the Minister for the time being responsible for finance shall cause to be introduced into Parliament on one of the fourteen days on which Parliament sits next after the extent of the unauthorized expenditure has been established a Bill providing for the condonation of such unauthorized expenditure.

(6) An Act of Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the coming into operation of the Act, whichever is the earlier:

Provided that —

(a) the aggregate of all moneys so authorized to be withdrawn shall not exceed one-third

of the sums included in the estimates of expenditure for the preceding financial year that have been laid before Parliament;

- (b) any moneys so withdrawn shall be included in the Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

(7) An Act of Parliament may make provision under which, where at any time Parliament has been dissolved before any provision or sufficient provision is made under this Chapter for the carrying on of the government of Zimbabwe, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the dissolution of Parliament and expiring three months after the day on which Parliament first meets after that dissolution and any moneys so withdrawn shall be included in an Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

[Section as amended by section 26 of Act 31 of 1989]

104. Public debt

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

(2) The costs and charges and expenses incurred incidental to the collection and management of the Consolidated Revenue Fund shall form the first charge thereon.

(3) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created thereby.

105. Comptroller and Auditor-General

(1) There shall be a Comptroller and Auditor-General whose office shall be a public office but shall not form part of the Public Service.

(2) The Comptroller and Auditor-General shall be appointed by the President after consultation with the Public Service Commission.

[Subsection as substituted by section 15 of Act 23 of 1987]

(2a) If the appointment of a Comptroller and Auditor-General by the President is not consistent with any recommendation made by the Public Service Commission, the President shall cause Parliament to be informed as soon as is practicable.

[Subsection as inserted by section 15 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

(3) A person shall not be qualified to hold or act in the office of Comptroller and Auditor-General unless he has held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(4) The Comptroller and Auditor-General shall, subject to the provisions of subsection (5), hold office on such terms and conditions as are fixed by the President after consultation with the Public Service Commission.

[Subsection as amended by section 7 of Act 4 of 1984
and by section 15 of Act 23 of 1987]

(5) The Comptroller and Auditor-General may only be removed from office by the President if Parliament has resolved by the affirmative votes of more than one-half of its total membership that he be removed from office for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour.

[Subsection as amended by section 26 of Act 31 of 1989]

106. Functions of Comptroller and Auditor-General

(1) The public accounts of Zimbabwe and of all accounting officers, receivers of revenue and other persons entrusted with public moneys or property of the State shall at least once in every financial year be examined, audited and reported on by the Comptroller and Auditor-General on behalf of Parliament:

Provided that if the Comptroller and Auditor-General is of the opinion that it would not be appropriate or expedient for him to examine and audit any particular account or fund or any particular class of documents, he may, by notice in writing, inform the Speaker and the Minister for the time being responsible for finance of his opinion and, unless otherwise directed by Parliament, he shall not make any examination, audit or report in relation thereto.

[Subsection as amended by section 26 of Act 31 of 1989]

(2) It shall be the duty of the Comptroller and Auditor-General to satisfy himself that —

(a) all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(b) all reasonable precautions have been taken to safeguard the collection of all fees, taxes and other revenues of the State and to safeguard and control property of the State.

(3) The Comptroller and Auditor-General and any officer authorized by him shall have access to all books records, returns, reports and other documents that, in his opinion, relate to any of the accounts referred to in subsection (1) and to all cash, stamps, securities, stores and other property of whatever kind that he considers it necessary to inspect in connection with any of those accounts and that is in the possession of any employee, agent or authority of the State.

(4) The Comptroller and Auditor-General shall submit every report made by him in accordance with subsection (1) to the Minister for the time being responsible for finance who shall, on one of the seven days on which Parliament sits next after he has received the report, lay it before Parliament.

[Subsection as amended by section 9 of Act 15 of 1990]

(5) The Comptroller and Auditor-General shall exercise in relation to the accounts of the State or the accounts of any authority, body or fund established directly by or under any Act of Parliament for special purposes specified in that Act such other functions as may be prescribed by or under an Act of Parliament.

(6) In the exercise of his functions under subsections (1), (2), (3) and (4), the Comptroller and Auditor-General shall not be subject to the direction or control of any person or authority other than Parliament.

[Subsection as amended by section 26 of Act 31 of 1989]

CHAPTER XII**MISCELLANEOUS PROVISIONS****PART I****GENERAL****107. Ombudsman and Deputy Ombudsman**

(1) There shall be an Ombudsman and, where the President has deemed it desirable, a Deputy Ombudsman, whose offices shall be public offices but shall not form part of the Public Service.

(2) The Ombudsman and the Deputy Ombudsman shall be appointed by the President after consultation with the Judicial Service Commission.

[Subsection as amended by section 16 of Act 23 of 1987]

(2a) If the appointment of an Ombudsman or Deputy Ombudsman is not consistent with any recommendation made by the Judicial Service Commission, the President shall cause Parliament to be informed as soon as is practicable.

[Subsection as inserted by section 16 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989]

(3) The Deputy Ombudsman shall —

- (a) assist the Ombudsman in the exercise of his functions and duties and the Ombudsman may authorize him to exercise any of his functions or duties on his behalf;
- (b) act as Ombudsman whenever the office of the Ombudsman is vacant or the Ombudsman is for any reason unable to perform the functions of his office.

(4) An Act of Parliament may make provision for the qualifications and remuneration of the Ombudsman and the Deputy Ombudsman.

[Section as substituted by section 6 of Act 4 of 1984]

108. Functions of Ombudsman

(1) The Ombudsman may investigate action taken by any officer or authority referred to in subsection (2) in the exercise of the administrative functions of that officer or authority in any case where it is alleged that a person has suffered injustice in consequence of that action and it does not appear that there is any remedy reasonably available by way of proceedings in a court or on appeal from a court.

(2) Subject to such exceptions and conditions as may be prescribed by or under an Act of Parliament, the provisions of subsection (1) shall apply in respect of any action taken by the following officers and authorities —

- (a) any Ministry or department or any member of such Ministry or department; and
- (b) such other persons or authorities as may be prescribed by or under an Act of Parliament for the purposes of this paragraph.

(3) An Act of Parliament may confer other functions on the Ombudsman, and may make provision for the exercise of his functions including, without prejudice to the generality of the foregoing, the officers and authorities whose actions are not subject to investigation by him.

109. General provisions as to Commissions, etc

(1) Save as is provided in this Constitution, a Commission shall not, in the exercise of its functions under this Constitution, be subject to the direction or control of any person or authority.

(2) An Act of Parliament may make provision for the powers and functions of a Commission and, without prejudice to the generality of the foregoing, may make provision for the disqualifications, tenure of office and remuneration of the members thereof, and may authorize the delegation by the chairman of the Public Service Commission, a Commission or other appointing authority of any power or function, other than the power to make appointments to, or to make recommendations or tender advice in respect of, any office established by this Constitution.

(3) Subject to any provision which may be made by or under an Act of Parliament, an appointing authority may delegate to a member of the Commission, Service or Force concerned any power to make appointments, to exercise disciplinary powers or to remove from office or reduce in rank.

(4) Any decision of a Commission shall require the concurrence of a majority of all the members thereof.

(5) The salary payable to a member of a Commission shall not be reduced during his tenure of office.

(6) A Commission may not, whether by way of regulations or otherwise —

(a) increase or authorize an increase in —

- (i) the fixed salary or salary scale applicable to any post, grade or rank in the Public Service, Prison Service, Police Force or Defence Forces;
- (ii) the bonuses or allowances payable to, or the privileges or benefits that may be granted to, members of any such Service or Force;
- (iii) the rate of pensions, gratuities or other benefits payable to or in respect of such members;
- (iv) the rate of leave that may be granted to or accrued by such members; or
- (v) the number or level of posts;

or

(b) provide for a general decrease or permit a general decrease in the hours of work to be performed by such members;

unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

(7) Regulations made by a Commission may not provide for or permit a reduction in the fixed salary or salary scale applicable to any member of the Public Service, Prison Service, Police Force or Defence Forces except when such member has been found guilty of misconduct or an offence against discipline, as the case may be, or has consented to such reduction.

(8) The question whether or not any appointing authority or any delegate of an appointing authority has exercised a power of appointment in accordance with any directions or any principle, as provided by or under this Constitution, shall not be inquired into in any court.

(9) If regulations made under section 75, 96 or 100 alter the posts or grades into which the Public Service or the ranks into which the Police, Army or Air Force is divided, the appropriate Commission may, by order in the *Gazette*, specify some other post, grade or rank as being equivalent to that referred to in section 74(2), 94(1), 95(2), 98(1), 99(2) or 105(3), as the case may be, and the reference shall thereafter be construed as including a reference to the post, grade or rank for the time being so specified.

(10) A person shall not be eligible for appointment as a member of a Commission if he is a member of Parliament or any local authority.

[Subsection as substituted by section 11 of Act 1 of 1983
and as amended by section 26 of Act 31 of 1989]

(11) In this section —

“appointing authority” means the Public Service Commission, the Commissioner of Police or the Commander of any branch of the Defence Forces;

“Commission” means the Public Service Commission, the Judicial Service Commission, the Police Service Commission or the Defence Forces Service Commission.

110. Tenure of office of certain persons

(1) This section shall apply to —

(a) the Attorney-General and every Deputy Attorney-General; and

[Paragraph as substituted by section 14 of Act 4 of 1989]

(a1) the Ombudsman and the Deputy Ombudsman; and

[Paragraph as inserted by section 14 of Act 4 of 1989]

(b) any member of the Judicial Service Commission appointed under section 90(1)(d); and

[Paragraph as amended by section 20 of Act 23 of 1987]

(c) any member of the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission.

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

(3) Such person shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (5) and that tribunal has advised the President that he ought to be removed from office for inability to discharge the functions of his office or for misbehaviour.

(4) If the question of removing a person to whom this section applies has been referred to a tribunal appointed under subsection (5), the President may suspend that person from performing the functions of his office and any such suspension —

- (a) may at any time be revoked by the President; and
- (b) shall cease to have effect if the tribunal advises the President that the person should not be removed.

[Subsection as amended by section 20 of Act 23 of 1987]

(5) The tribunal referred to in this section shall consist of a chairman and two other members appointed by the President, and —

- (a) the chairman shall be a person who is or has been a judge of the Supreme Court or the High Court;
- (b) at least one of the other members shall be a person who is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe.

[Subsection as amended by section 9 of Act 25 of 1981
and by section 20 of Act 23 of 1987]

(6) In computing, for the purposes of subsection (5)(b), the period during which any person has been qualified to practise as a legal practitioner, any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

[Subsection as inserted by section 9 of Act 25 of 1981]

111. Chiefs and Councils of Chiefs

(1) There shall be Chiefs to preside over the tribespeople in Zimbabwe who shall, subject to the provisions of subsection (2), be appointed by the President in accordance with an Act of Parliament.

(2) An Act of Parliament shall provide that in appointing a Chief the President shall give due consideration to the customary principles of succession of the tribespeople over which the Chief will preside and may provide for the appointment of deputy Chiefs and acting Chiefs.

(3) There shall be a Council of Chiefs which shall consist of such number of Chiefs elected by the Chiefs from each of the various areas of Communal Land in such manner as is prescribed by or under an Act of Parliament, so, however, as to secure as far as is practicable equitable representation for the various areas of Communal Land with due regard to the total number of tribespeople in each such area:

Provided that an Act of Parliament may provide for the establishment of two or more Councils of Chiefs for separate areas of Communal Land.

[Subsection as amended by section 12 of Act 1 of 1983]

(4) The qualifications and disqualifications of candidates for election to any Council of Chiefs and the tenure of office of members thereof shall be as prescribed by or under an Act of Parliament.

111A. Provincial, district or regional governors

(1) For the better administration of Zimbabwe, an Act of Parliament may provide for the appointment by the President of governors for any areas within Zimbabwe.

(2) Governors appointed in terms of an Act of Parliament referred to in subsection (1) shall have such functions and powers in relation to the areas for which they have been appointed as may be prescribed by or under the Act of Parliament.

(3) The offices of governors appointed in terms of an Act of Parliament referred to in subsection (1) shall be public offices but shall not form part of the Public Service.

[Section as inserted by section 7 of Act 4 of 1985]

111B. Effect of international conventions, etc.

(1) Except as otherwise provided by this Constitution or by or under an Act of Parliament, any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organizations —

- (a) shall be subject to approval by Parliament;
- (b) shall not form part of the law of Zimbabwe unless it has been incorporated into the law by or under an Act of Parliament.

(2) Except as otherwise provided by or under an Act of Parliament, any agreement —

- (a) which has been concluded or executed by or under the authority of the President with one or more foreign organizations, corporations or entities, other than a foreign State or government or an international organization; and
- (b) which imposes fiscal obligations upon Zimbabwe;

shall be subject to approval by Parliament.

(3) Except as otherwise provided by this Constitution or by or under an Act of Parliament, the provisions of subsection (1)(a) shall not apply to —

- (a) any convention, treaty or agreement, or any class thereof, which Parliament has by resolution declared shall not require approval in terms of subsection (1)(a); or
- (b) any convention, treaty or agreement the subject-matter of which falls within the scope of the prerogative powers of the President referred to in section 31H(3) in the sphere of international relations;

unless the application or operation of the convention, treaty or agreement requires —

- (i) the withdrawal or appropriation of moneys from the Consolidated Revenue Fund; or
- (ii) any modification of the law of Zimbabwe.

[Section as substituted by section 12 of Act 4 of 1993]

112. Pensions

The provisions of Schedule 6 shall apply in respect of the pension rights of public officers and the remittability of pensions.

PART 2

INTERPRETATION

113. Interpretation

(1) In this Constitution, unless the context otherwise requires —

“Act of Parliament” includes —

- (a) any law included in the Revised Edition of the Statute Law prepared under the authority of the Revised Edition of the Laws Act, 1973, or which, though omitted from that Edition, continued in force notwithstanding the omission; and

(b) any other Act or Ordinance;

which was in force immediately before the appointed day;

"advocate" and "attorney" include a legal practitioner;

[Definition as inserted by section 10 of Act 25 of 1981]

"African customary law" means the tribal law and custom of Africans of a particular tribe;

"amend" includes vary, alter, modify or adapt;

"Appellate Division"

[Definition repealed by section 7 of Act 15 of 1990]

"appointed day" means the day appointed for the commencement of this Constitution;

"Chief" means a Chief referred to in section 111(1);

"Committee on Standing Rules and Orders" means the committee referred to in section 57(2);

[Definition as inserted by section 23 of Act 31 of 1989]

"Communal Land" means Communal Land referred to in the Communal Land Act, 1982;

[Definition as inserted by section 13 of Act 1 of 1983]

"Constitutional Bill" means a Bill which, if enacted, would have the effect of amending, adding to or repealing any of the provisions of this Constitution;

"Council of Chiefs" means a Council of Chiefs referred to in section 111(3);

"Declaration of Rights" means the Declaration of Rights set out in Chapter III;

"disciplinary law" means any written law in so far as it provides for the regulation of the discipline of regular or full-time members of any disciplined force or any other members of a disciplined force while they are rendering service as such members or in respect of their failure to render such service;

"disciplined force" means —

(a) a naval, military or air force;

(b) a police force;

(c) a prison service; or

(d) any other body established for public purposes by or under an Act of Parliament providing for the regulation of the discipline of that body and declared by that Act to be a disciplined force for the purposes of this definition;

"Electoral Law" means the Act of Parliament having effect for the purposes of section 58(4) which is for the time being in force;

"financial year" means the period of twelve months ending on 30th June in any year;

"Gazette" means the official *Gazette* of the Government;

"General Division"

[Definition repealed by section 7 of Act 15 of 1990]

"general election" means a general election of the members of Parliament;

[Definition as amended by section 9 of Act 15 of 1990]

"Government" means the Government of Zimbabwe;

"High Court" means the High Court of Zimbabwe and, in section 18(6)(b), includes the Supreme Court;

[Definition as inserted by section 10 of Act 25 of 1981]

“law” means —

- (a) any provision of this Constitution or of an Act of Parliament;
- (b) any provision of a statutory instrument; and
- (c) any unwritten law in force in Zimbabwe, including African customary law;

[Paragraph as amended by section 15 of Act 30 of 1990]

and “lawful” and “lawfully” shall be construed accordingly;

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

[Definition as inserted by section 10 of Act 25 of 1981]

“local authority” means any council or other such body established by or under any law to regulate the affairs of any local community and to make statutory instruments for that purpose;

“local court” means any court constituted by or under a written law for the purpose of applying African customary law;

“Mashonaland”

[Definition repealed by section 7 of Act 15 of 1990]

“Matabeleland”

[Definition repealed by section 7 of Act 15 of 1990]

“member”, in relation to a disciplined force, includes any person who, in terms of any disciplinary law relating to that force, is subject to that discipline;

“Minister”

[Definition repealed by section 18 of Act 23 of 1987]

“Money Bill”

[Definition repealed by section 23 of Act 31 of 1989]

“oath” includes affirmation;

“period of public emergency” means —

- (a) any period when Zimbabwe is engaged in any war and the period immediately following thereon until such date as may be declared by the President, by proclamation in the *Gazette*, as the end of the period of public emergency caused by that war; or
- (b) any period when a declaration under section 31J(1) is in effect;

[Paragraph as amended by section 20 of Act 23 of 1987]

“person” means any individual or any body of persons, whether corporate or unincorporated;

“President” means the President of Zimbabwe;

“Provincial Governor” means a governor appointed in terms of an Act of Parliament referred to in section 111A;

[Definition as inserted by section 23 of Act 31 of 1989]

“public moneys” means any fees, taxes or other revenues payable to the State and any other moneys received and held by an employee of the State in his official capacity;

“public office” means a paid office in the service of the State;

“public officer” means a person holding or acting in any public office;

“Public Service” means the service of the State but does not include —

- (a) the Prison Service, Police Force or Defence Forces;
- (b) service as a judge of the Supreme Court or the High Court or as a person appointed to preside over a special court under section 92;

[Paragraph as amended by section 13 of Act 25 of 1981]

- (c) service as a member of any Commission established by this Constitution or any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act;
- (d) service which this Constitution or an Act of Parliament provides shall not form part of the Public Service;

[Paragraph as amended by section 15 of Act 30 of 1990]

“session” means the sittings of Parliament commencing when Parliament first meets after the appointed day or after a prorogation or dissolution and terminating when Parliament is next prorogued or is dissolved without having been prorogued;

“sitting” means a period during which Parliament is sitting continuously without adjournment, including any period during which Parliament is in committee;

[Definition as amended by section 26 of Act 31 of 1989
and by section 9 of Act 15 of 1990]

“sitting day” means any weekday which is prescribed in the Standing Orders of Parliament to be a sitting day, whether or not Parliament meets on that day;

[Definition as substituted by section 23 of Act 31 of 1989]

“Speaker” means the Speaker of Parliament elected in terms of section 39;

[Definition as inserted by section 23 of Act 31 of 1989]

“statutory instrument” means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law made by the President, a Minister or any other person or authority under this Constitution or any Act of Parliament;

“Supreme Court” means the Supreme Court of Zimbabwe;

[Definition as inserted by section 10 of Act 25 of 1981]

“tax” includes duty or due;

“Tribal Trust Land”

[Definition repealed by section 13 of Act 1 of 1983]

“Vice-President” means a Vice-President of Zimbabwe;

[Definition as inserted by section 18 of Act 23 of 1987
and as amended by section 9 of Act 15 of 1990]

“Zimbabwe” means the Republic of Zimbabwe.

[Definition as inserted by section 15 of Act 30 of 1990]

(2) Any reference in this Constitution, without qualification, to —

- (a) a section, Chapter or Schedule shall be read and construed as a reference to a section or Chapter of or Schedule to this Constitution;
- (b) a subsection shall be read and construed as a reference to a subsection of the section in which the reference is made;
- (c) a paragraph shall be read and construed as a reference to a paragraph of the Schedule, subsection or definition in which the reference is made;
- (d) a subparagraph shall be read and construed as a reference to a subparagraph of the paragraph or, as the case may be, of the subparagraph in which the reference is made.

- (3) In this Constitution, unless the context otherwise requires —
- (a) words importing the masculine gender include the feminine;
 - (b) words in the singular include the plural and words in the plural include the singular;
 - (c) where a period of time is expressed —
 - (i) to begin on or to be reckoned from a particular day, that day shall not be included in the period;
 - (ii) to end on or to be reckoned to a particular day, that day shall be included in the period;
 - (d) where the time limited for the doing of any thing expires or falls upon a Saturday, Sunday or public holiday, the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or public holiday;
 - (e) a reference to a month shall be construed as a reference to a calendar month;
 - (f) a reference without qualification to a year shall be construed as a reference to a period of twelve months.
- (4) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or exercising the functions of that office.
- (5) In this Constitution, unless the context otherwise requires, a reference to the power to appoint a person to any public office shall be construed as including a reference to the like power —
- (a) to reappoint him to that office;
 - (b) to appoint him on promotion or transfer to that office;
 - (c) to appoint him to act in that office;
 - (d) to fix and vary his conditions of service in that office, including his remuneration and the period of his appointment and any benefits to him in respect of the termination of his appointment.

[Subsection as substituted by section 15 of Act 30 of 1990]

114. Supplementary provisions

- (1) Any power, jurisdiction or right conferred by this Constitution may be exercised and any duty imposed by this Constitution shall be performed from time to time as occasion requires.
- (1a) Where any power, jurisdiction or right is conferred by this Constitution, any other powers that are reasonably necessary or incidental to its exercise shall be deemed also to have been conferred.

[Subsection as inserted by section 16 of Act 30 of 1990]

- (2) Subject to the provisions of section 31E(3), where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

[Subsection as amended by section 20 of Act 23 of 1987]

- (3) For the purposes of this Constitution, no person shall be deemed to hold public office by reason only of the fact that he is in receipt of a pension, half-pay, retired pay or any other like allowance in respect of service in an office that was at the relevant time a public office.

- (3a) A body established by or in terms of this Constitution may act notwithstanding any vacancy in its membership if the members of the body who authorize or perform the act concerned constitute a quorum of the membership of that body.

[Subsection as inserted by section 19 of Act 23 of 1987]

(3b) Except as otherwise provided in this Constitution or in any law or rule regulating the proceedings of the body concerned, one-half of the membership of any body established by or in terms of this Constitution shall constitute a quorum of the membership of that body.

[Subsection as inserted by section 19 of Act 23 of 1987]

(4) Any reference in this Constitution to the affirmative votes of not less than two-thirds of a body shall, when the number of its membership is not a multiple of three, be interpreted to mean that the number of votes shall be not less than the integer next above two-thirds of the number of its membership.

(5) For the purposes of this Constitution a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

(6) The Interpretation Act for the time being in force in Zimbabwe shall apply to the interpretation of any regulations made by the President, the Public Service Commission, the Police Service Commission or the Defence Forces Service Commission in the exercise of a power to make regulations conferred by this Constitution and to the interpretation of any such power.

SCHEDULE 1

(SECTIONS 7, 28, 31C, 31D, 31G, 39, 44, 76, 83 AND 113)

OATHS AND AFFIRMATIONS

I, do swear *[or solemnly affirm]* that I will be faithful and bear true allegiance to Zimbabwe and observe the law of Zimbabwe.

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

Oath or Affirmation of Office

I, do swear *[or solemnly affirm]* that I will well and truly serve Zimbabwe in the office of.....

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

Oath or Affirmation of a Member of the Cabinet

I, being chosen and admitted to the Cabinet of Zimbabwe, do swear *[or solemnly affirm]* that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the President of Zimbabwe for the good management of the public affairs of Zimbabwe, that I will not, directly or indirectly, reveal such matters as may be debated in the Cabinet and committed to my secrecy, but that I will in all things be a true and faithful member thereof.

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

Judicial Oath or Affirmation

I, do swear *[or solemnly affirm]* that I will well and truly serve Zimbabwe in the office of and I will do right to all manner of people after the laws and usages of Zimbabwe, without fear or favour, affection or ill-will.

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

SCHEDULE 2

(SECTIONS 25, 31J AND 113)

SAVINGS IN THE EVENT OF PUBLIC EMERGENCIES

1. Savings in the event of public emergencies

(1) Nothing contained in any law shall be held to be in contravention of section 13, 17, 20, 21, 22 or 23 to the extent that the law in question provides for the taking, during a period of public emergency, of action for the purpose of dealing with any situation arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation.

(2) Nothing contained in any law shall be held to be in contravention of section 13 to the extent that the law in question provides for preventive detention, during a period when a resolution under section 31J(6) is in effect, in the interests of defence, public safety or public order, and nothing done by any person under the authority of any such law shall be held to be in contravention of section 13 unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation.

[Subparagraph as amended by section 20 of Act 23 of 1987]

(3) Where a declaration under section 31J(1) or a resolution under section 31J(6) applies only in relation to a part of Zimbabwe, the law in question shall not provide for the taking of action or for preventive detention, as the case may be, in relation to any place outside that part.

[Subparagraph as amended by section 20 of Act 23 of 1987]

2. Preventive detention

(1) Where a person is detained under any law providing for preventive detention —

- (a) he shall be informed as soon as reasonably practicable after the commencement of the detention, and in any case not later than seven days thereafter, in a language that he understands of the reasons for his detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him;
- (b) his case shall be submitted not later than fourteen days (or during a period of public emergency thirty days) after the commencement of the detention for review by a tribunal established under subparagraph (4) and shall be reviewed by such tribunal forthwith; and thereafter his case shall be reviewed by such tribunal at intervals of thirty days (or during a period of public emergency one hundred and eighty days) from the date on which his case was last reviewed;
- (c) at the hearing of his case by the tribunal he shall be permitted to appear in person or at his own expense by a legal representative of his own choice; and
- (d) if the tribunal orders, either because he satisfies the tribunal that new circumstances have arisen or because the tribunal considers it to be desirable, that his case should be submitted to the tribunal for review before the expiration of thirty days (or during a period of public emergency one hundred and eighty days) from the previous review, the case shall be submitted for review when so ordered by the tribunal.

(2) On any such review, the tribunal may make recommendations concerning the necessity or expedience of continuing the detention to the authority by which it was ordered and that authority shall be obliged to act in accordance with any such recommendation unless, during a period of public emergency, the President otherwise directs; and where the President so directs, the authority shall cause to be published in the *Gazette* a notice that he has so directed.

(3) A person who has been detained under any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established under subparagraph (4) that there is, in its opinion, insufficient cause for his detention shall not again be detained by virtue of such law within the period of one hundred and eighty days from his release on the same grounds as those on which he was originally detained.

(4) A tribunal for the purposes of this paragraph shall be established by law and shall consist of —

(a) a chairman, who shall be a person who is or has been a judge of the Supreme Court or the High Court or is qualified under section 82 to be appointed as such; and

(b) two other persons, one of whom —

(i) is or has been a judge of the Supreme Court or the High Court or is qualified under section 82 to be appointed as such;

(ii) has been a magistrate in Zimbabwe for not less than seven years; or

(iii) is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe.

[Subparagraph as amended by sections 11 and 13 of Act 25 of 1981]

(4a) In computing, for the purposes of subparagraph (4)(b)(iii), the period during which any person has been qualified to practise as a legal practitioner in Zimbabwe, any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

[Subparagraph as inserted by section 11 of Act 25 of 1981]

(5) No law providing for preventive detention during a period when a resolution under section 31J(6) is in effect shall authorize the detention of a person for a period longer than fourteen days unless the Minister designated for the purpose has issued an order providing for the preventive detention of that person.

[Subparagraph as amended by section 20 of Act 23 of 1987]

(6) The reference in subparagraph (1)(b) to a period of fourteen or thirty days in relation to a first review includes a reference to any lesser periods that amount in the aggregate to fourteen or thirty days respectively:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than fourteen or thirty days, as the case may be.

(7) For the purposes of subparagraph (3), a person shall be deemed to have been detained on the same grounds as those on which he was originally detained unless a tribunal established under subparagraph (4) has reported that, in its opinion, there appear *prima facie* to be new and reasonable grounds for the detention, but the giving of any such report shall be without prejudice to the provisions of subparagraphs (1) and (5).

SCHEDULE 3

(SECTION 38 AND 39)

QUALIFICATIONS FOR MEMBERS OF PARLIAMENT AND VOTERS

1. Qualifications for members of Parliament

(1)

[Subparagraph repealed by section 24 of Act 31 of 1989]

(2)

[Subparagraph repealed by section 24 of Act 31 of 1989]

- (3) Subject to the provisions of paragraphs 2 and 4, a person who —
- (a) is registered as a voter;
 - (b) has attained the age of twenty-one years; and
 - (c) has been ordinarily resident in Zimbabwe for not less than five years during the period of twenty years immediately preceding his nomination;
- shall be qualified for election or appointment as a member of Parliament.

[Subparagraph as amended by section 24 of Act 31 of 1989]

- (4) In determining, for the purposes of this paragraph, the period during which a person has been ordinarily resident in Zimbabwe, any period of residence outside Zimbabwe during which he was occupied in the discharge of his duties while in the service of the State shall be regarded as residence in Zimbabwe.

2. Disqualifications for members of Parliament

- (1) A person shall be disqualified for election or appointment as a member of Parliament if he —

- (a) is disqualified under paragraph 3 for registration as a voter;
- (b)

[Subparagraph repealed by section 24 of Act 31 of 1989]

- (2) A person shall be disqualified for election as a member of Parliament at an election for filling a vacancy if he is a member of Parliament.

[Subparagraph as substituted by section 24 of Act 31 of 1989]

3. Qualifications and disqualifications for voters

- (1) Subject to the provisions of this paragraph and to such residence qualifications as may be prescribed in the Electoral Law for inclusion on the electoral roll of a particular constituency, any person who has attained the age of eighteen years and who —

- (a) is a citizen of Zimbabwe; or
- (b) since the 31st December, 1985, has been regarded by virtue of a written law as permanently resident in Zimbabwe;

shall be qualified for registration as a voter on the common roll.

[Subparagraph as substituted by section 17 of Act 30 of 1990]

- (2) The following shall be disqualified for registration as a voter for the periods stated hereunder —

- (a) any person who is found or declared in accordance with any Act relating to mental health to be mentally disordered or defective as defined in that Act, for so long as he is so mentally disordered or defective;
- (b) any person who is declared by order of the High Court to be incapable of managing his own affairs, for so long as that order remains in force;

[Subparagraph as amended by section 13 of Act 25 of 1981]

- (c) any person who has been convicted —
 - (i) within Zimbabwe of a criminal offence; or
 - (ii) outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe, would have been a criminal offence;

and sentenced by a court to imprisonment, by whatever name called, for a term of six months or more, for the period of his imprisonment;

- (d) any person who has been convicted of an offence under the Electoral Law and has been declared by the High Court under the powers conferred by the Electoral Law to be disqualified for registration as a voter or from voting at any election, for the period for which he has been so declared to be disqualified;

[Subparagraph as amended by section 13 of Act 25 of 1981]

- (e) any person who has been expelled from Parliament in accordance with section 43, for a period of five years from the date he vacates his seat under that section;

[Subparagraph as amended by section 26 of Act 31 of 1989]

- (f) any person who for a continuous period of more than six months is the subject of a preventive detention order under any law providing for the preventive detention of persons, for the period of his detention.

- (3) Any person who is registered on the electoral roll of a constituency shall be entitled to vote at an election which is held for that constituency unless he has then ceased to be a citizen of Zimbabwe or is then, in accordance with the provisions of subparagraph (2), disqualified for registration.

[Subparagraph as amended by section 9 of Act 15 of 1987]

- (4) For the purposes of subparagraph (2)(c) —

- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;
- (b) two or more terms of imprisonment that required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;
- (c) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;
- (d) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

4.

[Paragraph repealed by section 9 of Act 15 of 1990]

SCHEDULE 4

(SECTIONS 40B AND 51)

PROCEDURE WITH REGARD TO BILLS AND OTHER MATTERS IN PARLIAMENT

1. Introduction of Bills, motions and petitions

- (1) Subject to the provisions of this Constitution and Standing Orders —

- (a) any member of Parliament may introduce any Bill into or move any motion for debate in or present any petition to Parliament;
- (b) a Vice-President, Minister or Deputy Minister may introduce any Bill into or move any motion for debate in or present any petition to Parliament.

- (2) Except on the recommendation of a Vice-President, Minister or Deputy Minister, Parliament shall not —

- (a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the Speaker, makes provision for any of the following matters —
 - (i) imposing or increasing any tax;

- (ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of the State or varying any such charge otherwise than by reducing it;
 - (iii) compounding or remitting any debt due to the State or condoning any failure to collect taxes;
 - (iv) authorizing the making or raising of any loan by the State;
 - (v) condoning unauthorized expenditure;
 - (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the Speaker, is that provision should be made for any of the matters specified in subparagraph (a); or
 - (c) receive any petition which, in the opinion of the Speaker, requests that provision be made for any of the matters specified in subparagraph (a).
- (3) The provisions of subparagraph (2) shall not apply to any Bill introduced, motion or amendment moved or petition presented by a Vice-President, Minister or Deputy Minister.

[Paragraph as amended by section 9 of Act 15 of 1990]

2. Reports of Parliamentary Legal Committee on Bills

(1) Parliament shall not proceed upon a Bill, other than a Constitutional Bill, after the introduction of the Bill into Parliament or give such Bill its final reading after it has been amended in Parliament unless a report of the Parliamentary Legal Committee on the Bill has been presented to Parliament:

Provided that, if no report has been presented within the period specified in Standing Orders or any extension thereof granted in accordance with Standing Orders, it shall be presumed that the Committee is of the opinion that no provisions of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, and Parliament may proceed upon the Bill or give the Bill its final reading, as the case may be.

(2) It shall be the duty of Parliament to consider any report presented to it under section 40B(1) which states that, in the opinion of the Parliamentary Legal Committee, a provision of a Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution.

(3) If, after considering a report referred to in subparagraph (2), Parliament resolves that a provision of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, Parliament shall not pass the Bill containing that provision.

3. Report of Parliamentary Legal Committee on statutory instruments

(1) If, after considering a report of the Parliamentary Legal Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of this Constitution, Parliament resolves that the provision is in contravention of the Declaration of Rights or any other provision of this Constitution, the Secretary to Parliament shall report the circumstances to the President who shall forthwith, by notice in the *Gazette*, repeal the provision.

(2) The Parliamentary Legal Committee may, at any time before a report of the Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of this Constitution is considered by Parliament, withdraw the report if, in the opinion of the Committee, the provision is repealed or is amended in such a way as, in the opinion of the Committee, to remove the contravention.

(3) A provision of a statutory instrument which has been repealed by the President in terms of subparagraph (1) shall cease to be of force with effect from the date of such repeal notwithstanding that some person or authority other than the President may have made the statutory instrument concerned.

[Schedule as substituted by section 25 of Act 31 of 1989]

SCHEDULE 5

(SECTION 52)

[Schedule repealed by section 8 of Act 15 of 1990]

SCHEDULE 6

(SECTION 112)

PENSIONS

1. Protection of pension rights of public officers

(1) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits that were granted to any person before the appointed day shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

[Subparagraph as amended by section 4 of Act 9 of 1993]

(2) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits not referred to in subparagraph (1) in relation to a public officer or former public officer in respect of a period of service as a public officer, or any ill-health or injury arising out of and in the course of his official duties during a period of service as a public officer, that —

- (a) commenced before the appointed day shall be the law that was in force immediately before that day; or
- (b) commenced on or after the appointed day shall be the law in force on the date on which that period of service commenced;

or any law in force at a later date that is not less favourable to the person entitled to such pensions benefits.

[Subparagraph as amended by section 4 of Act 9 of 1993]

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this paragraph, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall be charged upon and paid out of the Consolidated Revenue Fund.

(5) Any law which alters the age at which a person holding public office shall retire or otherwise vacate his office shall not have effect in relation to any public officer who was appointed before that law takes effect unless he consents thereto.

(6) In this paragraph —

“law” shall be construed as including the rules or other instrument setting out the terms of service of the staff of Parliament;

“pensions benefits” means any pensions, commutation of pensions, gratuities or other like allowances or refund of pension contributions, including any interest payable thereon, for persons in respect of their service as public officers or any ill-health or injury arising out of and in the course of their official duties or for the spouses, children, dependants or personal representatives of such persons in respect of such service, ill-health or injury.

(7) References in this paragraph to the law with respect to pensions benefits include, without derogation from their generality, references to the law regulating —

- (a) the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused;

- (b) the circumstances in which any such benefits that have been granted may be increased, withheld, reduced in amount or suspended; or
- (c) the amount of any such benefits.

2. Remittability of pensions

(1) Any person who is entitled to receive a pension and who is not ordinarily resident in Zimbabwe shall not be prevented from having remitted to him outside Zimbabwe, free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission —

- (a) any payment of a pension to which he is entitled; and
- (b) subject to such restrictions as may be imposed by or under an Act of Parliament which are not greater than those which could have imposed immediately before the appointed day, the amount of any commutation of a pension in such cases and to such extent as was prescribed by law immediately before that day.

(1a) Notwithstanding anything in subparagraph (b) of subparagraph (1), provision may be made by or under an Act of Parliament limiting the amount of any commutation of a pension which may be remitted to any person outside Zimbabwe in any period of twelve months, and any such limitation may be greater than might have been imposed or prescribed immediately before the appointed day.

[Subparagraph as inserted by section 4 of Act 9 of 1993]

(2) Any amount which a person is entitled to have remitted under this paragraph shall not be deducted from the amount of money that he may be entitled to have remitted outside Zimbabwe by or under this Constitution or any law.

(3) In this paragraph —

“pension” means any pension or annuity which is payable —

- (a) from the Consolidated Revenue Fund to any public officer or former public officer or other person by or under this Constitution or any Act of Parliament; or
- (b) in accordance with the rules of any pension fund to —
 - (i) a person who was a member of that fund upon his retirement on account of age or ill-health or other termination of service or on his attaining a specified age; or
 - (ii) the spouse, children or dependants of a person who was a member of that fund upon or after the death of such former member;

and which is payable for the lifetime of the recipient or for a specified period or until the happening of a specified event;

“pension fund” means any scheme or arrangement established or operating in Zimbabwe the principal object of which is to provide benefits for persons who are or have been members of the scheme or arrangement upon their retirement on account of age or ill-health or other termination of service or on attaining a specified age, whether or not such scheme or arrangement also provides for the payment of benefits in other circumstances, or for dependants or nominees of deceased members.

ANNEXURE

[This Annexure does not form part of the Constitution. It has been inserted here to bring the provisions of the Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980 (S.I. 1980/395 of the United Kingdom) to the attention of readers of this edition of the Constitution.]

THE ZIMBABWE CONSTITUTION

(TRANSITIONAL, SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS)

ORDER 1980

Made 19th March 1980

Laid before Parliament 20th March 1980

Coming into Operation as provided in section 1(2)

At the Court at Buckingham Palace, the 19th day of March, 1980.

Present,

The Queen's Most Excellent Majesty in Council

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

1. Citation and commencement

(1) This Order may be cited as the Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980.

(2) This Order shall come into operation immediately before the day appointed for the purpose of section 1(1) of the Zimbabwe Act 1979 (therein and hereinafter referred to as "Independence Day").

2. Interpretation

(1) In this Order —

"the Constitution" means the Constitution of Zimbabwe set out in the Schedule to the Zimbabwe Constitution Order 1979;

"the Elections Order" means the Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) Order 1979, as amended by the Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) (Amendment) Order 1980;

"the existing laws" means any law or instrument having force and effect as part of the law of Southern Rhodesia immediately before Independence Day (and includes any law or instrument made before that day and promulgated or otherwise coming into operation on or after that day), but does not include any such law or instrument which is repealed or revoked as from Independence Day or (save as provided in section 4(5) or section 12) any provision of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979";

"the Governor" means the Governor of Southern Rhodesia appointed pursuant to the Southern Rhodesia Constitution (Interim Provisions) Order 1979;

"the revoked Orders" means the Orders specified in Schedule 1 to this Order.

(2) Save where the context otherwise requires, expressions used in this Order shall have the same meaning as in the Constitution and the provisions of sections 113 and 114 of the Constitution shall apply for the purposes of interpreting this Order and otherwise in relation thereto as they apply for the purposes of interpreting and in relation to the Constitution.

3. Revocation

The Orders specified in Part 1 of Schedule 1 to this Order are revoked as from Independence Day.

4. Existing laws and related matters

(1) Subject to the provisions of the Constitution and this Order, the existing laws shall, notwithstanding the revocation of the revoked Orders and the establishment of a Republic in Zimbabwe, continue in force and effect on and after Independence Day and shall then have effect as if they had been made in pursuance of the Constitution, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution and this Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other person or authority is prescribed or provided for by or under any of the existing laws (including any amendment to any such law made under this section), that prescription or provision shall, as from Independence Day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Zimbabwe Act 1979, the Constitution and this Order) as if it had been made under the Constitution by Parliament or, as the case may be, by the other person or authority.

(3) The President may by order published in the *Gazette* at any time before 1st March 1981 make such amendments to any of the existing laws as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) An order made under this section may be amended or revoked by Parliament or, in relation to any of the existing laws affected thereby, by any other authority having power to amend, repeal or revoke that existing law.

(5) Notwithstanding anything contained in the definition of "the existing laws" in section 2(1), Parts III and IV of the Third Schedule to the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" shall be deemed to be an existing law to which subsection (1) of this section applies, and those provisions shall have effect as an Act of Parliament and may be cited as "The Pensions and Other Benefits Act, 1979".

(6) References to Zimbabwe in the Constitution shall, in relation to any time or period before Independence Day, be construed as including references to Southern Rhodesia, Rhodesia and Zimbabwe Rhodesia.

(7) References to the Governor in any of the existing laws shall be construed as references to the President.

(8) The provisions of this section shall be without prejudice to any powers conferred by the Constitution, this Order or any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law; and, for the purposes of amendment or repeal, an Order in Council or an Ordinance shall be deemed to be an Act of Parliament.

5. First President

The person elected to be President at the election held under section 5 of the Elections Order shall be deemed to have been elected under section 28 of the Constitution on Independence Day and shall be the first President of Zimbabwe.

6. Parliament

(1) The persons who were elected or, as the case may be appointed members of the Senate at the elections held, or pursuant to appointments made, under section 3(2) of the Elections Order shall, unless they have in the meanwhile vacated their seats under section 41 of the Constitution, be deemed to have been elected or, as the case may be, appointed members of the Senate under section 33 of the Constitution, and shall hold their seats in accordance with the provisions of the Constitution.

(2) The persons elected to be members of the House of Assembly at the general election held under section 3(1) of the Elections Order shall, unless they have in the meanwhile vacated their seats under section 41 of the Constitution, be deemed to have been elected as members of the House of Assembly under section 38 of the Constitution and shall hold their seats in accordance with the provisions of the Constitution.

(3) If the Governor has, by proclamation in the *Gazette* under section 6(2) of the Elections Order, fixed a place and time for the commencement of the first session of Parliament, that proclamation shall have effect, for the purposes of the Constitution, as if it were a proclamation by the President fixing the place and time of the first session of Parliament after a general election.

(4) The Secretary to Parliament may, at any time before the commencement of the first session of Parliament, publish Standing Orders and Select Committee rules of the Senate and the House of Assembly, and the Standing Orders and rules so published shall be deemed to be, respectively, Standing Orders made in accordance with section 57 of the Constitution and rules made in accordance with those Standing Orders.

(5) Sections 34 and 39 of the Constitution shall have effect as if the references therein to the Senate or the House of Assembly first meeting after any dissolution of Parliament included references to the Senate and the House of Assembly first meeting on or after Independence Day.

(6) For the purposes of the Constitution, a person who has been a member of a body which, in accordance with any provision purporting to be, or to have the effect of, law in Southern Rhodesia before 12th December 1979, was established as a Senate or, as the case may be, a House of Assembly (or Legislative Assembly or unicameral Parliament) shall be deemed to have been a member of the Senate or, as the case may be, the House of Assembly; and references to a person nominated for election as a member of the Senate or the House of Assembly shall be read accordingly.

(7) The terms of service applicable to the staff of Parliament immediately before Independence Day shall, on and after Independence Day, be applicable as if they had been approved by the House of Assembly pursuant to section 48(4) of the Constitution.

(8) The Act of Parliament having effect for the purposes of section 58(4) of the Constitution shall, except as otherwise provided by Parliament, be the Electoral Act, 1979, as in force on Independence Day and as then modified, adapted or amended by the Electoral Ordinances 1979 and 1980; and those instruments shall have effect as if the references therein to the elections were references to any election referred to in the said section 58(4):

Provided that Chapter XI of the Electoral Act, 1979, shall have effect as if the said references were references to the elections to which subsection (9) applies.

(9) [Spent]

(10) Notwithstanding anything to the contrary contained in the Constitution —

- (a) the first Delimitation Commission shall be convened as soon as possible after Independence Day in order to divide Zimbabwe provisionally into eighty common roll constituencies for the purpose of enabling voters to register on the common roll;
- (b) for the purpose of the provisional delimitation under paragraph (a), the Delimitation Commission shall have regard to the number of persons who, in its opinion after it has consulted the Director of Census and Statistics of Zimbabwe, are ordinarily resident in the areas concerned and are eligible to be registered as voters on the common roll; and
- (c) as soon as may be after the Delimitation Commission has completed its report on the provisional delimitation, the President shall, by proclamation in the *Gazette*, declare the names and boundaries of the constituencies as provisionally delimited, which shall have effect only for the purposes of the registration of voters on the common roll.

(11) A Delimitation Commission shall be convened not more than three years after the Delimitation Commission convened in accordance with subsection (10) has submitted its report in order to carry out, in accordance with section 60 of the Constitution, the first delimitation for the purposes of the Constitution.

7. Ministers and Deputy Ministers

- (1) The person appointed Prime Minister under section 4 of the Elections Order, and holding that office immediately before Independence Day, shall, as from Independence Day, hold office as Prime Minister as if he had been appointed thereto under section 69(1)(a) of the Constitution.
- (2) Any other person appointed by the Governor to be a Minister or a Deputy Minister under an appointment subsisting immediately before Independence Day shall, as from Independence Day, hold office as such Minister or Deputy Minister, as the case may be, as if he had been appointed thereto under section 69(1)(b) of the Constitution.

8. Existing officers

- (1) Every person who immediately before Independence Day holds or is acting in a public office shall, as from Independence Day, hold or act in that office or the corresponding office established by the Constitution as if he had been appointed to do so in accordance with the law in force on that day and as if he had taken any necessary oath under the Constitution:

Provided that any person who, under the revoked orders, any provision of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" or any of the existing laws, would have been required to vacate office at the expiration of any period or on the attainment of any age shall, unless his term of office is extended or he is earlier removed in accordance with the law for the time being in force, vacate his office at the expiration of that period or upon the attainment of that age.

- (2) For the avoidance of doubt, it is hereby declared that the reference in subsection (1) to a person holding or acting in a public office includes a reference to a member of the staff of Parliament and to a person holding or acting in the office of Chief or a member, other than an *ex officio* member, of a Commission to which Chapter VI of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" refers, and also includes a reference to a judge who was continued in office by virtue of section 5 of the Constitution (interim Provisions) Ordinance 1979.
- (3) The provisions of this section shall be without prejudice to any powers conferred by or under the Constitution upon any person or authority to make provision for the abolition of offices and the removal from office of persons holding or acting in any office.

9. High Court

- (1) The High Court of Southern Rhodesia as established immediately before Independence Day shall be deemed to have been duly constituted as the High Court under Chapter VIII of the Constitution.
- (2) For the purposes of the Constitution, a person who was before Independence Day appointed a judge of a High Court in the territory, whether or not validly so appointed, shall be deemed to have been a judge of the High Court.

10. Legal proceedings

- (1) All proceedings that, immediately before Independence Day, are pending before any court exercising jurisdiction in accordance with the law in force immediately before Independence Day may be continued and concluded on and after that day before the corresponding court established by or under the Constitution.
- (2) Any decision given before Independence Day by any such court shall for the purposes of its enforcement or of any appeal therefrom have effect on and after that day as if it were a decision of the corresponding court established by or under the Constitution.

11. Property and assets

- (1) Subject to the provisions of this section, any property and assets which immediately before Independence Day are vested in Her Majesty or in the Governor of Southern Rhodesia for the purposes of the Government of Southern Rhodesia, or are vested in that Government, shall, as from that day, vest in the President on behalf of Zimbabwe.

(2) Where, immediately before Independence Day, any person holds any property or assets on account of or in trust for Her Majesty or for the Governor or Government of Southern Rhodesia for the purposes of that Government, that person shall, as from that day, hold such property or assets on account of or, as the case may be, on the like trust for the President on behalf of Zimbabwe.

12. Rights, liabilities and obligations

(1) Without prejudice to section 11, all rights, liabilities and obligations of —

- (a) Her Majesty in respect of the Government of Southern Rhodesia; and
- (b) the Governor of Southern Rhodesia or the holder of any other office under the Crown in respect of the Government of Southern Rhodesia on behalf of that Government; and
- (c) the Government of Southern Rhodesia;

shall, as from Independence Day, be rights, liabilities and obligations of the President on behalf of Zimbabwe and, subject to the provisions of any law, shall be enforceable by or against the President accordingly.

(2) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from law, contract or otherwise, and all debts and liabilities of, or assumed by, any former Government of Southern Rhodesia (including the obligations so assumed in respect of the Central African Pension Fund).

(3) Notwithstanding anything contained in the definition of "the existing laws" in section 2(1), paragraph 16(1), (2) and (4), other than the references therein to subparagraph (3), of the Third Schedule to the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" shall be deemed to be existing law to which section 4(1) applies, and those provisions shall have effect as an Act of Parliament and may be cited as "The Former Administration (Liabilities) Act, 1979".

13. Nationality

(1) The references in section 4 of the Constitution to a person who immediately before the appointed day was or was deemed to be a citizen are references to a person who, before that day, was or was deemed to be a citizen of Southern Rhodesia.

(2) A person to whom subsection (3) of this section applies shall be entitled, upon making application at any time during the period of two years from Independence Day in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe; and the provisions of section 7(6) of the Constitution shall apply to such a person as they apply to a person referred to in section 7(1) of the Constitution and as if the period referred to therein were the period referred to in this subsection.

(3) This subsection applies to any person who does not become a citizen of Zimbabwe on Independence Day by virtue of section 4 of the Constitution by reason of his having at any time between 11th November 1965 and 12th December 1979 —

- (a) been deprived of his citizenship by order made in terms of section 16(1) of the Citizenship of Rhodesia Act [*Chapter 23*], other than by order made solely on a ground specified in section 16(1)(a) or 16(1)(b)(i) of that Act;
- (b) been deprived of his citizenship by order made in terms of section 17 of that Act as from time to time in force, otherwise than on the grounds specified in subsection (1)(c) thereof;
- (c) in the case of a person who has been deprived of his citizenship of another country on grounds substantially similar to any of the grounds specified in section 16(1) of that Act, other than a ground specified in section 16(1)(a) or 16(1)(b)(i) of that Act, been deprived of his citizenship by order made in terms of section 18(1) of that Act;
- (d) in the case of any child of a person to whom paragraph (a), (b) or (c) applies, been deprived of his citizenship by order made in terms of section 19(1) of that Act; or
- (e) lost his citizenship by virtue of section 20 of that Act.

(4) In this section, the references to the provisions of the Citizenship of Rhodesia Act [*Chapter 23*] shall be read as including references to substantially corresponding provisions of any law

or instrument purporting to be law in Southern Rhodesia which was directly or indirectly replaced by the Citizenship of Rhodesia Act [Chapter 23].

14. Declarations of emergency and martial law

If, immediately before Independence Day, a declaration of emergency in terms of section 75, or a proclamation of martial law under section 66(2)(c), of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" is in effect, that declaration or proclamation shall have effect on and after Independence Day as if it were a declaration under section 68(1), or, as the case may be, a proclamation under section 65(2)(c), of the Constitution and, in the case of such a declaration, as if it had been approved by the House of Assembly at the commencement of this Order.

15. Alteration of this Order

Notwithstanding the provisions of the Constitution, the Parliament of Zimbabwe may amend, add to or repeal any of the provisions of this Order only in the same manner as it may amend, add to or repeal the provisions of the Constitution:

Provided that a Bill which is introduced into the House of Assembly less than seven years after Independence Day and which, if enacted, would amend, add to or repeal section 6(1), (2) or (9) of, or Schedule 2 to, this Order shall be deemed to be a Bill to which section 52(5) of the Constitution applies.

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

**SCHEDULE 1
(SECTION 2(1))
REVOKED ORDERS**

**PART I
ORDERS REVOKED BY THIS ORDER**

The Southern Rhodesia (Constitution) Order in Council 1961;
The Constitution of Southern Rhodesia (Amendment) Order in Council 1964;
The Southern Rhodesia Constitution(interim Provisions) Order 1979;
The Southern Rhodesia (Elections and Appointments) Order 1979;
The Southern Rhodesia (Elections and Appointments)(Amendment) Order 1980.

**PART 2
ORDERS REVOKED BY THE ZIMBABWE ACT 1979**

The Southern Rhodesia Constitution Order 1965;
The Southern Rhodesia (Higher Authority for Power) Order 1970;
The Southern Rhodesia (Matrimonial Jurisdiction) Order 1970;
The Southern Rhodesia (Marriages, Matrimonial Causes and Adoptions) Order 1972.

**SCHEDULE 2
(SECTION 6(9))
ELECTIONS**

[This Schedule, which set out modifications to the Constitution for the purposes of elections held before the first proclamation of constituencies, is now spent.]

