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# THE ELECTORAL (AMENDMENT) ACT, 1996

[Enactment]

Section:

## 1. [Short title]

This Act may be cited as the Electoral (Amendment) Act, 1996, and shall be read as one with the Electoral Act, 1991 [Act No. 2 of 1991], in this Act referred to as the principal Act.

## 2. [Repeal and replacement of section 9]

The principal Act is amended by the repeal of section nine and the substitution therefor of the following:

### 9. [Nomination of presidential candidate]

(1) A candidate for election as President shall, on such day, at such time and at such place as may be determined by the Commission, deliver to the Returning Officer --

- (a) the candidate's nomination paper;
- (b) the prescribed election fee;
- (c) the prescribed statutory declaration of the candidate's assets and liabilities; and
- (d) an oath and affirmation, as set out in the Schedule, of the candidate's Zambian citizenship and that the candidate's parents are Zambian citizens by birth or descent:

Provided that --

- (i) subject to sub-paragraph (ii), the contents of such documents referred to in this section shall be accepted *prima facie*, by the Returning Officer, as complying with the law as to qualification for election as President;
- (ii) notwithstanding sub-paragraph (i) if the Returning Officer is satisfied that clause (5) (a) or (c) of Article 34 of the Constitution has not been complied with, he shall immediately reject the nomination of such candidate.

(2) The nomination paper shall be signed by not less than two hundred registered voters.

(3) Any question, by any person, which may arise as to whether any provision of the Constitution or any law relating to nomination or election of the President has been complied with shall be referred by the Returning Officer or by such person to the full bench of the Supreme Court within 14 days of the person elected as President being sworn in, in accordance with clause 9 of Article 34 of the Constitution.

(4) A person who swears or affirms falsely under this section shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term of seven years without the option of a fine.

**[NOTE: Schedule not included]**

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**GOVERNMENT OF ZAMBIA  
ACT No. 23 of 1996**

Date of assent: 14th October, 1996

An Act to amend the Electoral Act, 1991.

16th October, 1996  
ENACTED by the Parliament of Zambia.

# **NEW DOCUMENT**

## CONSTITUTION OF ZAMBIA - PART IV

### THE EXECUTIVE

*(As amended by Act No. 18 of 1996)*

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#### Article

#### 33. [The office of President]

(1) There shall be a President of the Republic of Zambia who shall be the Head of State and of the Government and the Commander-in-Chief of the Defence Force.

(2) The executive power of the Republic of Zambia shall vest in the President and, subject to the other provisions of this Constitution, shall be exercised by him either directly or through officers subordinate to him.

#### 34. [Election of President]

(1) The election of the President shall be direct by universal adult suffrage and by secret ballot and shall be conducted in accordance with this Article and as may be prescribed by or under an Act of Parliament.

(2) An election to the office of President shall be held whenever the National Assembly is dissolved and otherwise as provided by Article 38.

(3) A person shall be qualified to be a candidate for election as President if --

- (a) he is a citizen of Zambia;
- (b) both his parents are Zambians by birth or descent;
- (c) he has attained the age of thirty-five years;
- (d) he is a member of, or is sponsored by, a political party;
- (e) he is qualified to be elected as a member of the National Assembly; and
- (f) he has been domiciled in Zambia for a period of at least twenty years.

(4) A candidate for election as President (hereinafter referred to as a Presidential candidate) shall deliver his nomination papers to the returning officer in such manner, on such day, at such time and at such place as may be prescribed by or under an Act of Parliament.

(5) A Presidential candidate shall not be entitled to take part in an election unless --

- (a) he has paid such election fee as may be prescribed by or under an Act of Parliament on or before the date fixed by the Electoral Commission in that behalf;
- (b) he makes, a statutory declaration, of his assets and liabilities, which shall be open to public inspection at such time and at such place as may be prescribed by or under an Act of Parliament; and
- (c) his nomination is supported by not less than 200 registered voters.

(6) At an election to the office of President --

- (a) all persons registered in Zambia as voters for the purposes of elections to the National Assembly shall be entitled to vote in the election;
- (b) the poll shall be taken by a secret ballot on such day, at such time, in such places and in such manner as may be prescribed by or under an Act of Parliament;
- (c) after the expiration of the time fixed for polling, the votes cast shall be counted and the returning officer shall declare the result.

(7) Where there is only one qualified Presidential candidate nominated for election, that candidate shall

be declared as elected without an election taking place.

(8) The Returning Officer shall declare the candidate who receives the highest numbers of the total votes cast to have been duly elected as President.

(9) A person elected as President under this Article shall be sworn in and assume office immediately but not later than twenty-four hours from the time of declaring the election.

(10) The person who has held office of President shall immediately hand over the office of President to the person elected as President and shall complete the procedural and administrative handing over process within fourteen days from the date the person elected as President is sworn in.

(11) The person who has held office as President shall not, within the period referred to in clause (10), perform any functions of the office of President under this Constitution or any other law.

### **35. [Tenure of office of President]**

(1) Subject to clause (2) and (4) every President shall hold office for a period of five years.

(2) Notwithstanding anything to the contrary contained in this Constitution or any other Law no person who has twice been elected as President shall be eligible for re-election to that office.

(3) The President may, at any time by writing under his hand addressed to the Speaker of the National Assembly, resign his office.

(4) A person assuming the office of the President in accordance with this Constitution shall, unless --

- (a) he resigns his office;
- (b) he ceases to hold office by virtue of Article 36 or 37; or
- (c) the National Assembly is dissolved;

continue in office until the person elected at the next election to the office of President assumes office.

### **36. [Removal of President on grounds of incapacity]**

(1) If it is resolved by a majority of all the members of the Cabinet that the question of the physical or mental capacity of the President to discharge the functions of his office ought to be investigated, and they so inform the Chief Justice, then the Chief Justice shall appoint a board consisting of not less than three persons selected by him from among persons who are qualified as medical practitioners under the law of Zambia or under the law of any other country in the Commonwealth, and the board shall inquire into the matter and report to the Chief Justice on whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of his office.

(2) If the board reports that the President is incapable of discharging the functions of his office, the Chief Justice shall certify in writing accordingly and shall table such certificate, with the report of the board before the National Assembly who shall on a motion, passed by a two thirds majority --

- (a) ratify the decision of the board, and thereupon the President shall cease to hold office; or
- (b) reject the decision of the board and cause a further inquiry into whether or not the President is incapable of discharging the functions of his office and shall thereafter decide on such questions by a two-thirds majority vote, which decision shall be final.

(3) Where the Cabinet resolve that the question of the physical or mental capacity of the President to discharge the functions of his office shall be investigated, the President shall, until another person assumes the office of President or the Board appointed under clause (1) reports that the President is not incapable of discharging the functions of his office, whichever is earlier, cease to perform the functions of his office and those functions shall be performed by --

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

Provided that any person performing the functions of the office of President under this clause shall not dissolve the National Assembly nor, except on the advice of the Cabinet, revoke any appointment made by the President.

(4) A motion for the purposes of clause (1) may be proposed at any meeting of the Cabinet.

### **37. [Impeachment of President for violation of Constitution]**

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

- (a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the National Assembly within seven days of the notice;
- (b) if Parliament is not then sitting (and notwithstanding that it may be prorogued) summon the National Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.

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

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

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

(4) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated no further proceedings shall be taken under this Article in respect of that allegation.

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

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

### **38. [Vacancy in office of President]**

(1) If the office of the President becomes vacant by reason of his death or resignation or by reason of his ceasing to hold office by virtue of Article 36, 37, or 88, an election to the office of President shall be held in accordance with Article 34 within ninety days from the date of the office becoming vacant.

(2) Whenever the office of President becomes vacant, the Vice-President or, in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to discharge the functions of his office, a member of the Cabinet elected by the Cabinet shall perform the functions of the office of President until a person elected as President in accordance with Article 34 assumes office.

(3) The Vice-President or, the member of the Cabinet as the case may be, performing the functions of the office of the President under clause (2) shall not dissolve the National Assembly nor, except on the advice of the Cabinet, revoke any appointment made by the President.

### **39. [Discharge of functions of President during absence, illness, etc.]**

(1) Whenever the President is absent from Zambia or considers it desirable so to do by reason of illness or for any other cause, he may by direction in writing, authorise the Vice-President, or where the Vice-President is absent from Zambia or incapable of discharging the functions of the office of President, any other person, to discharge such functions of the office of President as he may specify, and the Vice-President or such other person may discharge those functions until his authority is revoked by the President.

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

- (a) the Vice-President; or
- (b) during any period when the Vice-President is absent from Zambia or is himself, by reason of physical or mental infirmity, unable to perform the functions of his office, such member of the Cabinet as the Cabinet shall elect;

shall perform the functions of the office of President:

Provided that any person performing the functions of the office of President under this clause shall not dissolve the National Assembly nor, except on the advice of the Cabinet, revoke any appointment made by the President.

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

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

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

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

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

### **40. [Oath of President]**



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

#### **41. [Returning Officer; questions relating to elections]**

(1) The Chief Justice shall be the Returning Officer for the purpose of elections to the office of President.

(2) Any question which may arise as to whether --

- (a) any provisions of this Constitution or any law relating to the election of a President has been complied with;
- (b) any person has been validly elected as President under Article 34;

shall be referred to and determined by the full bench of the Supreme Court.

#### **42. [Salary and allowances of President]**

(1) The President shall receive such salary and allowances as may be prescribed by an Act of Parliament; and they shall be a charge on the general revenues of the Republic.

(2) The salary and allowances of the President shall not be altered to his disadvantage during his term of office.

(3) A person who has held the office of President shall receive such pension and such gratuity as may be prescribed by an Act of Parliament, and that pension and gratuity shall be a charge on the general revenues of the Republic.

#### **43. [Protection of President in respect of legal proceedings]**

(1) No civil proceedings shall be instituted or continued against the person holding the office of President or performing the functions of that office in respect of which relief is claimed against him in respect of which relief is claimed against him in respect of anything done or omitted to be done in his private capacity.

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

(3) A person who has held, but no longer holds, the office of President shall not be charged with a criminal offence or be amenable to the criminal jurisdiction of any court, in respect of any act done or omitted to be done by him in his personal capacity while he held office of President, unless the National Assembly has, by resolution, determined that such proceedings would not be contrary to the interests of the State.

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

#### **44. [Functions of President]**

(1) As the Head of the State, the President shall perform with dignity and leadership all acts necessary or expedient for, or reasonably incidental to, the discharge of the executive functions of government subject to the overriding terms of this Constitution and the Laws of Zambia which he is constitutionally obliged to protect, administer and execute.

(2) Without prejudice to the generality of clause (1), the President may preside over meetings of the Cabinet and shall have the power, subject to this Constitution to --

(a) dissolve the National Assembly as provided in Article 88;

(b) accredit, receive and recognise ambassadors, and to appoint ambassadors, plenipotentiaries, diplomatic representatives and consuls;

(c) pardon or reprieve offenders, either unconditionally or subject to such conditions as he may consider fit;

(d) negotiate and sign international agreements and to delegate the power to do so;

(e) establish and dissolve such Government Ministries and Departments subject to the approval of the National Assembly;

(f) confer such honours as he considers appropriate on citizens, residents and friends of Zambia in consultation with interested and relevant persons and institutions; and

(g) appoint such persons as are required by this Constitution or any other law to be appointed by him.

(3) Subject to the provisions of this Constitution dealing with assent to laws passed by Parliament and the promulgation and publication of such laws in the *Gazette*, the President shall have power to --

- (a) sign and promulgate any proclamation which by law he is entitled to proclaim as President; and
- (b) initiate, in so far as he considers it necessary and expedient, laws for submission and consideration by the National Assembly.

(4) When any appointment to an office to be made by the President is expressed by any provision of this Constitution to be subject to ratification by the National Assembly --

- (a) the National Assembly shall not unreasonably refuse or delay such ratification but the question whether the Assembly has so acted unreasonably shall not be enquired into by any court;
- (b) if such ratification is refused the President may appoint another person to the office in question and shall submit the appointment for ratification; or
- (c) if the National Assembly refused to ratify the second appointment it shall be invited to ratify an appointment for the third time but the third appointment shall take effect irrespective of whether such ratification is refused, or is delayed for a period of more than fourteen days.

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

(6) In the exercise of any functions conferred upon him under this Article, the President shall, unless he otherwise obliges, act in his own deliberate judgment and shall not be obliged to follow the advice tendered by any other person or authority.

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

#### **45. [Vice-President]**

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

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

(3) Subject to the provisions of this Constitution the Vice-President shall vacate that office upon the assumption by any person of the office of President.

(4) In addition to the powers and functions of the Vice-President specified in this Constitution or under any other law, the Vice-President shall perform such functions as shall be assigned to him by the President.

(5) The salary and allowances of the Vice-President shall be such as may be prescribed by an Act of Parliament, and shall be a charge on the general revenues of the Republic.

#### **46. [Ministers]**

(1) There shall be such Ministers as may be appointed by the President.

(2) Appointment to the office of Minister shall be made from among the members of the National Assembly.

(3) A Minister shall be responsible, under the directions of the President, for such business of the Government including the administration of any Ministry or Department of Government as the President may assign to such Minister.

(4) The salaries and allowances of a Minister shall be such as may be prescribed by an Act of Parliament, and shall be a charge on the general revenues of the Republic.

#### **47. [Deputy Ministers]**

(1) The President may appoint such Deputy Ministers as he may consider necessary to assist Ministers in the performance of their functions and to exercise or perform on behalf of Ministers such of the Ministers' functions as the President may authorise in that behalf.

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

(3) Appointment to the office of Provincial Deputy Minister and Deputy Minister shall be made from amongst members of the National Assembly.

(4) The salaries and allowances of Provincial Deputy Minister and Deputy Ministers shall be such as may be prescribed by an Act of Parliament, and shall be a charge on the general revenues of the Republic.

#### **48. [Oath of Vice-President, Minister and Deputy Ministers]**

A Vice-President, Minister or Deputy Ministers shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by or under an Act of Parliament.

#### **49. [Cabinet]**

(1) There shall be a Cabinet which shall consist of the President, the Vice-President and the Ministers.

(2) There shall preside at meetings of the Cabinet --

- (a) the President; or
- (b) in the absence of the President, the Vice-President.

(3) The Cabinet may act notwithstanding any vacancy in its membership.

**50. [Functions of Cabinet]**

The Cabinet shall formulate the policy of the Government and shall be responsible for advising the President with respect to the policy of the Government and with respect to such other matters as may be referred to it by the President.

**51. [Accountability of Cabinet]**

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

**52. [Code of Conduct]**

All ministers and Deputy Ministers shall conduct themselves, during their tenure of office, in accordance with a code of conduct promulgated by Parliament.

**53. [Secretary to Cabinet]**

(1) There shall be a Secretary to the Cabinet whose office shall be a public office and who shall, subject to ratification by the National Assembly, be appointed by the President.

(2) The Secretary to the Cabinet shall --

- (a) be the Head of the Public Service and shall be responsible to the President for securing the general efficiency of the public service;
- (b) have charge of the Cabinet Office and be responsible in accordance with the instructions given to him by the President, for arranging the business for, and keeping the minutes of the Cabinet and for conveying decisions made in Cabinet to the appropriate authorities; and
- (c) have such other functions as may be prescribed by or under an Act of Parliament or as the President may direct.

**54. [Attorney-General]**

(1) There shall be an Attorney-General of the Republic who shall, subject to ratification by the National Assembly, be appointed by the President and shall be --

- (a) an ex-officio member of the Cabinet; and
- (b) the principal legal adviser to the Government.

(2) Without prejudice to the general functions under clause (1), the functions of the Attorney-General shall be to --

- (a) cause the drafting of, and sign, all Government Bills to be presented to Parliament;
- (b) draw and peruse agreements, contracts, treaties, conventions and documents, by whatever name called, to which the Government is a party or in respect of which the Government has an interest;
- (c) represent the Government in courts or any other legal proceedings to which Government is a party; and
- (d) perform such other functions as may be assigned to him by the President or by law.

(3) Subject to the other provisions of this Constitution, no agreement, contract, treaty, convention or document by whatever named called, to which Government is a party or in respect of which the Government has an interest, shall be concluded without the legal advice of the Attorney-General, except in such cases and subject to such conditions as Parliament may by law prescribe.

(4) A person shall not be qualified to be appointed to the office of Attorney-General unless he is qualified for appointment as Judge of the High Court.

(5) The office of the Attorney-General shall become vacant if the holder of the office is removed from office by the President.

(6) The person holding the office of Attorney-General may resign upon giving three months notice to the President.

(7) In the exercise of the power to give directions to the Director of Public Prosecutions conferred by clause (7) of Article 56, the Attorney-General shall not be subject to the direction or control of any other person or authority.

#### **55. [Solicitor-General]**

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

(2) A person shall not be qualified to be appointed to the office of Solicitor-General unless he is qualified for appointment as a Judge of the High Court.

(3) The office of Solicitor-General shall become vacant if the holder of the office is removed from office by the President.

(4) The person holding the office of Solicitor-General may resign upon giving three months notice to the President.

(5) Any power or duty imposed on the Attorney-General by this Constitution or any other written law may be exercised or performed by the Solicitor General --

- (a) whenever the Attorney-General is unable to act owing to illness or absence; and
- (b) in any case where the Attorney-General has authorised the Solicitor-General to do so.

#### **56. [Director of Public Prosecutions]**

(1) There shall be a Director of Public Prosecutions and who shall, subject to ratification by the National Assembly, be appointed by the President.

(2) A person shall not be qualified to be appointed to the office of Director of Public Prosecutions unless he is qualified for appointment as Judge of the High Court with experience biased towards criminal law.

(3) The Director of Public Prosecutions shall have power in any case which he considers it desirable so to do --

- (a) to institute and undertake criminal proceedings against any person before any court, other than a court martial, in respect of any offence alleged to have been committed by that person;
- (b) to take over and continue any such criminal proceedings as have been instituted or undertaken by any other person or authority; and
- (c) to discontinue, at any stage before judgement is delivered, any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers of the Director of Public Prosecutions under clause (3) may be exercised by him in person or by such public officer or class of public officers as may be specified by him, acting in accordance with his general or special instructions:

Provided that nothing in this clause shall preclude the representation of the Director of Public Prosecutions before any court by a legal practitioner.

(5) The powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of clause (3)

shall be vested in him to the exclusion of any other person or authority.

(6) For the purposes of this Article, any appeal from any judgement in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court in Zambia shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by paragraph (c) of clause (3) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such person.

(7) In the exercise of the powers conferred on him by this Article, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority:

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

#### **57. [Discharge of functions of Director of Public Prosecutions during absence, illness, etc.]**

Whenever the Director of Public Prosecutions is absent from Zambia or the President considers it desirable so to do by reason of the illness of the Director of Public Prosecutions or for any other cause, he may on the advice of the Judicial Service Commission appoint any person to discharge the functions of the Director of Public Prosecutions until such appointment is revoked.

#### **58. [Tenure of office of Director of Public Prosecutions]**

(1) Subject to the provisions of this Article, a person holding the office of Director of Public Prosecutions shall vacate his office when he attains the age of sixty years.

(2) A person holding the office of Director of Public Prosecutions may be removed from office only for incompetence or inability to perform the functions of his office whether arising from infirmity of body or mind or misbehaviour and shall not be so removed except in accordance with the provisions of this Article.

(3) If the President considers that the question of removing a person holding the office of Director of Public Prosecution from office ought to be investigated, then --

- (a) he shall appoint a tribunal which shall consist of a Chairman and not less than two other members, who hold or have held high judicial office;
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether the person holding the office of Director of Public Prosecutions ought to be removed from office under this Article for incompetence or inability or for misbehavior.

(4) Where a tribunal appointed under clause (3) advises the President that a person holding the office of Director of Public Prosecutions ought to be removed from office for incompetence or inability or for misbehaviour, the President shall remove such person from office.

(5) If the question of removing a person holding the office of Director of Public Prosecutions from office has been referred to a tribunal under this Article, the President may suspend that person from performing the functions of his office, and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the tribunal advises the President that the person ought not to be removed from office.

#### **59. [Prerogative of mercy]**

The President may --

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

#### **60. [Advisory committee]**

- (1) There shall be an advisory committee on the prerogative of mercy which shall consist of such persons as may be appointed by the President.
- (2) The President may appoint different persons to the advisory committee for the purposes of advising him in relation to persons convicted by courts-martial and for purposes of advising him in relation to persons convicted by other courts.
- (3) A member of the advisory committee shall hold office at the pleasure of the President.
- (4) Where any person has been sentenced to death for any offence the President shall cause the question of the exercise in relation to that person of the powers conferred by Article 59 to be considered at a meeting of the advisory committee.
- (5) Subject to the provisions of clause (4), the President may refer to the advisory committee any questions as to the exercise of the powers conferred upon him by Article 59.
- (6) The President, if present, shall preside at any meeting of the advisory committee.
- (7) The President may determine the procedure of the advisory committee.

#### **61. [Offices for Republic]**

- (1) Subject to the other provisions of this Constitution and any other law, the power to constitute offices for the Republic and the power to abolish any such office shall vest in the President.
- (2) Subject to the other provisions of this Constitution and any other law, the power to appoint persons to hold or act in offices constituted for the Republic of Zambia, to confirm appointments, to exercise disciplinary control over persons holding or acting in such offices and to remove any such person from office shall vest in the President.

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