

**THE CONSTITUTION OF ZAMBIA**  
**BILL, 200-**

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**MEMORANDUM**

The object of this Bill is to provide for the –

- (a) commencement of the new Constitution of the Republic of Zambia;
- (b) printing and publication of the Constitution;
- (c) savings and transitional provisions of existing State organs, administrations, offices, institutions and laws;
- (d) succession to property and assets, rights, liabilities, obligations and legal proceedings;
- (e) repeal of the Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act; and
- (f) matters connected with or incidental to the foregoing.

,  
**Attorney-General**

**A BILL**

**ENTITLED**

An Act to provide for the commencement of the new Constitution of the Republic of Zambia; to provide for the printing and publication of the Constitution; to provide for the savings and transitional provisions of existing State organs, administrations, offices, institutions and laws; to provide for succession to property and assets, rights, liabilities, obligations and legal proceedings; to provide for the repeal of the Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act; and to provide for matters connected with or incidental to the foregoing.

**ENACTED** by the Parliament of Zambia

**Enactment**

1. This Act may be cited as the Constitution of Zambia Act, 200 -.

**Short title**

2. (1) In this Act, unless the context otherwise requires –

“Constitution” means the Constitution set out in the Schedule to this Act;

“effective date” means the date of the commencement of this Act and the Constitution as stipulated in section four;

“existing Constitution” means the Constitution of Zambia, 1991, in force immediately before the commencement of this Act;

“existing law” means all laws, whether a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever (including any Act of Parliament of the United Kingdom or Order of Her Majesty-in-Council), having effect as part of the law of Zambia, immediately before the effective date, and includes any Act of Parliament or statutory instrument made before the effective date and coming into force on the effective date or thereafter;

“older members of society” means persons above the age of sixty-five years and above.

(2) Except where the context requires, words and expressions used in this Act have the same meaning as in the Constitution.

**Repeal of  
Constitution of  
Zambia Act, 1991  
and Constitution  
in Schedule**

3. The Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act, are repealed in so far as they form part of the Laws of Zambia.

**Commencement**

4. Subject to this Act, the Constitution shall come into operation on the date of assent by the President.

**Printing and  
publication of  
Constitution**

5. The Constitution may be printed and published by the Government Printer separately from this Act, and the production of a copy of the Constitution as printed is prima facie evidence in all courts and for all purposes of the Constitution and its provisions.

**Existing laws**

6. (1) All laws in force immediately before the effective date shall continue to be in force and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) Parliament shall, within two years of the effective date, make amendments to any existing law to bring that law into conformity with this Act or the Constitution or otherwise to give effect to this Act and the Constitution.

**Prerogative of  
Mercy**

7. The prerogative of mercy bestowed on the President under this Constitution may be exercised in respect of any criminal offence committed before the effective date.

**Rights, duties  
and obligations  
of State**

8. All rights and obligations, however arising, of the Government of the Republic and subsisting immediately before the effective date shall continue as rights and obligations of the Government of the Republic under the Constitution.

**Succession of  
institutions,  
office, assets  
and liabilities**

9. (1) If a provision of the Constitution has altered the name of an office or institution existing immediately before the effective date the office or institution as known by the new name shall be the legal successor of the first named office or institution.

(2) All liabilities, property and other assets that, immediately before the effective date, were incurred or vested in the President, the State, Government or the Republic, shall continue to be so incurred or vested after the effective date.

(3) Any property that, immediately before the effective date, was liable to escheat or to be forfeited to the State, Government or the Republic shall be liable to escheat or to be so forfeited after the effective date.

**Existing offices**

10. (1) A person who, immediately before the effective date, held or was acting in an office established by the existing Constitution, shall continue to hold or act in that office as if

appointed to that office under the Constitution, and to have taken any necessary oath required to be taken under the Constitution, unless the President requires any person who continues in office by virtue of this section to take any oath prescribed by the Constitution or by an Act of Parliament.

(2) A person who, immediately before the effective date, held or was acting in a public office established by any written law, so far as it is consistent with the Constitution, shall continue to hold or act in that office as if appointed to that position under the Constitution, and to have taken any necessary oath required to be taken under the Constitution, unless the President requires any person who continues in office by virtue of this section to take any oath prescribed by the Constitution or by an Act of Parliament.

(3) The provisions of this section shall not -

(a) affect the powers conferred on any person or authority under the Constitution to abolish offices or remove persons from those offices;

(b) apply to any person who, under the law in force or under the existing Constitution, before the effective date, would have been required to vacate an office at the expiry of any period or on the attainment of any age.

(4) The process of appointment of persons to fill vacancies arising in consequence of the coming into force of the Constitution shall begin on the effective

date and in accordance with the provisions of the Constitution.

- (5) Where a person has vacated an office that the person held before the effective date and that office is retained or established by or under the Constitution, the person may, if qualified, again be appointed, elected, or otherwise selected to hold that office in accordance with the provisions of the Constitution.

**National  
Assembly**

11. (1) The National Assembly existing, immediately before the effective date, shall continue as the National Assembly for the purposes of the Constitution for its unexpired term.

- (2) The Speaker and the Deputy Speaker of the National Assembly existing before the effective date, shall continue to be the Speaker and the Deputy Speaker, respectively, for the unexpired term of the National Assembly and shall be deemed to have taken any necessary oath under the Constitution.
- (3) All the functions and powers vested in Parliament by the existing Constitution

shall be exercised, after the effective date, by that Parliament for the unexpired term of that Parliament in accordance with the Constitution.

(4) The rules and orders of the National Assembly existing on the effective date, shall be the rules and orders of the National Assembly after the effective date but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(5) The National Assembly shall, within six months of the effective date, revise the Standing Orders in accordance with the Constitution.

(6) All money granted, voted or appropriated, by the Parliament existing before the effective date, in respect of the services of the Republic for the current financial year shall be deemed to have been granted, voted or appropriated in accordance with the Constitution.

**By-elections**

**12.** A by-election held after the effective date shall be held in accordance with the Constitution.

**Political  
parties**

13. (1) A political party in existence immediately before the effective date, shall, within twelve months of the enactment of legislation providing for the registration of political parties, comply with the requirements for registration as a political party.

(2) If on the expiry of the period of twelve months, a political party has not complied with the requirements of subsection (1), the political party shall forthwith cease to exist as a political party and any person holding an elective position in the National Assembly on the basis of the sponsorship of that party shall continue to hold such position but shall be deemed to be an independent member.

(3) Parliament shall within six months of the effective date enact legislation for the regulation and supervision of political parties.

**Executive**

14. (1) The person occupying the office of President, immediately before the effective date shall continue to serve as President, in accordance with the Constitution, until the first elections held under the Constitution.

(2) A person holding the post of Vice-President, Minister, Provincial Minister or Deputy Minister immediately before the effective date shall continue to hold that position under the Constitution until that appointment is terminated by the President in exercise of the

President's powers under the  
Constitution.

**Local  
Government**

15. (1) All local authorities established under the Local Government Act immediately before the effective date shall continue to exist until implementation of the new structure under the Constitution and as prescribed by an Act of Parliament.

(2) Parliament shall enact the legislation referred to in sub-section (1), within two years of the effective date.

(3) All councillors of the local authorities, referred to under sub-section (1), shall continue to be councillors after the effective date until elections are called in accordance with the Constitution.

(4) As at the effective date, the boundaries of a province or district existing immediately before that date shall be the boundaries of that province or district.

(5) After the holding of the elections referred to in subsection (3), the system of administration existing before the effective date commonly known as the Provincial Administration shall cease to exist and all public officers serving under that system of administration shall report to the Public Services Commission for re-deployment.

(6) On the effective date, all assets held by the Central Government and situated in

the provinces, districts, and sub-districts, shall become public property and held by the local government in that area.

(7) Until such time as district councils and the provincial administrations are constituted all the assets held by local authorities immediately before the effective date shall not be transferred or otherwise disposed of without the written authority of the Central Government and any transfer without such authority shall be void.

**Pensions,  
gratuities  
and other  
benefits**

16. The law applicable to pensions, gratuities or public or personal emoluments in respect of holders of constitutional or public offices 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.

**Judiciary**

17. (1) Subject to the other provisions of this section, a Judge, magistrate or any other judicial officer who held office immediately before the effective date shall continue to hold office as if appointed to that office under the Constitution, but may opt to retire in accordance with the Constitution.

(2) A Judge who, on the effective date, has attained the age of sixty-five years may retire and is entitled on retirement to the benefits that person would have been entitled to at the date of the retirement.

- (3) The option provided for in sub-section (1), shall be exercised within thirty days of the effective date.
- (4) The process of appointment of the judges of the Supreme and Constitutional Court and the Court of Appeal shall commence and be finalised within ninety days of the effective date.
- (5) Parliament shall within twelve months of the effective date enact legislation to prescribe the procedures, rules and administration of the Court of Appeal.

**Judicial  
proceedings  
and pending  
matters**

18. (1) Unless otherwise provided under the Constitution, all judicial proceedings pending before any court or any proceedings before a tribunal shall continue to be heard and shall be determined by the same or a corresponding court or tribunal established under the Constitution.

- (2) Unless otherwise provided under the Constitution, any matter or proceeding that, immediately before the effective date, is pending before an existing constitutional commission, office or authority shall be continued before the same or a corresponding commission,

office or authority established under the Constitution.

**Constitutional commissions**

**19.** Within twelve months after the effective date the following institutions shall be established or re-established -

- (a) the Public Services Commission;
- (b) the Civil Service Commission;
- (c) the Teaching Service Commission;
- (d) the Judicial Service Commission;
- (e) the Police and Prison Service Commission;
- (f) the Ethics Commission;
- (g) the Anti-Corruption Commission;
- (h) the Anti-Drug Abuse Commission;
- (i) the Parliamentary Service Commission;
- (j) the Human Rights Commission;
- (k) the Gender Equality Commission;
- (l) the Electoral Commission of Zambia;
- (m) the National Fiscal and Emoluments Commission;
- (n) the State Audit Commission;
- (o) the National Lands Board;
- (p) the Police Public Complaints Authority; and
- (q) the Judicial Complaints Tribunal;

**Currency**

**20.** Nothing in Article 343 affects the validity of coins and notes issued before the effective date.

**Budget**

21. Parliament shall within twelve months of the effective date enact a Budget Act.

**Older  
members of  
society**

22. The Government shall, pending the establishment of a social security scheme, take appropriate provisional measures to mitigate the hardships experienced by older members of society.

**SCHEDULE**  
**(Section 2 (1))**

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**THE CONSTITUTION OF THE  
REPUBLIC OF ZAMBIA**

**PREAMBLE**

**WE, THE PEOPLE OF ZAMBIA**

**ACKNOWLEDGING** the supremacy and significance of God Almighty;

**UPHOLDING** the right of every person to freedom of conscience and religion;

**DETERMINED** to uphold and exercise our inherent and inviolable right as a people to decide, appoint and proclaim the means and method to govern ourselves;

**COMMITTED** to upholding the values of democracy, transparency, accountability and good governance;

**DETERMINED** to ensure that all powers of state are exercised for the sustainable development and in the common interest of Zambians;

**RECOGNIZING** our cultural and ethnic diversity;

**RECOGNIZING** further the equal worth of women and men, in their right to participate, freely determine and build a sustainable political, economic and social order;

**AND RESOLVED** that Zambia shall remain a free, unitary, indivisible, multi-party democratic sovereign State;

**DO HEREBY ADOPT, ENACT AND GIVE TO  
OURSELVES THIS CONSTITUTION.**

## PART I

### SUPREMACY AND DEFENCE OF CONSTITUTION

#### Supremacy of Constitution

1. (1) This Constitution is the supreme law of Zambia and any other law that is inconsistent with a provision of this Constitution is void to the extent of the inconsistency.

(2) An act or omission that contravenes a provision of this Constitution is illegal.

(3) A person or a group of persons may bring an action in the Constitutional Court for a declaration that a law is inconsistent with or is in contravention of a provision of this Constitution.

(4) The Constitutional Court may, in furtherance of clause (1), make a declaration it considers appropriate and issue any order for the implementation of the declaration.

(5) Failure to obey or carry out an order issued under clause (4), constitutes an offence under this Constitution and, in the case of the President or the Vice President, constitutes a ground for removal from office.

(6) Any other person convicted of an offence under clause (5), is on conviction -

(a) liable to imprisonment for a term not exceeding ten years; and

(b) not eligible for election or for appointment to a public office for ten years beginning with the date of the expiry of the term of imprisonment.

#### Defence of Constitution

2. (1) Every person has the right and duty -

- (a) to defend this Constitution;
- (b) to resist or prevent any person or group of persons from overthrowing, suspending, abrogating or unlawfully amending this Constitution; and
- (c) to do all in that person's power to secure the continuous operation of this Constitution.

(2) A punishment imposed on a citizen for any action in defence of this Constitution is void from the date of its imposition.

(3) A person who suffers a punishment or loss arising from defence of this Constitution is entitled to compensation from the Government which shall be determined by the Constitutional Court.

(4) An act of a person or persons to establish any form of government otherwise than as provided in this Constitution is treason.

**Continuous force and effect of Constitution**

3. Where the operation of this Constitution is at any time interrupted by force or other unlawful act, its provisions shall, despite the interruption, continue to have full force and effect.

**PART II**  
**REPUBLIC OF ZAMBIA AND**  
**ITS SOVEREIGNTY**

**Republican status of Zambia**

4. (1) Zambia is a sovereign Republic, the territorial boundaries of which are described and delineated in the map set out in the First Schedule to this Constitution.

(2) The Republic of Zambia is a unitary, multi-party, multi-ethnic and multi-cultural democratic State.

(3) The Republic of Zambia shall not be ceded, in whole or in part, to another country.

**Sovereignty  
of Zambia**

5. (1) The sovereign authority of Zambia belongs to the people of Zambia who reserve to themselves any power or authority that is not expressly conferred on any State organ or institution by this Constitution.

(2) The people of Zambia shall be governed through their will and consent which shall be expressed or exercised through regular, free and fair public elections or referenda.

(3) The exercise of the sovereign authority by the Executive, the Legislature, the Judiciary, all State institutions or any person shall be in accordance with this Constitution and the Laws of Zambia.

(4) Subject to Part XXII, where on any matter whether arising out of this Constitution or otherwise, a provision, express or by necessary implication, is not made by this Constitution which deals with the matter that has arisen, Parliament shall, by an Act of Parliament which is not inconsistent with a provision of this Constitution, provide for that matter to be dealt with.

(5) The Government shall pursue and ensure the participation of the people in the governance of the State in accordance with this Constitution.

**National  
symbols**

6. The National symbols of the Republic set out in the Second Schedule to this Constitution are -

- (a) the National Flag;
- (b) the National Anthem;
- (c) the Coat of Arms;

- (d) the Public Seal; and
- (e) the National Motto.

**Official language**

7. (1) The official language of Zambia is the English language.

(2) Any language, other than the official language, may be used as a medium of instruction in educational institutions or for legislative, administrative or judicial purposes, as prescribed by an Act of Parliament.

**State and religion**

8. (1) Zambia is a secular State without a state religion.

(2) State and religion are separate.

**PART III**

**NATIONAL VALUES, PRINCIPLES, OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY**

**Application of national values, principles, objectives and directive principles of State policy**

9. (1) The national values, principles, objectives and directive principles of state policy contained in this Part, apply to all State organs and institutions, public officers, citizens, political parties and private bodies, whenever any of them -

- (a) applies or interprets this Constitution or any other law; or
- (b) applies, makes or implements policy decisions.

(2) The President shall, once in every year, report to the National Assembly the progress made in the realisation of the objectives and principles under this Part and of the fundamental human rights and freedoms.

**Political values,  
principles and  
objectives**

10. The following are the political values, principles and objectives of the Nation, on which all policies and laws shall be based:

- (a) the State and citizens shall at all times defend the independence, sovereignty and territorial integrity of the Republic;
- (b) the State and citizens shall promote national unity and develop a commitment, in accordance with the National Motto, to the spirit of nationhood and patriotism;
- (c) the State shall provide a peaceful, secure and stable political environment which is necessary for economic development;
- (d) all State organs and institutions and citizens shall work towards the promotion of peace and stability;
- (e) the State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance;
- (f) the State shall be guided by the principle of devolution of governmental powers, functions and resources to the people at appropriate levels where they can best manage and direct their own affairs;
- (g) all political and civic associations aspiring to manage and direct public affairs shall retain their autonomy in pursuit of their declared objectives and conform to principles of

democracy, transparency and accountability in their internal organization and practice;

- (h) all State organs and institutions and citizens shall endeavour to build a strong democratic political order and avoid undue influence from other countries and foreign institutions;
- (i) the Government shall ensure gender balance and equitable representation of disadvantaged groups, including the youth and persons with disability, in all constitutional offices and other State institutions;
- (j) the Government shall ensure full participation of women, the youth, persons with disability, and all other citizens, in the political, social, cultural and economic life of the country;
- (k) the Government shall implement the principle that not less than thirty per cent of the members of elective or appointive bodies are of the same gender;
- (l) the Government shall recognise the role of civil society in governance and facilitate its role in ensuring the accountability of government; and
- (m) the Government shall take all necessary measures to support the distribution of functions, as well as checks and balances provided for in this Constitution, among various State organs and institutions including

the provision of adequate resources to ensure their effective functioning at all levels.

**Socio- economic values, principles and objectives**

11. The following are the socio-economic values, principles and objectives of the Nation, on which all policies and laws shall be based:

- (a) the State and citizens shall endeavour to build a strong socio-economic order and avoid undue dependence on other countries and foreign institutions;
- (b) the State shall endeavour to create an economic environment which encourages individual initiative and self-reliance among the people and promote private investment;
- (c) the Government shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them;
- (d) the Government shall pursue policies that stimulate agricultural, industrial, technological and scientific development;
- (e) the State shall protect and promote human rights and fundamental freedoms and enhance the dignity of individuals and communities;
- (f) the Government shall ensure access of the people to independent, impartial, competent, timely and affordable institutions of justice;

- (g) the State shall endeavour to fulfill the Bill of Rights of all citizens to social justice and economic development;
- (h) the State shall recognize the significant role that women play in the socio-economic development of society;
- (i) the Government shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively;
- (j) the State shall give the highest priority to the enactment of legislation establishing measures that protect and enhance the right of the people to equal opportunities in development;
- (k) the Government shall make reasonable provision for the welfare and maintenance of the aged;
- (l) the State shall recognize the right of persons with disability to respect and human dignity;
- (m) the State shall promote recreation and sports for the citizens;
- (n) the Government at all levels shall strive to eradicate poverty and illiteracy;
- (o) the Government shall promote free and compulsory basic education;
- (p) the Government shall take appropriate measures to afford every citizen equal

opportunity to attain the highest educational standard possible;

- (q) the family is the natural and basic unit of society and is entitled to protection by the State;
- (r) the Government shall institute adequate measures for disaster preparedness and management;
- (s) the Government shall take necessary measures to bring about balanced development of the different areas of the Republic and between the rural and urban areas;
- (t) the State shall devise land policies which recognize ownership of land by the people including the policies on land as provided in Article 349; and
- (u) the State shall take means to preserve , protect and conserve the environment.

**Cultural values, principles and objectives**

**12.** The following are the cultural values, principles and objectives of the Nation on which all policies shall be based:

- (a) the State shall recognise the diversity of the people and promote the different cultures of the country consistent with this Constitution and, in particular, with the Bill of Rights;
- (b) the Government shall take measures that are practically possible to promote the use, development and preservation of local

languages; and promote the development of sign language and braille;

- (c) the State and citizens shall endeavour to preserve and protect and generally promote, the culture of maintenance and preservation of public property and Zambia's heritage;
- (d) the State shall devise policies that promote Zambian art and music; and
- (e) the citizens shall promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other's customs, traditions and beliefs.

**Foreign policy,  
principles and  
objectives**

**13.** The State shall pursue a foreign policy based on the following principles and objectives:

- (a) the promotion of national interest;
- (b) respect for international law and treaty obligations;
- (c) the promotion of regional integration and African unity;
- (d) the settlement of international disputes by peaceful means;
- (e) the promotion of a just world economic order; and
- (f) opposition to all forms of domination, racism and other forms of oppression and exploitation.

**Principles and objectives of accountability and transparency**

**14.** The State shall be governed democratically based on the following principles and objectives:

- (a) the State shall ensure open and transparent government and accountability of public officers, State organs and institutions;
- (b) all State organs and institutions and public officers are accountable to the people; and
- (c) the Government shall put in place effective measures to expose and eradicate corruption, including the abuse or misuse of public office.

#### **PART IV**

#### **LAWS OF ZAMBIA**

**Laws of Zambia**

- 15.** (1) The Laws of Zambia consist of -
- (a) this Constitution;
  - (b) laws made by or under the authority of Parliament;
  - (c) any orders, rules, regulations and other statutory instruments made by any person or authority under a power conferred by this Constitution or any other law;
  - (d) the existing law;
  - (e) the applied English statutes which were in force in England on the 17<sup>th</sup> August 1911
  - (f) the English laws which apply or extend to Zambia as prescribed by an Act of Parliament; and

(g) the **Zambian Common Law**.

(2) The “existing law”, except as otherwise provided in clause (1), consists of the written and unwritten laws of Zambia as they existed immediately before the date of the commencement of this Constitution and any statutory instrument issued or made before that date which is to come into force on or after that date.

**Zambian  
Common Law**

16. (1) The **Zambian Common Law** comprises the rules of law generally known as the common law of England, the rules of law generally known as the doctrines of equity, the law as determined by the superior court of judicature including those rules of law which by custom are applicable to particular communities of Zambia.

(2) Parliament shall enact legislation for the progressive development of the **Zambian common law**.

**PART V  
CITIZENSHIP**

**Existing  
citizenship**

17. Every person who was a citizen of Zambia immediately before the commencement of this Constitution shall continue to be a citizen of Zambia and shall retain the same citizenship status as from that date.

**Acquisition of  
citizenship**

18. (1) Citizenship may be acquired by birth, registration, descent or naturalization.

(2) Every person who was not a citizen immediately before the commencement of this Constitution but would have

been a citizen if this Constitution had been in force, is entitled, on application, to be registered as citizen.

**Citizenship  
by birth**

19. Every person born in or outside Zambia is a citizen if, at the date of that person's birth, at least one parent of that person is a citizen, by birth.

**Citizenship by  
registration**

20. (1) A person who -  
(a) is born in Zambia but neither of whose parents is a citizen; and  
(b) renounces the citizenship of any other country on attaining the age of twenty-one years;  
is entitled to apply to be registered as a citizen.

(2) A person who has -  
(a) attained the age of twenty-one years;  
(b) been ordinarily resident in the Republic for a continuous period of not less than twelve years immediately preceding that person's application for registration; and  
(c) who renounces the citizenship of any other country;  
is entitled to apply to be registered as a citizen of Zambia.

(3) A child of a diplomat accredited to Zambia or a person with refugee status in Zambia shall not be entitled to be registered as a citizen.

**Citizenship  
by descent**

21. A person is entitled to apply to be registered, on the renunciation of any other citizenship, as a citizen by descent,

whether that person was born in or outside Zambia and had a grand parent who is or was a citizen.

**Citizenship by naturalization**

22. A person who has been lawfully resident in Zambia for a continuous period of at least twelve years, and who satisfies the conditions prescribed by an Act of Parliament, may apply to be naturalized as a citizen.

**Citizenship by adoption**

23. A child who is not a citizen and who is adopted by a citizen is a citizen on the date of the adoption.

**Foundlings**

24. A child who is found in Zambia, and appears to be less than eight years of age, and whose nationality and parents are not known, shall be presumed to be a citizen by birth.

**Honorary citizenship**

25. The President may, with the approval of the Citizenship Board, as a token of honour, cause to be registered as a citizen, any person who has done signal honour or rendered distinguished service to Zambia.

**Dual citizenship**

26. (1) A citizen, by birth, shall not lose that citizenship by acquiring the citizenship of another country.

(2) A person who, before the commencement of this Constitution, acquired the citizenship of another country and as a result ceased to be a Zambian citizen as specified in clause (1), is entitled, on application, to regain the citizenship.

**Renunciation and deprivation of citizenship**

27. (1) A person who is a citizen, by birth may renounce Zambian citizenship; or shall be deprived of citizenship

only if that person acquired citizenship by means of fraud, false representation or concealment of any material fact.

(2) A person who acquired citizenship by any other means under this Part, other than by birth, may be deprived of that citizenship if that person –

- (a) acquired the citizenship by means of fraud, false representation or concealment of any material fact; or
- (b) acquires citizenship of any other country other than by marriage.

**Citizenship Board**

28. (1) There is established the Citizenship Board of Zambia which shall implement the provisions of this Part.

(2) Parliament shall enact legislation which provides for the composition of, tenure of office and procedures to be followed by, the Citizenship Board.

**Entitlements of citizen**

29. A citizen is entitled to–

- (a) the rights, privileges and benefits of citizenship, subject to the limits set out in this Constitution; and
- (b) a Zambian passport and to any other document of registration and identification issued by the State to citizens on fulfillment of any procedural requirements under any law in that respect.

**Responsibilities of citizen**

30. A citizen has the responsibility to –

- (a) acquire basic understanding of this Constitution and promote its ideals and objectives;
- (b) uphold and defend this Constitution and the Laws of Zambia;
- (c) register and vote in all national and local elections and referenda;
- (d) engage in work, including home-making, for the support and welfare of oneself and for the common good and to contribute to national development;
- (e) develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;
- (f) contribute to the welfare and advancement of the community;
- (g) contribute to the welfare and advancement of the nation by paying all taxes lawfully due;
- (h) strive to foster national unity and live in harmony with others;
- (i) promote democracy, good governance and the rule of law;
- (j) protect and safeguard public property from waste and misuse;
- (k) protect the environment and conserve natural resources;

- (l) co-operate with the law enforcement agencies for the maintenance of law and order and assist in the enforcement of the law at all times;
- (m) desist from acts of corruption, anti social and criminal activities; and
- (n) understand and enhance the Republic's place in the international community.

**Legislation on citizenship**

**31.** Parliament shall enact legislation prescribing procedures for giving effect to the provisions of this Part.

## **PART VI**

### **BILL OF RIGHTS**

#### **Status, implementation and interpretation**

**Fundamental rights and freedoms**

**32.** (1) The Bill of Rights is fundamental to Zambia's democratic State and is the framework for the adoption of social, political, economic and cultural policies.

(2) The purpose of the recognition and protection of fundamental rights is to fulfill the national goals, values and principles by preserving the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.

(3) The rights and freedoms set out in this Part -

(a) are inherent in each individual, and -

(i) are not granted by the State; and

- (ii) cannot lawfully be taken away by the State;
- (b) do not exclude other rights that are not expressly mentioned in this Part; and
- (c) are subject only to the limitations contained or contemplated in this Part or this Constitution.

**Duty of State to promote rights and freedoms**

33. (1) It is a fundamental duty of every State organ and institution to respect, protect, promote and fulfill the rights and freedoms in this Part, subject to clause (2).

(2) The Government shall take reasonable measures, within its available resources, to achieve the progressive realisation of the rights guaranteed in this Part, including legislation, that establishes or provides for standards for the achievement of those rights.

(3) The Government shall take reasonable measures, including -

- (a) affirmative action programmes designed to benefit disadvantaged persons or groups, but those programmes shall -
  - (i) provide for benefits only on the basis of genuine need; and
  - (ii) be permissible under Article 82;
- (b) other measures designed to benefit minorities and marginalized communities; and
- (c) legislation -

- (i) that promotes equity, equality and freedom from discrimination, and establishes or provides for standards relating to the achievement of those measures;
- (ii) that ensures that State organs and institutions fulfill the obligations of the State under this Part; and
- (iii) that ensures that persons fulfill their obligations under this Part.

(4) When interpreting and applying a particular right or freedom, if a claim is made that the State does not have the resources to implement the right or freedom –

- (a) it is the responsibility of the State to show that the resources are not available; and
- (b) a court, tribunal or the Human Rights Commission shall not interfere with a decision by a State organ or institution concerning the allocation of available resources, solely on the basis that the court, tribunal or Commission would have reached a different conclusion.

(5) The State shall allow for the role of civil society in the promotion and protection of the Bill of Rights.

(6) Relevant State institutions, including the Human Rights Commission, shall equip themselves to meet the needs of different sectors of the society with respect to the rights set out in this Part.

(7) The President shall, when addressing the National Assembly each year, report on the measures taken and the

achievements of the State in giving effect to this Article, and the progress achieved by the Nation in the realization of this Part.

**Application  
of Bill of  
Rights**

**34.** (1) This Part applies to the interpretation and application of the Laws and binds Legislature, the Executive, the Judiciary, all State institutions and all persons.

(2) A natural or a juristic person enjoys the benefit of any right or freedom in this Part, to the extent possible, given the nature of the right and of the person.

(3) A provision of this Part binds a natural or a juristic person to the extent possible, given the nature of the right and the nature of any duty imposed by that right.

(4) A person exercising a right or freedom specified in this Part shall do so in a manner consistent with this Part.

(5) When applying a provision of this Part, a court -

(a) in order to give effect to a right or freedom, shall apply, and if necessary, develop, the Zambian Common Law to the extent where legislation does not give effect to that right or freedom; and

(b) may develop rules of the Zambian Common Law to limit that right or freedom in a manner consistent with the limitations permitted by Article 82.

**Interpretation  
of Bill of  
Rights**

**35.** (1) When interpreting and applying a provision of this Part, a court, the Human Rights Commission, tribunal or any other body -

- (a) shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
- (b) may consider international law; and
- (c) may consider foreign law.

(2) When interpreting any legislation and when developing the Zambian Common Law, every court, the Human Rights Commission, tribunal or other forum shall promote the spirit, purpose and objects of this Part.

### **Rights and Freedoms**

#### **Right to life**

36. (1) Every person has the right to life, which begins at conception, subject to clause (2) or (3).
- (2) Termination of the life of a foetus is permitted when it is necessary to –
- (a) prevent the death of the mother; or reduce the probability of significant and permanent harm to the mother's health; and
  - (b) to the extent otherwise set out in legislation.
- (3) A person shall not be deprived of life intentionally, except in the execution of a sentence of a court in respect of a criminal offence under the law in force of which that person has been convicted.
- (4) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases; as are hereinafter mentioned, a person shall not be regarded as having been deprived of the person's life in contravention of this Article if

the person dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case -

- (a) for the defence of that person's 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, mutiny or if the person dies as a result of a lawful act of war; or
- (d) in order to prevent the commission by that person of a criminal offence.

**Human dignity**

37. (1) Every person has an inherent dignity and the right to have that dignity respected and protected.

(2) The inherent dignity of every individual -

- (a) includes the right to dispose of the remains of family members in a dignified manner; and
- (b) extends to the remains after death of that individual.

**Equality  
before law**

38. (1) Every person is equal before the law and has the right to equal protection and equal benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms.

**Protection from  
discrimination**

39. Every person has the right not to be discriminated against, directly or indirectly, on any grounds, including race, sex, pregnancy, health, marital, ethnic, tribe, social or economic status, origin, colour, age, disability, religion, conscience, belief, culture, language or birth.

**Equality of  
women and men**

**40.** (1) Women and men have the right to equal treatment, including the right to equal opportunities in cultural, political, economic and social activities.

(2) Women and men are entitled to be accorded the same dignity and property of the person.

(3) Women and men have an equal right to inherit, have access to and control property.

(4) Any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women or men is prohibited.

(5) The Government shall provide reasonable facilities and opportunities to enhance the welfare of women and men to enable them to realise their full potential and advancement.

**Older members  
of society**

**41.** (1) Older members of society are entitled to enjoy all the rights and freedoms set out in this Part, including -

- (a) participating fully in the affairs of society;
- (b) pursuing their personal development and retaining their autonomy;
- (c) freedom from all forms of discrimination, exploitation or abuse;
- (d) living in dignity and respect; and
- (e) receiving care and assistance from the family and the Government.

(2) Parliament shall, by legislation, provide for a sustainable social security system for the older members of society.

**Children**

**42.** (1) It is the duty of parents, wider family, society and the State to nurture, protect and educate children for the benefit of society as a whole.

(2) All children, whether born within or outside wedlock, are equal before the law and have equal rights under this Constitution.

(3) A child's best interests are of paramount importance in every matter concerning the child.

(4) A child's mother and father, whether married to each other or not, have an equal duty to protect and provide for the child.

(5) Every child has a right -

- (a) to a name and a nationality from birth and to have the birth registered;
- (b) to parental care or to appropriate alternative care where the child is separated from its parents;
- (c) to free basic education;
- (d) to be protected from discrimination, neglect, abuse and harmful cultural rites and practices, including female circumcision, tattooing and from being forced into early marriage before attaining the age of eighteen years;
- (e) to be protected from all forms of exploitation and any work that is likely to be hazardous or adverse to the child's welfare;
- (f) to adequate nutrition, shelter, basic health care services, social security and social services;

- (g) to be free from corporal punishment or any other forms of violence or cruel and inhumane treatment in schools and other institutions responsible for the care of children;
- (h) to be protected from situations of armed conflict;
- (i) not to take part in hostilities;
- (j) not to be incarcerated on account of the mother's incarceration;
- (k) not to be recruited into armed conflicts;
- (l) to development and an individual development plan, where appropriate;
- (m) not to be arrested or detained, except as a measure of last resort, in which case that child has the right to be -
  - (i) detained only for the shortest appropriate period of time;
  - (ii) kept separate from adults in custody;
  - (iii) accorded legal assistance by the State;
  - (i) treated in a manner, and to be kept in conditions, that take account of the child's gender and age; and
  - (ii) tried in a juveniles court; and
- (n) to know of decisions affecting the child, in order to express an opinion and have that opinion taken into account, having regard to the age and maturity of the child and the nature of the decision; and
- (o) generally, to survival and development;

(6) Children with special needs, including girls, orphans and children either of whose parents is in prison, children with disability, refugee children and homeless children, are entitled to the special protection of the State and society.

(7) The State has the obligation to take steps to implement, in law and administration, the provisions of international instruments and standards on the rights of the child.

#### **Youth**

**43.** The youth constitute an integral part of society and, taking into account their unique needs, are entitled to enjoy all the rights and freedoms set out in this Part, including -

- (a) access to quality and relevant education and training in order to achieve personal development and serve the community;
- (b) participation in governance;
- (c) access to gainful employment;
- (d) adequate opportunities in the social, economic and other spheres of national life;
- (e) freedom of association to further their legitimate interests;
- (f) protection from any culture, custom or tradition that undermines their dignity or quality of life; and
- (g) freedom from discrimination, exploitation or abuse.

#### **Family**

**44.** (1) The Republic recognizes the family as the natural fundamental unit of society and as the necessary basis of the social order.

(2) The family is entitled to the respect and protection of the State.

(3) Every adult -

(a) has the right to freely choose a spouse of the opposite sex and enter into marriage; and

(b) has the right to found a family.

(4) Parties to a marriage are entitled to equal rights in the marriage, during the marriage and at the dissolution of the marriage.

(5) Recognising the importance of children to the future of society, the maternal role of women and the nurturing role of both parents, the Government shall -

(a) ensure the right of women to adequate maternity leave;

(b) ensure the availability of adequate parental leave;

(c) ensure the availability of adequate maternal and reproductive health care and child health care; and

(d) promote the availability of adequate childcare facilities.

(6) Parliament shall enact legislation providing for measures which -

(a) recognize marriages entered into under any tradition or system of religion, personal or family law; and

(b) recognize systems of personal and family law under any tradition adhered to by individuals professing a particular religion;

**Persons with disability**

45. (1) Persons with disability are entitled to enjoy all the rights and freedoms set out in this Part, be full participants in society, and have the following specific rights:

- (a) to be accorded the same respect and dignity of the person as others;
- (b) to education and facilities that are integrated into society as a whole, to the extent compatible with the interests of persons with disability;
- (c) of effective access to places and public transport and to information;
- (d) to use sign language, Braille or other appropriate means of communication;
- (e) to be addressed and referred to, in official or private contexts, in a manner that is not demeaning, derogatory or discriminatory;
- (f) to participate in decision making;
- (g) of access to materials, facilities and devices to enable them to overcome constraints due to the disability;
- (h) to equal treatment, including the right to equal opportunities in cultural, political, economic and social activities; and
- (i) to inherit, have access to and control property.

(2) Any practice, custom or tradition that undermines the dignity, welfare, interest or status of persons with disability is prohibited.

**Special measures  
for persons with  
disabilities**

46. (1) The State shall -
- (a) promote measures to educate communities and the society on the causes of disability and the need for respect for the dignity and rights of all;
  - (b) promote and ensure the use of sign language, Braille or any other appropriate means of communication; and
  - (c) make special provision for persons with disability.

(2) Parliament shall, enact legislation to provide for the promotion of the rights of persons with disability and, in particular, establish a social security scheme for persons who are totally impaired.

**Language  
and culture**

47. (1) Every person has the right to use the language, and to participate in the cultural life, of that person's choice.

(2) A person who belongs to a cultural, religious or linguistic community shall not be denied the right, with other members of that community -

- (a) to enjoy their culture, practise their religion and use their language; or
- (b) to form, join and maintain cultural, religious and linguistic associations and other organisations of civil society.

- (3) A person shall not be compelled -
  - (a) to perform, observe, participate in, or be subjected to any cultural or religious practice or rite; or
  - (b) to form, join, contribute to, maintain or pay allegiance to, any cultural, traditional, linguistic or religious association, organisation, institution or entity.
- (4) A person shall not be compelled to –
  - (a) declare that person’s ethnic, cultural or religious affiliation; or
  - (b) identify with an ethnic, cultural or racial affiliation.

**Freedom and security of person**

- 48.** Every person has the right to freedom and security of the person, which includes the right –
- (a) not to be deprived of freedom arbitrarily or without just cause;
  - (b) not to be detained without trial, except during a state of emergency in which case the detention is subject to the provisions of Article 84;
  - (c) to be free from all forms of violence from either public or private sources;
  - (d) not to be tortured in any manner, whether physical or psychological; and
  - (e) not to be subjected to corporal punishment or to be treated or punished in a cruel, inhuman or degrading manner.

**Slavery,  
servitude and  
forced labour**

**49.** (1) A person shall not be held in slavery or servitude.

(2) A person shall not be required to perform forced labour.

**Privacy**

**50.** All persons have the right to privacy, which includes the right not to have -

- (a) their person, home or their property searched;
- (b) their possessions seized;
- (c) information relating to their family or private affairs unnecessarily required or revealed; or
- (d) the privacy of their communications infringed.

**Freedom of  
religion,  
belief and  
opinion**

**51.** (1) Every person has the right to freedom of conscience, religion, thought, belief and opinion.

(2) Every person has a right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, observance, practice or teaching.

(3) Every religious community is entitled at its own expense to establish, maintain and manage educational institutions, facilities and programmes, including religious instruction for members of that community.

(4) Religious observances and religious instruction may be conducted at State or State-aided institutions, so long as -

- (a) the facilities of that institution are made available, or the observances and instruction are conducted, on an equitable basis, having

regard to the beliefs of the population served by that institution; and

- (b) attendance at those observances or religious instruction is free and voluntary.

(5) A person shall not be deprived of access to any institution, employment facility or the enjoyment of any right because of that individual's religious beliefs.

(6) A person shall not be compelled -

- (a) to take an oath that is contrary to that individual's religion or belief or that involves expressing a belief that the individual does not hold;
- (b) to take an oath in a manner that is contrary to that individual's religion or belief or that involves expressing a belief that the individual does not hold;
- (c) to receive instruction in a religion that is not that individual's religion or attend a ceremony or observance of that religion;
- (d) by a public body, to disclose that individual's religious convictions or beliefs; or
- (e) to do any other act that is contrary to that individual's religion or belief.

(7) When scheduling an employee's legally required rest periods or days, an employer shall make every reasonable effort to accommodate the conventions of the employee's religion or belief relating to rest, religious observance or worship.

**Freedom of expression**

**52.** (1) Every person has the right to freedom of expression, which includes -

- (a) freedom of the press and other media;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity; and
- (d) academic freedom and freedom of scientific research.

(2) The right referred to in clause (1), does not extend to -

- (a) propaganda for war;
- (b) incitement to violence; or
- (c) advocacy of hatred that -
  - (i) constitutes vilification of and disparaging others or incitement to cause harm; or
  - (ii) is based on any prohibited ground of discrimination provided for under Article 39.

**Publication of opinion**

**53.** (1) Freedom and independence of electronic and print media of all types are guaranteed.

(2) Broadcasting and other electronic media are subject only to fair licensing procedures that are -

- (a) administered by a body that is independent of control by the Government, political interests or commercial interests; and
- (b) designed to ensure -

- (i) the reasonable allocation of broadcast frequencies; and
  - (ii) adherence to codes of good practice.
- (3) A person or State organ or institution shall not -
- (a) require prior licensing for any form of publication, broadcast or dissemination of information, comment or opinion;
  - (b) impose censorship on any form of publication, broadcast or dissemination of information, comment or opinion;
  - (c) otherwise interfere with the freedom of expression of any writer, editor, publisher or broadcaster; or
  - (d) harass or penalize a person for any opinion or view or the content of any publication, broadcast or dissemination.
- (4) Parliament shall enact legislation that -
- (a) provides for reasonable allocation of air time and space by all media to political parties either generally or during election campaigns on the recommendations of the Electoral Commission ; and
  - (b) regulates freedom to broadcast in order to ensure fair election campaigning.

**Freedom of media**

**54.** (1) A journalist shall not be compelled to disclose a source of information, except as may be determined by a court.

(2) The agencies of the mass media are free at all times, to uphold the principle, provisions and objectives of this Constitution,

and the responsibility and accountability of the Government to the people of Zambia.

**Independence  
of State owned  
Media**

55. All State-owned media shall -
- (a) be independent and impartial; and
  - (b) afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions.

**Freedom of  
association**

56. (1) Every person has the right to freedom of association.
- (2) Freedom of association applies to the formation, operation and continued existence of organisations.
- (3) A person shall not be compelled to join an association of any kind.

**Assembly,  
demonstration,  
picketing and  
petition**

57. Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.

**Political rights**

58. (1) Subject to the other provisions of this Constitution every citizen is free to make political choices, which includes the right -
- (a) to form or participate in forming a political party;
  - (b) to participate in the activities of, or recruit members for, a political party; and
  - (c) to campaign for a political party or cause.

(2) Subject to the other provisions of this Constitution, every citizen has the right to be elected -

- (a) to any elective public body or office established by or under this Constitution; and
- (b) to an office of a political party of which the citizen is a member.

(3) Every citizen aged eighteen years has the right to be registered as a voter and to vote by secret ballot in elections or referenda, subject to Article 108 and any other law.

**Freedom of movement and residence**

**59.** (1) Every person has the right to freedom of movement.

(2) Every person has the right to leave the Republic.

(3) Every citizen has the right to enter into, remain in and reside anywhere in, the Republic.

(4) Every citizen has a right to a passport.

(5) Parliament shall enact legislation for the imposition of restrictions on the entry, movement or residence of persons who are not citizens.

**Refugees and asylum**

**60.** (1) An individual who has sought asylum as a refugee in Zambia has a right not to be returned to the country of origin if that person has a well-founded fear of -

- (a) persecution in the country of origin; or
- (b) other treatment in that country that would justify that person being regarded as a refugee.

(2) An individual who has sought asylum as a refugee in Zambia has a right not to be sent to a third country in violation of international law.

(3) Parliament shall enact legislation, in compliance with international law and practice, governing persons who seek refugee or asylum in Zambia.

**Property**

**61.** (1) Every person has a right to access land and to acquire and own property either individually or in association with others, subject to Parts XIX and XX of this Constitution.

(2) The State shall not deprive a person of property of any description, or of any interest in, or right over, property, except under the authority of legislation, and subject to the following principles:

- (a) legislation shall not authorize arbitrary deprivation of any interest in, or right over, property of any description;
  - (b) deprivation of any interest in, or right over, property is justifiable, balancing -
    - (i) the public benefit; and
    - (ii) hardship that may result to any person who has an interest in or right over the property; and
  - (c) prompt payment of full and fair compensation shall be made prior to assuming occupation or possession of the property.
- (3) Every owner of -
- (a) a leasehold interest in land has the right to be issued a certificate of title setting out that interest; or
  - (b) any other right or interest in land, has the right to register that right or interest.

(4) The rights recognised and protected under this Article do not apply to any property that has been unlawfully acquired.

**Consumer rights**

- 62.** (1) Consumers have the right to -
- (a) goods and services of appropriate quality, quantity and use;
  - (b) the information necessary for them to gain full benefit from the goods and services;
  - (c) the protection of their health, safety and economic interests; and
  - (d) adequate compensation for defects that cause them loss or injury.

(2) The provisions of this Article apply to goods and services offered by any person or State organ or institution, whether in return for consideration, for taxes and other forms of revenue, or offered free of charge.

(3) Parliament shall enact legislation to provide for consumer protection and for fair, honest and decent advertising.

**Economic, social and cultural rights**

**63.** Parliament shall enact legislation which provides measures which are reasonable in order to achieve the progressive realization of the economic, social and cultural rights referred to in Articles 65, 66, 67 68, 69, 70 and 71.

**Freedom of trade, occupation and profession**

**64.** Every person has the right to choose a trade, occupation or profession freely.

**Labour relations and pensions**

- 65.** (1) A person has the right to fair labour practices.

- (2) A worker has the right to -
  - (a) fair remuneration, equal work for equal pay, and to work under satisfactory, safe and healthy conditions;
  - (b) form, join or participate in the activities and programmes of a trade union including the right to strike;
  - (c) withdraw labour in accordance with law; and
  - (d) a reasonable pension commensurate with that person's status, salary and length of service.
- (3) Where pension is not paid promptly the retirees name shall be retained on the payroll until final payment.
- (4) Every employer has the right to -
  - (a) form and join an employers' organisation; and
  - (b) participate in the activities and programmes of an employers' organisation.
- (5) Every trade union and every employers' organisation has the right to -
  - (a) determine its own administration, programmes and activities;
  - (b) organise; and
  - (c) form and join a federation.
- (6) A trade union, an employers' organisation and employer has the right to engage in collective bargaining.
- (7) Parliament shall enact legislation to regulate pensions and pension schemes and in particular -
  - (a) make provisions for persons over sixty-five years of age to receive welfare support;

- (b) provide that all workers subscribe to pension schemes.
- (c) provide for equitable representation of both employees and employers; and
- (d) provide for the prudent investment of pension funds.

**Social security**                    66. All persons have the right to social security, including, if they are unable to support themselves and their dependants, appropriate social security assistance from the State.

**Health**                                67. (1) Every person has the right to health, which includes the right to health care services and reproductive health care.

(2) A person shall not be refused emergency medical treatment.

**Education**                         68. (1) Every person has the right to a basic education, including pre-primary, primary and secondary education.

(2) The State shall -

- (a) institute a programme to implement the right of every child to free and compulsory primary education; and
- (b) make post-secondary, technical and vocational education progressively available and accessible.

(3) Every person has the right to establish and maintain, at that person's own expense, independent educational institutions

that meet standards prescribed by an Act of Parliament and comply with the requirements of this Constitution.

**Shelter and housing**

69. (1) Every person has the right to have access to adequate shelter and housing.
- (2) Parliament shall not enact any legislation that permits or authorizes arbitrary eviction.

**Food, water and sanitation**

70. (1) Every person has the right to be free from hunger and to have access to food in adequate quantities and of adequate quality and cultural acceptability.
- (2) Every person has the right to water in adequate quantities and of satisfactory quality.
- (3) Every person has the right to a reasonable standard of sanitation.

**Environment**

71. Every person has the right
- (a) to an environment that is safe for life and health;
  - (b) to free access to information about the environment;
  - (c) to compensation for damage arising from the violation of the rights recognized under this Article; and
  - (d) to the protection of the environment for present and future generations.

**Access to information**

72. (1) Every citizen has the right of access to -
- (a) information held by the State; and

(b) any information that is held by another person and that is required for the exercise or protection of any right or freedom.

(2) Every person has the right to demand the correction or deletion of untrue or misleading information as affects that person.

(3) The State has the obligation to publicise any important information affecting the welfare of the Nation.

(4) Parliament shall enact legislation to provide for access to information.

**Fair  
administration**

73. (1) Every person has the right to administrative action that is expeditious, lawful, reasonable and procedurally fair.

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

(3) Parliament shall enact legislation to give effect to the rights in clauses (1) and (2), which shall -

(a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal; and

(b) promote an efficient administration.

**Right to refuse  
unlawful  
instructions**

74. (1) Every person has a right to refuse to obey an unlawful instruction.

(2) A person who instigates or induces another to carry out an unlawful instruction or who, being able to prevent the carrying out of an unlawful instruction, fails to do so, is an

accomplice and is liable to pay damages to any injured party and to prosecution.

(3) A person is not liable to conviction or punishment under any law for disobeying an unlawful instruction.

**Right to Justice**

75. (1) Every person has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or other forum.

(2) Where a person has any claim or judgement against the State, the claim may be instituted by proceedings and the judgement enforced by execution, against the State, local authorities and other public institutions within six months.

(3) The State is subject to liabilities in tort to which if it were a private person of full age and capacity, it would be subject to.

(4) Civil proceedings by or against the State shall be instituted by or against the Attorney-General and documents that are to be served on the State in respect of the proceedings shall be served on the Attorney-General, as prescribed in an Act of Parliament.

**Rights of suspects and arrested persons**

76. Subject to article 84 a person who is a suspect, arrested or detained for allegedly committing an offence has the right -

- (a) to remain silent;
- (b) to be informed in a language which that person understands of the -
  - (i) right to remain silent; and

- (ii) consequences of remaining silent;
- (c) not to be compelled to make any confession or admission that could be used in evidence against that person and, if a person freely chooses to make a confession, to do so before a court;
- (d) to be held separately from persons who are serving a sentence;
- (e) to be brought before a court -
  - (i) within forty-eight hours after being arrested or detained;
  - (ii) not later than the end of the first court day after the expiry of the forty-eight hours, if the forty-eight hours expire outside ordinary court hours or on a day that is not an ordinary court day;
  - (iii) if that person is arrested or detained far from a court, as speedily as possible; or
  - (iv) where bail is not granted, to be tried within ninety days or be released unconditionally or upon reasonable conditions.
- (f) to be arraigned before a court after being arrested or detained or to be released; and
- (g) to be released on bond or bail pending a charge or trial on reasonable conditions, unless there are compelling reasons to the contrary.

**Fair trial**

77. (1) Every accused person has the right to a fair trial, which includes the right -

- (a) to be presumed innocent until the contrary is proved;
- (b) to be informed of the charge with sufficient detail to answer it;
- (c) to have adequate time and facilities to prepare a defence;
- (d) to a public trial before an ordinary court or tribunal;
- (e) to have the trial begun and concluded without unreasonable delay;
- (f) to be present when being tried;
- (g) to choose, and be represented by, a legal practitioner and to be informed of this right promptly;
- (h) to have a legal practitioner assigned to the accused person by the State and at State expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
- (i) to remain silent and not to testify during the proceedings;
- (j) to adduce and challenge evidence;
- (k) not to be compelled to give self-incriminating evidence;
- (l) to have, without payment, the assistance of an interpreter if the accused person cannot understand the language used at the trial;

- (m) not to be convicted for an act, or omission, that was not, at the time it was committed or omitted, an offence under the written Laws of Zambia;
- (n) not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;
- (o) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for an offence has been changed between the time that offence was committed and the time of sentencing; and
- (p) of appeal to, or review by, a higher court.

(2) Where this Article requires information to be given to a person, that information shall be given in a language which that person understands.

(3) Evidence obtained in a manner that violates any right provided for in this Part is inadmissible, unless excluding that evidence would be detrimental to the administration of justice.

(4) An accused person charged with an offence, is entitled on request to a transcript of the proceedings of the trial.

(5) An accused person has the right to a copy of the record of proceedings within fourteen days after they are concluded and in return for a reasonable fee if prescribed by law.

(6) A person convicted of a criminal offence and whose appeal has been dismissed by the highest court to which that person is entitled to appeal, may petition the Supreme Court for a new trial if new and compelling evidence has become available.

(7) The entry of a nolle prosequi is not an acquittal and is valid for twelve months.

(8) Where a person in respect of whom a nolle prosequi has been entered is not tried within twelve months that person shall be deemed to have been acquitted.

**Rights of persons  
detained or in  
custody**

78. (1) Persons who are held in custody under the law, whether sentenced or not, retain all their rights and freedoms under this Constitution, except to the extent that a right is clearly incompatible with the fact of being in custody.

(2) Persons held in custody have the right -

- (a) to be treated in a way that respects human dignity, and not be subject to discrimination on the basis of any prohibited ground;
- (b) not to be exploited or abused by staff or fellow prisoners;
- (c) to accommodation and facilities that satisfy the standards of decent clothing, housing, food, health and sanitation guaranteed in this Part;
- (d) to reasonable health care at public expense and to pay for their own health care by their own doctors if necessary;
- (e) to exercise, education, and to work in return for reasonable remuneration;
- (f) to observe their religion and not be subjected to treatment that violates their religious practices or convictions;
- (g) to communicate with their legal practitioners, other persons whose assistance is necessary,

religious advisers, close family, including spouses, who are entitled to visits of reasonable frequency and duration;

- (h) to privacy, to the extent compatible with the preservation of law, order and prison discipline;
- (i) to be separated, women from men and children from adults;
- (j) to be informed of the rules and decisions that affect them;
- (k) to fair consideration for parole or remission of sentence and for other rehabilitative measures;
- (l) to compensation for wrongful detention; and
- (m) to complain to the prison authorities, the Human Rights Commission or any similar institution.

(3) The State shall ensure that the prison system, so far as it relates to convicted prisoners, observes the minimum standards laid down under relevant international law and international standards.

**Protection of women and further rights for women**

**79.** (1) Without derogating from any other provision of this Constitution, women shall be protected against discrimination and are guaranteed the right, to exercise and enjoy the rights enshrined in this Constitution on the basis of equality with men.

(2) All laws, customary or regulatory that permit or have the effect of discrimination against women are hereby declared void.

(3) Pursuant to clauses (1) and (2), women have and are accorded the right, on an equal basis with men -

- (a) to participate in the formulation of the policies of the Government;
- (b) to hold office in a non-governmental organisation or institution or association concerned with the public and political life of the country;
- (c) to hold office and participate in the public services at all levels so that the representations of women or men does not fall below thirty per cent of the total representation in that institution;
- (d) to acquire, change or retain their nationality including the nationality of their children;
- (e) to equal opportunity and access to education and training;
- (f) to choose residence and domicile;
- (g) to choose freely the number and spacing of children and to have access to information, education and the means to make that choice;
- (h) to the right to guardianship and adoption of children; and
- (i) to the same rights that husbands have to choose a family name or profession or an occupation.

(4) Parliament shall enact legislation to provide for the protection of women against all forms of violence, physical or mental ill treatment, cruelty, deprivation or exploitation.

(5) For the purposes of this Article, “discrimination against women” means a distinction or exclusion made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of marital status, on a basis of equality of women and men, of human rights and fundamental freedoms in all areas of human endeavour to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(6) For the purposes of this Article, “violence” includes references to -

- (a) physical, sexual and psychological violence that occur in the family;
- (b) violence related to female genital mutilation and any other violence or traditional practices that are harmful to women;
- (c) non-spousal violence and violence related to exploitation, physical, sexual and psychological violence that occurs within the general community.
- (d) rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere;
- (e) trafficking in women and forced prostitution; and
- (f) economic and social deprivation.

(7) Parliament shall enact legislation to ensure that matrimonial causes and court proceedings dealing with sexual offences are regulated so as to ensure anonymity and protection of

the lives and dignity of the parties without prejudice to the due process of law.

**Special  
measures for  
achieving  
gender equality**

80. (1) The Government shall take special measures aimed at achieving equality between women and men which measures shall not be construed as discrimination in so far as the measures are not maintained beyond what is required to achieve equality between women and men.

(2) For the purposes of clause (1), "special measures" include -

- (a) measures with respect to the participation of women in public and political life, access to justice, education, employment, health, acquisition of land, economic benefits, equality before the law, marriage and family relations; and
- (b) measures for rural women to enjoy the civil and political rights and economic, social and cultural rights enshrined in this Constitution.

(3) Parliament shall enact legislation to ensure that the obligations of the Government contained in this Article are honoured.

(4) In this Article, "women" includes girls.

**Protection  
of young  
persons**

81. (1) A young person shall not be employed and shall not be caused or permitted to engage in an occupation or employment which would prejudice the health or education or interfere with the physical, mental or moral development of that young person, but an Act of Parliament may provide for the

employment of a young person for a wage under certain conditions specified in that Act.

(2) All young persons shall be protected against physical or mental ill-treatment and all forms of neglect, cruelty or exploitation.

(3) A person shall not subject a young person to trafficking in any form.

(4) In this Article, "young person" means a person under the age of fifteen years.

**Limitation on  
protection of rights  
to personal liberty**

82. (1) A right or freedom set out in this Part -
- (a) is limited by any limitation or qualification expressly set out in that provision containing that right or freedom; and
  - (b) may be otherwise limited only by a law of general application, subject to clauses (2) and (3).

(2) A law enacted after the commencement of this Constitution, that has the effect of limiting a right or freedom, is inconsistent with this Constitution unless -

- (a) that enactment specifically expresses the intention to limit that specific right or freedom; and
- (b) the limitation satisfies the requirements of clause (3).

(3) A limitation contemplated in clause (1) (b) or (2) -

- (a) is invalid -
  - (i) if it negates the core or the essential content of the right or freedom; and

- (ii) if the limitation is not reasonable and not justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including the nature of the right, the importance of the purpose of the limitation, the value and extent of the limitation, the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose;
- (b) is valid only to the extent that the limitation takes into account all relevant factors, including -
  - (i) those which are reasonably required in the interest of defence, public safety, public order, public morality, public health, town and country planning, taxation, the development and utilization of natural and mineral resources or in order to secure the development or utilization of property for a purpose beneficial to the community;
  - (ii) those which are required to enforce a judgement or an order of a court; or
  - (iii) the imposition of restrictions on public officers.

(4) The State or any person claiming that a particular limitation is permitted in terms of this Article, is responsible to demonstrate to the court, the Human Rights Commission, tribunal or any other forum that the requirements of this Article have been satisfied.

**Derogation  
during  
emergency**

83. A provision contained in or an act or a thing done under the authority of a law is not inconsistent with or in contravention of a provision of this Part to the extent that it is shown that –

- (a) the law in question authorizes the taking, during a period when the Republic is at war or when a declaration under Article 85 is in force, of measures for the purpose of dealing with a situation existing or arising during that period; and
- (b) the measures taken were, having due regard to the circumstances prevailing at the time, reasonably required for the purpose of dealing with the situation in question.

**Provisions  
relating to  
restriction and  
detention**

84. (1) Where a person's freedom of movement is restricted, or that person is detained, under the authority of a law referred to in Article 59 or 83, the following shall apply:

- (a) that person shall, as soon as reasonably practicable and in any case not more than fourteen days after the commencement of the

detention or restriction, be furnished with a statement in writing in a language which that person understands specifying in detail the grounds of the restriction or detention;

- (b) not more than fourteen days after the commencement of the restriction or detention, a notification shall be published in the *Gazette* stating the restriction or detention and giving particulars of the place of the restriction or detention and the provision of the law under which the restriction or detention is authorised;
- (c) if that person so requests at any time during the period of the restriction or detention not earlier than three months after the commencement of the restriction or detention or after a last request was made during that period, the case shall be reviewed by the Constitutional Court;
- (d) that person shall be afforded reasonable facilities to consult a legal practitioner of that person's own choice who shall be permitted to make representations to the authority by which the restriction or detention was ordered or to the Constitutional Court; and
- (e) at the hearing of the case by the Constitutional Court, that person shall be permitted to appear in person or by a legal practitioner of that person's own choice, and may, in addition to

any grounds challenging that person's detention or restriction, challenge the validity or genuineness of the declaration of the state of emergency and the measures taken during the state of emergency.

(2) On a review by the Constitutional Court under this Article, the Court shall advise the authority by which it was ordered on the necessity or expediency of continuing the restriction or detention and that authority shall act in accordance with that advice.

(3) The President may, at any time, refer to the Constitutional Court the case of a person who has been or is being restricted or detained pursuant to a restriction or detention order.

(4) A provision of paragraph (d) or (e) of clause (1), shall not be construed as entitling a person to legal representation at public expense.

**Threatened and  
state of  
emergency**

**85.** (1) When the Republic is threatened with war, invasion, general insurrection, disorder, natural disaster or any other public emergency, the President may, in consultation with Cabinet, and with the approval of a vote of two-thirds of all the members of National Assembly, declare a state of emergency in accordance with this Article and only when the declaration is necessary to maintain or restore peace and order or to meet the needs of the public in the circumstances.

(2) The President shall declare a state of emergency and take such measures as are necessary to respond to a declaration of

war or any other state of emergency, and shall within seven days obtain the ratification of the National Assembly.

(3) A declaration of a state of emergency and any legislation enacted or any other action taken in consequence of that declaration is effective only -

- (a) prospectively; and
- (b) for not more than twenty-one days from the date of the declaration, unless the National Assembly resolves to extend the period of the state of emergency.

(4) A first extension of a state of emergency may be adopted only if it is supported by a vote of at least two-thirds of the members of the National Assembly and any subsequent extension may be adopted only if it is supported by a vote of at least two-thirds of the members of the National Assembly.

(5) Legislation that concerns a state of emergency, or legislation enacted or any other action taken in consequence of a declaration, may not permit or authorize indemnifying the State, or any person, in respect of an unlawful act.

**Enforcement of  
protection  
provisions**

86. Where a person alleges that a provision of this Part has been, is being or is likely to be contravened in relation to that person, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the Constitutional Court.

## Human Rights Commission

### Establishment of Human Rights Commission

87. (1) There is established a Human Rights Commission which shall have offices in all of the provinces, and progressively in the districts.

(2) In the performance of its functions, the Human Rights Commission is subject only to this Constitution or any other law not inconsistent with this Constitution and is not subject to the direction or control of a person or an authority.

(3) The Commission consists of -

(a) a Judge of the High Court, nominated by the Chief Justice, or a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the chairperson;

(b) a Judge of the High Court, nominated by the Chief Justice or a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the vice-chairperson; and

(c) three other Commissioners, who are persons with qualifications and proven experience in human rights issues, nominated by human rights civil society organisations.

(4) The members of the Commission shall be appointed by the President and the appointments shall be ratified by the National Assembly.

(5) In making the appointments, the President shall observe gender balance.

**Functions of  
Human Rights  
Commission**

88. (1) The functions of the Human Rights Commission are -

- (a) to investigate, at its own initiative or on a complaint made by a person or group of persons an allegation of a violation of a human right;
- (b) to investigate complaints in state institutions relating to allegations of abuse of human rights;
- (c) to establish a continuing programme of research, education, information, dissemination and rehabilitation of victims of human rights abuses in order to enhance awareness of and the protection of human rights;
- (d) to recommend to the National Assembly measures to promote human rights issues including the provision of compensation to victims of violations of human rights and their families;
- (e) to promote civic education and public awareness of the provisions of this Constitution in relation to their rights;
- (f) to monitor the Government's compliance with international treaties and conventions on human rights;

- (g) to formulate and implement programmes intended to inculcate in the citizen, an awareness of civic responsibilities and an appreciation of rights and obligations under this Constitution;
- (h) to visit prisons and places of restriction or detention or related facilities in order to assess and inspect conditions of the inmates and to make recommendations;
- (i) to investigate complaints concerning practices and actions by persons, private enterprises and any other institutions where those complaints allege violations of fundamental human rights and freedoms;
- (j) to take appropriate action to call for remedying, corrections and reversal of instances of breach of the Bill of Rights;
- (k) to prosecute cases of human rights violations, subject to approval by the Director of Public Prosecutions; and
- (l) to report regularly to the National Assembly on the performance of its functions.

(2) Clause (1) shall not be construed so as to prevent a person, or an individual on behalf of any other person unable to act from bringing an action to the Constitutional Court in a case of the violation of any provision of this Part.

(3) The Commission shall not investigate -

- (a) a matter which is pending before a court or quasi-judicial tribunal;

- (b) a matter that involves the relations or dealings between the Government and any foreign government or an international organisation; or
- (c) a matter that relates to the exercise of the prerogative of mercy.

**Tenure of office**

89. (1) A member of the Human Rights Commission shall hold office on full-time basis and shall serve a term of four years and is eligible for re-appointment for a further term of four years only.

(2) A member of the Commission may, in writing, resign from office and may be removed from office on the same grounds and by the same procedure as a Judge of a superior court, under Article 221 (2), and Article 222, with the necessary modifications.

(3) A member of the Commission shall not hold any other office of profit or emolument while serving as a member of the Commission.

(4) Where a vacancy occurs in the membership of the Commission, the President shall fill the vacancy by a new appointment in accordance with Article 87.

**Funds of Commission**

90. (1) The funds of the Human Rights Commission include –

- (a) money appropriated by Parliament for the purposes of the Commission;
- (b) donations and grants from any other source subject to the public interest; and

(c) any other money received by the Commission for the performance of its functions.

(2) The Commission is self-accounting and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(3) Funds appropriated by Parliament under clause (1), shall be released in full and the Commission shall not be underfunded in any financial year.

**Expenses of Commission**

91. The operative and administrative expenses of the Human Rights Commission, including emoluments payable to, or in respect of persons serving with the Commission, are charged on the Consolidated Fund.

**Staff of Commission**

92. The appointment of the officers and any other employees of the Human Rights Commission shall be made by the Commission.

**Complaints procedure**

93. The Human Rights Commission shall make regulations which are not inconsistent with this Constitution regarding the manner and procedure for bringing complaints before it and for the investigation of complaints.

**Powers of Parliament**

94. Parliament may, by an Act of Parliament not inconsistent with this Constitution, provide for matters designed to give effect to this Part including the powers of the Human Rights Commission -

- (a) to issue subpoenas requiring the attendance of a person before the Commission and the production of documents or records relevant to an investigation by the Commission;
- (b) to cause a person contemptuous of the Commission to be prosecuted before a court;
- (c) to question a person in respect of a subject matter under investigation by the Commission; and
- (d) to require a person to disclose truthfully any information within that person's knowledge relevant to an investigation by the Commission.

## PART VII

### CODE OF ETHICS AND CONDUCT FOR PUBLIC OFFICERS AND OTHER OFFICE HOLDERS

**Conflict of interest**

95. An office holder shall not act in a manner or in a position where the personal interest of that office holder conflicts or is likely to conflict with the performance of the functions of office.

**Declaration of assets**

96. (1) A person who holds a public office or any other office mentioned in clause (2), shall submit to the Ethics Commission a written declaration of the property or assets owned by, or liabilities owed by, that person whether directly or indirectly-

- (a) within three months after the commencement of this Constitution or before taking office;

- (b) annually; and
- (c) at the end of the term of office.

(2) The public offices and any other offices to which this Article applies are those of -

- (a) the President and the Vice-President;
- (b) Chief Justice and Deputy Chief Justice and other Judges of the Superior Court;
- (c) the Speaker, the Deputy Speaker;
- (d) the Ministers, Provincial Ministers and Deputy Ministers;
- (e) Members of the National Assembly;
- (f) Secretary to the Cabinet and Deputy Secretary to the Cabinet;
- (g) the Attorney-General, the Solicitor-General and the Director of Public Prosecutions;
- (h) the Solicitor-General;
- (i) the Service Chiefs;
- (j) the Auditor General;
- (k) the Governor of the Central Bank;
- (l) Public office holders specified under this Constitution;
- (m) Other public office holders as specified by or under an Act of Parliament; and
- (n) Mayor and Deputy Mayor.

(3) The members of the Ethics Commission shall make a written declaration of their assets and liabilities to the Speaker in the manner and subject to the conditions provided in clauses (1), (4), (5) and (6).

(4) A person appointed to an office to which this Article applies, shall before assuming office, take and subscribe to the oath of allegiance to this Constitution and the people of Zambia, the oath of secrecy and the official oath or any other oath appropriate to that office.

(5) A person who fails to declare property or assets or liabilities as required by clause (1), or knowingly makes a false declaration in that respect, contravenes this Constitution.

(6) The declaration made under clause (1), shall, on demand, be produced in evidence before -

- (a) a court of competent jurisdiction;
- (b) a commission of inquiry; or
- (c) any other investigator appointed by or under an Act of Parliament.

(7) The property or asset acquired by an office holder after the initial declaration required by clause (1), and which is not reasonably attributable to income, gift, loan, inheritance or any other reasonable source is, for the purposes of this Constitution, acquired in contravention of this Constitution.

**Forfeiture to Republic**

97. (1) For the purposes of this Part, property acquired illegally, unjustly or through a corrupt practice or is acquired in breach of a provision of this Part, shall be forfeited to the Republic.

(2) Clause (1) does not derogate -

- (a) from the right of a person to institute or pursue a civil action or remedy in respect of that property; or

- (b) from the power to prosecute for a criminal offence.

**Spouses and children**

98. The requirements of this Part, relating to the declaration of assets and liabilities, apply to the spouses and the children of the officers concerned.

**Appointments to public bodies**

99. (1) A person shall not be appointed or act as the chairperson of the governing body of a public or statutory corporation or authority while that person holds a position in the service of that corporation or authority.

(2) A member of the governing body of a public or statutory corporation shall not while holding office as a member hold any other office in that corporation.

(3) Clause (2) shall not apply to the Governor of the Central Bank, and the Commissioner of Lands.

(4) A member of the National Assembly shall not be appointed to, or hold office in, a public or statutory corporation.

**Professions**

100. The governing body of the professions and any other vocation or calling that involves the provision of services to the public shall publish in the print and electronic media a code of conduct and ethics for the guidance of its members and for the information of the public.

**Complaints or contravention**

101. (1) An allegation that a public officer or an office holder has contravened or has not complied with a provision of this Part shall be made to the Ethics Commission and, in the case of a member of that Commission, to the Speaker who shall, unless the

person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

(2) The Ethics Commission or the Speaker shall take appropriate action in respect of the results of an investigation or admission under clause (1).

**Property  
corruptly  
obtained**

**102.** If the Ethics Commission has information that property has been acquired through a corrupt practice the Commission shall submit that information to an appropriate authority for action.

**Ethics  
Commission**

**103.** (1) There is established an Ethics Commission consisting of a chairperson and four other persons who are women and men of proven integrity and honesty.

(2) An appointment to the Ethics Commission shall be made by the President, subject to ratification by the National Assembly.

(3) The functions of the Ethics Commission are -

- (a) to promulgate the standards of competence, honesty, integrity and transparency in the performance of functions in the Public Services and in the private sector and conduct education campaigns in respect of those matters;
- (b) to ensure compliance with, and enforcement of, the provisions of this Part; and
- (c) to receive and investigate complaints about non-compliance with this Part and, if

appropriate, refer the complaint to the relevant authorities for action;

- (d) in relation to appointments to offices established by or under this Constitution to -
  - (i) ensure the consistent application of the provisions of this Constitution concerning qualifications for appointment; and
  - (ii) encourage citizens to make themselves available or to propose other individuals for appointment; and
- (e) to perform any other functions conferred on the Commission by an Act of Parliament.

(4) Where this Constitution or any other law requires a person or an authority to nominate a person for appointment to a public office, the nomination shall first be submitted to the Ethics Commission to determine whether the nominee possesses the required qualifications.

(5) Where the power to make an appointment is at the discretion of the appointing authority, the Commission shall submit names of suitable candidates for appointment to the appointing authority from which the appointing authority shall make the appointments.

(6) Where the Commission submits names for appointment under clauses (3) and (4), the Commission shall -

- (a) subject to a provision of this Constitution or of any other law to the contrary, submit at least three more names than the number of vacant posts; and

(b) endeavour to ensure that the candidates put forward reflect national diversity and gender balance.

(7) The Commission shall not investigate or hear a matter pending before a court or a quasi-judicial tribunal.

**Interpretation**

**104.** For the purposes of this Part, “office holder” means a person who holds an office in the public sector.

**PART VIII**

**REPRESENTATION OF THE PEOPLE**

**Electoral systems and principles**

**Basis of electoral system**

**105.** (1) The electoral system is based on the right of all eligible citizens to vote and to stand for election in any presidential, National Assembly or local government election.

(2) Voting in an election shall be by universal adult suffrage and secret ballot, and votes shall be cast in a free and conducive environment.

(3) The electoral system shall ensure that the representation of each gender is not less than thirty per cent of the total number of seats in the National Assembly, local authority or other elective body; and shall ensure equitable representation of persons with disabilities and the youth.

(4) An Act of Parliament shall provide for a formula for achieving the purposes under clause (3).

**Losing candidates not eligible to certain appointments**

**106.** Any person who was a candidate for election as President, member of the National Assembly or member of any

local government legislative body and who lost the election, is not eligible for appointment as Vice-President, Minister, Provincial Minister or Deputy Minister.

**Election date**

**107.** (1) Subject to clause (2) and the other provisions of this Constitution, presidential, National Assembly and local government elections shall be held on the last Wednesday of September, every five years after the last election.

(2) The Electoral Commission may vary the dates for elections by not more than fourteen days of the date specified under clause (1), when prevailing circumstances justify a variation of the date.

(3) The Electoral Commission shall set the date for a by-election.

(4) The day on which a general election is held shall be a public holiday.

**Registration  
as voter**

**108.** (1) Registration of voters is continuous.

(2) A citizen qualifies for registration as a voter for elections or referenda if at the date of the application for registration that citizen has attained the age of eighteen years and has any other qualifications prescribed by an Act of Parliament.

(3) A citizen who qualifies for registration as a voter shall be registered in one constituency only.

**Voting  
processes**

**109.** At every election, the Electoral Commission shall ensure that –

(a) the voting procedure is simple;

- (b) the ballot box is transparent and serially marked;
- (c) ballot papers that are written in Braille are available for the use of blind persons who can read Braille;
- (d) the votes cast are counted, tabulated and the results announced promptly, by the presiding officer at the polling station;
- (e) the results from the polling stations are openly and accurately collated and promptly announced by the returning officer;
- (f) special arrangements are made to accord members of the Defence Forces, the Police Service, the Prisons Service, election officials and other special sectors of society the opportunity to vote;
- (g) facilities are made available for citizens living abroad to vote; and
- (h) appropriate structures and mechanisms to eliminate all forms of electoral malpractices are put in place, including the safe keeping of all election material.

**Independent candidates**

**110.** Subject to the qualifications and disqualifications specified for election as a member of the National Assembly and for election to a district council, a person is eligible to stand as an independent candidate for election as a member of the National Assembly or of a district council, in a single member constituency.

**Unopposed candidates**

**111.** In every election where only one candidate is nominated by the end of the nomination day that candidate shall be declared elected.

**Establishment, composition and functions of Electoral Commission of Zambia**

**112.** (1) There is established the Electoral Commission of Zambia, whose offices shall be decentralised to all provinces.

(2) The Electoral Commission of Zambia shall consist of seven members appointed by the Appointments Committee established under Article 113.

(3) Except for the Chairperson and Deputy Chairperson members of the Electoral Commission shall be appointed on a part time basis.

(4) A Chairperson and a Vice-chairperson shall be Zambian citizens who are qualified to be appointed as Judges of the Superior Court.

(5) The Electoral Commission shall be autonomous and impartial in the performance of its functions and shall do so without fear, favour or prejudice and is responsible for -

- (a) the continuous registration of voters;
- (b) the delimitation of electoral constituencies and units for National Assembly and local government elections;
- (c) the efficient conduct and supervision of elections and referenda;
- (d) the review of electoral laws and making recommendations for their amendment;
- (e) the registration and supervision of political parties, including the promotion of co-

operational harmony between and among political parties;

- (f) the settlement of minor electoral disputes and dealing with any malpractices before or during an election;
- (g) the promotion of voter education and a culture of democracy;
- (h) the facilitation of the observation, monitoring and evaluation of elections and referenda;
- (i) the recommendation of administrative boundaries, including the fixing, reviewing and variation of boundaries of provinces, districts and wards; and
- (j) any other functions provided by an Act of Parliament.

(6) The Electoral Commission shall determine all electoral disputes and issues of malpractices, occurring before or during an election, within twenty-four hours of receiving a complaint with regard to the dispute or malpractice and may make an order –

- (a) prohibiting a person or political party from doing any act proscribed by or under an Act of Parliament;
- (b) excluding a person or any agent of a person or any candidate or agent of a political party from entering a polling station;
- (c) reducing or increasing the number of votes cast in favour of a candidate after a recount;
- (d) disqualifying the candidature of any person;

- (e) that the votes cast at a particular polling station do not tally in whole or in part;
- (f) for filing a complaint and making a report to a court or tribunal handling any electoral petition; or
- (g) cancelling an election or election result and calling a fresh election, where the electoral mal-practice is of a nature that would affect the final electoral results.

(7) A decision of the Electoral Commission on any matter referred to in clause (6), is final only for purposes of proceeding with the elections.

(8) Any complaints, connected with an election, raised after an election shall be dealt with under an election petition by an electoral tribunal.

**Selection and  
Appointments  
Committee**

**113.** (1) There shall be an Appointments Committee appointed by the National Assembly.

(2) The Appointment Committee consists of -

- (a) one member of the Supreme and Constitutional Court appointed by the Chief Justice;
- (b) a member of the Public Services Commission;
- (c) a member of the Judicial Service Commission;
- (d) a representative from the Church bodies; and
- (e) the Ombudsman.

(3) In making the appointments of the members of the Electoral Commission, the Appointments Committee shall be guided by the following principles -

- (a) advertising the names of short listed candidates for public scrutiny; and
- (b) forwarding the names of the short listed candidates for appointment to the President and ratification by the National Assembly.

(4) Parliament shall enact legislation to prescribe for the rules and procedures for the selection and appointment of a member of the Electoral Commission.

**Tenure of office**

**114.** (1) A member of the Electoral Commission shall hold office for a term of five years, and is eligible for re-appointment for one further term only.

(2) A member of the Electoral Commission enjoys security of tenure during a member's term of office and may be removed from office on the same grounds and the same procedure, with the necessary modifications, as a Judge of the superior court, under Article 221 (2) and Article 222.

**Funds of Electoral Commission**

**115.** (1) The funds of the Electoral Commission include

-

- (a) money appropriated by Parliament for the purposes of the Commission; and
- (b) any other money received by the Commission for the performance of its functions.

(2) The Electoral Commission shall be a self- accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(3) Any funds appropriated by Parliament under clause (1), shall be released in full and the Electoral Commission shall not be under-funded in any financial year.

(4) The expenses of the Electoral Commission, including the emoluments payable to, or in respect of, persons serving with the Commission are a charge on the Consolidated Fund.

**Staff of Electoral Commission and temporary election officers**

**116.** (1) The appointment of officers and other employees of the Electoral Commission shall be made by the Commission.

(2) The Electoral Commission may appoint, temporarily, as many election officers or adjudicating officers as is necessary to enable the Commission to perform its functions effectively during elections or referenda, as prescribed by an Act of Parliament.

**Delimitation of constituencies or electoral units**

**117.** (1) The Electoral Commission shall determine the names and boundaries of the constituencies or electoral units for National Assembly and local government elections.

(2) In determining the boundaries and the naming of constituencies or electoral units, the Electoral Commission shall-

- (a) ensure that Zambia is divided into constituencies or electoral units so that the number of constituencies or electoral units are equal to the number of seats of members elected under the Mixed Member Proportional Representation System or any other electoral system prescribed by an Act of Parliament;
- (b) seek to achieve an approximate equality of constituency or electoral unit population,

subject to the need to ensure adequate representation for urban and sparsely populated areas; and

(3) The Electoral Commission shall, at intervals of not more than ten years, review and, where necessary, alter names and the boundaries of constituencies or electoral units.

(4) The names and details of the boundaries of constituencies or electoral units determined under clause (1), shall be published in the *Gazette*, and shall come into effect on the next dissolution of Parliament or the district councils.

(5) A person may apply to the Constitutional Court for review of a decision of the Electoral Commission made under this Article.

**Matters to be taken into account when delimiting constituencies**

**118.** In determining the boundaries of electoral units of the provinces and districts the Commission shall take into account the history, diversity and cohesiveness of the constituency or electoral unit, having regard to -

- (a) its population density and population trends and projections;
- (b) geographical features and urban centres;
- (c) community interest, historical, economic and cultural ties;
- (d) means of communication; and
- (e) the need to ensure that constituencies or electoral units are wholly within districts.

**Legislation  
on elections**

**119.** Parliament shall enact legislation for a free and fair electoral process, including the –

- (a) nomination of candidates;
- (b) manner of voting at elections;
- (c) continuous registration of citizens as voters;
- (d) conduct of elections and referenda; and
- (e) efficient supervision of elections and referenda.

**Political Parties**

**Political  
Parties**

**120.** (1) For the purposes of this Constitution, political party is an association or organisation whose members are citizens and whose objectives include the contesting of elections in order to form government or influence the policy of the national or local government.

- (2) A political party shall –
- (a) have a national character;
  - (b) have a democratically elected governing body;
  - (c) promote and uphold national unity;
  - (d) abide by the democratic principles of good governance; and promote and practice democracy through regular, fair and free elections within the party;
  - (e) respect the right of others to participate in the political process, including women, and persons with disabilities;
  - (f) promote and respect human rights and gender equality and equity;

- (g) promote the objects and principles of this Constitution and the rule of law; and
  - (h) subscribe to and observe any code of conduct for political parties, prescribed by an Act of Parliament.
- (3) A political party shall not -
- (a) be founded on a religious, linguistic, racial, ethnic, gender or provincial basis, or seek to engage in propaganda based on any of those matters;
  - (b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;
  - (c) establish or maintain a paramilitary force, militia or similar organization; or
  - (d) engage in bribery or other forms of corrupt practices.

**Regulation of political parties**

**121.** (1) The Electoral Commission is responsible for the registration, deregistration and regulation of political parties.

(2) A person or group of persons shall not operate as a political party unless that party conforms to the principles laid down in this Constitution and is registered by the Electoral Commission in accordance with an Act of Parliament.

(3) Any person or group of persons who desires to form a political party shall furnish the Electoral Commission with a copy of its constitution and the names and addresses of its officers and satisfy the Commission that -

- (a) the party has branches in at least one half of the number of provinces of Zambia; and
- (b) the party name, emblem, colour, motto or any other symbol, has no ethnic, provincial or other sectional connotations or gives the appearance that its activities are confined only to a part of Zambia.

(4) A political party is entitled to present its programmes to the public; and the State shall ensure equal access to the state-owned media.

(5) A political party and every candidate for election to the Presidency, the National Assembly or any local government legislative body has the right to conduct their campaign freely and in accordance with the law.

(6) Political parties may form a coalition.

(7) A political party shall as prescribed by an Act of Parliament submit to the Electoral Commission its revenues and assets and the source of those revenues and assets.

(8) A political party is entitled to financial support, from the State, through the Political Parties Fund, in accordance with Article 122.

(9) Subject to the other provisions of this Part, Parliament shall enact legislation for the regulation and functioning of political parties.

**Political  
Parties Fund**

**122.** (1) There is established a Political Parties Fund.

(2) The Fund shall be administered by the Electoral Commission.

(3) The sources of the Fund are -

- (a) money allocated annually by Parliament as determined by the Emoluments Commission; and
- (b) contributions and donations to the Fund from any other source.

(4) The money in the Fund not immediately required for payment to political parties shall be invested in securities approved by the Ministry responsible for finance.

**Purpose of Fund**

**123.** (1) The purpose of the Political Parties Fund is to provide financial support to registered political parties, with seats in the National Assembly, in the discharge of their roles and the performance of their functions.

(2) Money allocated to a political party from the Fund shall be used -

- (a) to assist political parties disseminate their policies;
- (b) for the organization of civic education in democracy and the electoral processes;
- (c) generally for the administrative expenses of the party, excluding emoluments of party officers, which expenditure shall not exceed ten per cent of the money allocated; and
- (d) for any other legitimate purpose approved by the Electoral Commission.

(3) Money allocated to a political party shall not be used for -

- (a) paying, directly or indirectly, remuneration, fees, rewards or any other benefit to a member or supporter of the party; or
- (b) any other purpose incompatible with the promotion of a multi-party democracy.

(4) The money allocated by Parliament to the Fund shall be distributed among political parties, quarterly, by reference to the number of seats secured by each political party in the general elections.

(5) Parliament shall enact legislation to provide for the formula to be used for the purposes of clause (4).

**Other sources  
of funds**

**124.** (1) A political party may receive subscriptions, donations and contributions from the members and supporters of the party.

(2) An Act of Parliament shall specify -

- (a) the sources from which political parties shall not receive subscriptions, donations or contributions; and
- (b) the maximum donation that an individual or an institution or body can make to a political party.

**Audit of accounts**

**125.** (1) A political party shall keep proper books and records of account.

(2) Within three months after the end of the Government's financial year a political party, that is funded under this Part, shall submit its books and records of account to the Auditor-General for audit.

(3) The Auditor-General shall, within three months of the submission of the accounts under clause (2), audit the accounts and submit the report on the audit to the National Assembly and to the political party concerned.

(4) Within one month after receipt of the audited accounts and the Auditor-General's report, the political party shall-

(a) publish the accounts and the report in the *Gazette* and in at least one newspaper circulating nationally; and

(b) submit the accounts and report to the Electoral Commission, the Ethics Commission and the National Assembly.

**Party  
supervision**

**126.** (1) The Electoral Commission shall supervise the general conduct of political parties.

(2) A political party shall, within seven months after the end of the Government's financial year, submit to the Electoral Commission an annual report of its activities together with the audited accounts, as prescribed by an Act of Parliament.

(3) The annual report of a political party may be inspected by any person, during normal office hours, at any branch of the party and at the offices of the Electoral Commission.

(4) The Electoral Commission shall prescribe the maximum amount of money that may be spent by, or on behalf of, a candidate in respect of any election.

**Party discipline**

**127.** (1) A political party has the responsibility to ensure internal party discipline is enforced in accordance with the rules of natural justice and democratic principles.

(2) A political party shall not take disciplinary action against a member of the party for anything done or said, in the National Assembly or any district council, by that member.

**Restriction  
on use of  
public  
resources**

**128.** (1) Except as is provided under an Act of Parliament, no person shall use public resources to promote the interests of a political party.

(2) A public institution or body shall not donate any funds or other resources to a political party or any candidate standing for an election.

(3) Developmental projects shall not be initiated or implemented during the official period of campaign which begins on the day nominations are filed and ends on the day before an election.

(4) Clause (3) does not apply to on-going projects.

(5) Relief food and other materials shall not be distributed during the official period of campaign and elections, except in case of extreme need, in which case, the distribution shall be done by an independent and non-partisan organisation.

**PART IX  
EXECUTIVE**

**Office of  
President**

**129.** (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 Forces.

(2) The executive power of the Republic vests in the President and, subject to the other provisions of this Constitution,

shall be exercised directly by the President or through officers subordinate to the President.

**Election of  
President**

**130.** (1) The President shall be elected directly by universal adult suffrage and by secret ballot.

(2) An election to the office of President shall be conducted in accordance with this Part and as prescribed by or under an Act of Parliament.

**Qualifications of  
Presidential  
candidate**

**131.** (1) A person is qualified to be a candidate for election as President if that person -

- (a) is a citizen by birth, and both parents are  
Zambian citizens by birth;
- (b) does not have dual citizenship;
- (c) has been ordinarily resident in Zambia for a  
continuous period of ten years immediately  
preceding the election;
- (d) is not less than thirty-five years;
- (e) is conversant with the official language;
- (f) is in possession of a tax clearance certificate  
showing the payment of any tax due or has  
made satisfactory arrangements for paying any  
tax or is exempt from paying tax;
- (g) declares that person's assets and liabilities as  
provided under this Constitution and by an  
Act of parliament; and
- (h) has a good record of service to the public.

(2) A candidate shall not take part in a presidential election unless that candidate -

- (a) has paid the election fee prescribed by or under an Act of Parliament on or before the date fixed for the delivery of nomination papers; and
- (b) has been nominated and supported by not less than one thousand registered voters.

**Nomination for election as President**

132. (1) A candidate for election as President shall deliver the nomination papers to the returning officer in the manner, on the day, at the time and at the place prescribed by or under an Act of Parliament.

(2) The nomination papers shall be supported by an affidavit certifying the truth of the facts stated in the nomination papers.

(3) The information contained in the nomination papers shall be published in the *Gazette* and in the nation electronic and print media.

**Voting and procedure for election of President**

133. (1) At an election to the Office of President -
- (a) all persons registered in Zambia as voters for the purposes of general elections are entitled to vote;
  - (b) the poll shall be taken by a secret ballot on the day, at the time, in the places and in the manner prescribed by or under an Act of Parliament; and
  - (c) after the expiration of the time fixed for polling, the votes cast shall be counted by the presiding officer who shall declare the result of that polling station.

**Electoral  
system for  
presidential  
elections**

(2) Where there is only one qualified presidential candidate nominated for election, that candidate shall be declared as elected without a poll taking place.

**134.** (1) Elections to the Office of President shall be conducted under a system where the winning candidate must receive not less than fifty per cent plus one vote of the valid votes cast.

(2) If, at the initial ballot a candidate does not receive fifty per cent plus one vote of the valid votes cast -

(a) a second ballot shall be held, within ninety days, where the only candidates are those who obtained the highest and second highest number of valid votes in the initial ballot; and

(b) the candidate who obtains fifty per cent plus one vote of the valid votes cast in the second ballot shall be declared President-elect.

(3) If, at the second ballot, there is a tie between the two candidates, the Speaker shall summon the National Assembly to elect, by secret ballot, the President from the two candidates, and the candidate who receives the highest number of the valid votes cast, by the members of the Assembly, shall be declared President-elect.

(4) If there is a tie between the two candidates in the voting in the National Assembly, the Speaker shall have a casting vote.

(5) A petition to challenge the election of a President-elect may only be instituted after the election of the President-elect.

(6) The Chairperson of the Electoral Commission is the returning officer for the election of the President.

**Swearing in and  
handing over**

135. (1) Except when there is a presidential-election petition, the President-elect shall be sworn in by the Chief Justice, and assume office on the last day of the handover period specified under clause (2).

(2) The person who was holding the Office of President immediately before the presidential election -

(a) shall, before the end of the thirty days prepare handing over notes including a statement on the state of the nation for the benefit of the President-elect, and shall complete the procedural and administrative handing over process within the thirty days;

(b) shall, within the thirty days, perform any of the functions of the Office of President under this Constitution or any other law except that that person shall not exercise the powers of the President to -

(i) make an appointment; or

(ii) dissolve the National Assembly.

(3) If the President-elect dies or is for any other reason unable to assume the office of President, before being sworn in under this Article, the Vice-President-elect shall assume the Office of President.

(4) Where the Vice-President assumes the Office of President under clause (3), the President shall appoint a person to be Vice-President and the National Assembly shall by a vote of not

less than two-thirds of all the members of the National Assembly approve the appointment of Vice-President.

**Election petition**

**136.** (1) A person may file an election petition to an ad hoc Presidential Election Tribunal to challenge the election of the President-elect.

(2) The petition shall be filed within seven days after the date of the declaration of the election of the President.

(3) The ad hoc Presidential Election Tribunal shall, within ninety days of the filing of an election petition, determine the petition.

(4) Where there is an election petition the Speaker shall discharge the functions of the office of President.

(5) An ad hoc Presidential Election Tribunal shall be constituted by the Chief Justice and shall consist of -

(a) the Chief Justice as the chairperson; and

(b) six other members appointed by the Judicial Service Commission from among persons who have held office as Judges of the Supreme Court or are qualified to be appointed Judges of the Supreme Court.

(6) The decision of the ad hoc Presidential Election Tribunal is final, and the Tribunal stands dissolved on the determination of the election petition.

(7) Where the election of the President-elect is nullified -

(a) the Speaker shall perform the functions of the Office of President; and

(b) a presidential election, for the Office of President and Vice-President, shall be held

within ninety days from the date of the nullification.

(8) In the absence of, or where the Speaker is unable to act under clause (7), the Chief Justice shall act.

(9) Where the election of the President-elect is not nullified, the President-elect shall be sworn-in office within twenty-four hours of the decision of the Tribunal, and the term of office shall be deemed to have commenced from the date of the declaration of the results of the election.

**Tenure of office  
of President**

**137.** (1) Subject to clauses (2) and (4), a President shall hold office for a period of five years, and shall not during that period hold any other office of profit or emolument, whether public or private, other than an office in an international or a regional body, or in the political party which supported that President for election to the office of President.

(2) Despite anything to the contrary contained in this Constitution or any other law, a person who has twice been elected as President is not eligible for election to that Office for a third or any other subsequent term.

(3) The President may, at any time in writing and personally signed by the President, and addressed to the Speaker of the National Assembly, resign from office.

(4) A person who assumes the Office of President in accordance with this Constitution shall, unless -

- (a) that person resigns from office; or
- (b) that person ceases to hold office by virtue of Article 138 or 140;

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

**Removal of  
President on  
grounds of  
incapacity**

138. (1) A two-thirds majority of the members of the Cabinet may resolve that the physical or mental capacity of the President to perform the functions of office ought to be investigated.

(2) On the passing of the resolution under clause (1), the Secretary to the Cabinet shall send a copy of the resolution to the Chief Justice.

(3) The Chief Justice shall appoint a medical board which shall inquire into the matter.

(4) The medical board shall consist of not less than three persons selected from among persons who are registered as medical practitioners under the Laws of Zambia or under the law of any other Commonwealth country.

(5) The medical board shall examine the President and report to the Chief Justice within fourteen days of the appointment of the medical board.

(6) The President shall, within seven days of being required to do so, submit to examination by the medical board and failure to do so constitutes a ground for removal from office.

(7) Where the medical board reports that the President is capable of performing the functions of office, the Chief Justice shall inform the National Assembly and the President shall accordingly continue to perform the functions of the Office of President.

(8) Where the medical board reports that the President is not capable of performing the functions of office, the Chief Justice

shall forward a copy of the medical report to the Speaker for the approval of the National Assembly.

(9) On the date of the approval of the medical report, by the secret votes of not less than one half of all the members of the National Assembly, the President ceases to hold office.

(10) Where the President ceases to hold office under clause (9), the Vice-President shall assume the Office of President for the un-expired term of office of the President.

(11) Where the Vice-President assumes the Office of President under clause (10), the provisions of Article 135 (4) shall apply.

**Impeachment of  
President for  
violation of  
constitution or  
gross misconduct**

**139.** (1) A notice, in writing, to the Speaker of the National Assembly, signed by not less than one-third of all the members of the National Assembly, may allege that the President has committed a violation of this Constitution or a gross misconduct.

(2) An act or omission which constitutes a gross misconduct includes -

- (a) a conduct which brings the Office of President into hatred, ridicule or contempt;
- (b) an act or omission that involves dishonesty or moral blame;
- (c) an act or omission which is prejudicial or inimical to the economy or security of Zambia;
- (d) failure to perform an executive function;
- (e) gross negligence; or

- (f) a gross mismanagement of the public resources resulting in a substantial loss to the Republic; or
- (g) failure to obey follow a constitutional court order.

(3) The notice shall specify the particulars of the allegations and propose that a tribunal be established to investigate the allegations.

**Procedure for  
impeachment**

**140.** (1) The Speaker shall, after receipt of the notice issued under Article 139 -

- (a) if the National assembly is sitting, cause the motion for the impeachment of the President to be considered by the National Assembly within seven days of the notice; and
- (b) if the National Assembly is prorogued, summon the National Assembly to meet within five days of the summons and cause the motion to impeach the President to be considered forthwith.

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

(3) Where the motion is passed under clause (2) -

- (a) the Chief Justice shall appoint a tribunal consisting of a chairperson 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 has the right to appear and be represented before the tribunal during its investigation of the allegations.

(4) Where the tribunal reports to the National Assembly that an allegation against the President specified in the motion has not been substantiated, further proceedings shall not be taken under this Article in respect of that allegation.

(5) Where the tribunal reports to the National Assembly that an allegation specified in the motion has been substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of all members of the National Assembly, resolve -

(a) that the President has been guilty of the allegation specified in the motion; and

(b) that the conduct of the President is incompatible with the continuance in office of the President.

(6) On the passing of the resolution under clause (5), the President shall cease to hold office on the third day following the passing of the resolution.

**Vacancy in  
office of  
President**

**141.** (1) Where the Office of President becomes vacant because of the death or resignation of the President or the President ceasing to hold office by virtue of Article 137 (4) (a), 138 or 140 -

(a) the Vice-President shall assume the Office of President for the remainder of the term; or

(b) if the Vice President is unable, for whatever cause, to assume the Office of President, the Speaker or in the absence of the Speaker, the Chief Justice, shall perform the executive functions and an election to Office of President shall be held, in accordance with this Part, within ninety days from the date of the Office becoming vacant.

(2) The person performing the executive functions under clause (1) (b), shall not dissolve the National Assembly and shall not, except on the advice of Cabinet, revoke an appointment made by the President.

(3) The President and the Vice-President shall not at any one time both be out of the country.

(4) Where the Vice-President assumes office under clause (1) (a), the National Assembly shall elect a Vice-President in accordance with Article 138 (11).

**Performance of  
functions of  
President  
during absence,  
illness**

**142.** (1) In the event that the President leaves Zambia or if the President is ill, the President shall, by direction in writing, authorize the Vice-President to perform the executive functions as specified by the President, until that authority is revoked.

(2) Where the Vice-President is incapable of performing the executive functions under clause (1), the provisions of Article 149 (6) shall apply.

**Oath of President**

**143.** A person who assumes the Office of President shall, before entering the office, take and subscribe before the Chief Justice to the oaths of allegiance to this Constitution and the people of Zambia and the Presidential Oath, as set out in the Third Schedule to this Constitution and any other oaths prescribed by or under an Act of Parliament.

**Salary and allowances of President**

**144.** (1) The President shall receive the emoluments prescribed by an Act of Parliament, on the recommendation of the Emoluments Commission.

(2) The emoluments of the President are charged on the Consolidated Fund, and shall not be altered to the disadvantage of the President during the term of office.

(3) A person who has held the Office of President shall be paid, at the end of each term of office, emoluments including pension, prescribed by an Act of Parliament, on the recommendation of the Emoluments Commission, and those emoluments are charged on the Consolidated Fund, and shall not be altered to the disadvantage of that person.

(4) In addition to the benefits specified in clause (3), a person who has held the office of President shall be paid a living allowance and is entitled to any other benefits, as prescribed by an Act of Parliament, if that person -

- (a) does not participate in active party political activities, as may be prescribed by an Act of Parliament;
- (b) was not removed from office under Article 140;
- (c) has not been convicted of a criminal offence as a result of the National Assembly removing that person's immunity under Article 145; or
- (d) has completed a term of office as President.

(5) A person referred to under clause (4), shall, for purposes of paragraph (d) be deemed to have completed a term of office if that person served for at least two years as President.

**Protection of  
President from  
legal  
proceedings**

**145.** (1) Civil proceedings shall not be instituted or continued against the President or a person performing the executive functions while holding that office in respect of anything done or omitted to be done in the performance of an executive function.

(2) The President or a person performing the executive functions is immune from criminal proceedings in respect of the performance of those executive functions.

(3) A person who has held office as President is immune from criminal and civil proceedings only in respect of anything done or omitted to be done in the performance of the executive function while in office.

(4) The immunity from legal proceedings granted by clause 3, may be removed by the National Assembly on a resolution supported by not less than a two-thirds majority of all the members of the National Assembly and that person may be -

- (a) investigated and prosecuted for any criminal offence during that period; or
- (b) sued in any civil proceeding for anything done or omitted to be done in the performance of the executive function while in office.

**Functions of President**

**146.** (1) As the Head of State, the President shall perform with dignity and leadership the acts that are necessary or expedient for, or reasonably incidental to, the performance of the executive functions of the Government, subject to the overriding terms and spirit of this Constitution and the Laws of Zambia which the President is constitutionally obliged to protect, administer and execute.

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

- (a) accredit, and appoint Ambassadors, High Commissioners, plenipotentiaries, diplomatic representatives and consuls subject to ratification by the National Assembly;
- (b) receive and recognise foreign ambassadors and heads of international organisations;
- (c) pardon or reprieve offenders, unconditionally or subject to any conditions;
- (d) negotiate international agreements and subject to approval by National Assembly of the final draft, sign the international agreements and may delegate the powers to negotiate and sign such agreements;

- (e) establish and dissolve Government ministries and departments, subject to the approval of the National Assembly;
- (f) confer appropriate honours on citizens, residents and friends of Zambia, in consultation with relevant interested persons and institutions; and
- (g) appoint the persons who are required by this Constitution or any other law to be appointed by the President.

(3) Subject to the provisions of this Constitution which deal with assent to laws passed by the National Assembly and the promulgation and publication of those laws in the *Gazette*, the President may -

- (a) sign and promulgate a Proclamation which by law the President is entitled to proclaim, and
- (b) initiate Bills for submission to, and consideration by, the National Assembly.

**Ratification  
by National  
Assembly**

147. (1) When an appointment to an office to be made by the President is expressed by a provision of this Constitution to be subject to ratification by the National Assembly, the National Assembly shall not unreasonably refuse or delay the ratification.

(2) Where the ratification is refused, the President may appoint another person to that office and shall submit the appointment for ratification.

(3) Where the National Assembly refuses to ratify the second appointment, the President shall invite the National Assembly to approve another appointment for the third time but

the third appointment shall take effect from the date of the submission of the name.

**Commission  
of inquiry**

**148.** (1) The President may, in accordance with an Act of Parliament, appoint a commission of inquiry on any matter of public interest or concern.

(2) The President shall, within six months of the submission of a report of a commission of inquiry, publish the report.

(3) Where a commission of inquiry makes an adverse finding against any person, which is accepted by the Government, and the finding may result in a penalty, forfeiture or loss of status or office, the President shall take appropriate action on the matter and that person may appeal to the Constitutional Court for redress.

(4) The right of appeal conferred under clause (3), shall be exercised within three months of the acceptance of the findings under clause (3).

**Vice-President  
and election to  
office and  
swearing in**

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

(2) The Vice-President shall be elected as a running mate to a person seeking election as a presidential candidate for the Office of President, and the qualifications and disqualifications which apply for the election of President shall apply to the running mate.

(3) An election to the office of Vice-President shall be conducted at the same time as that of an election to the office of President, so that a vote cast for a presidential candidate is a vote

for the vice-presidential candidate, and if the presidential candidate is elected, the vice-presidential candidate is elected.

(4) A person elected as Vice-President under this Article, shall be sworn in office by the Chief Justice on the same day that the President is sworn in office.

(5) Where a vacancy occurs in the office of the Vice-President through the death, resignation, incapacity or gross misconduct, the President shall appoint a person to be Vice-President and the National Assembly shall, by a vote of not less than two-thirds of all the members of the Assembly, approve the appointment of the Vice-President for the remainder of the term of office.

(6) In the absence of the Vice-President, or if the Vice-President is unable to perform the functions of office, the President shall appoint, subject to the ratification of the National Assembly, a member of the Cabinet to perform the functions of the Vice-President.

(7) The emoluments of the Vice-President shall be as recommended by the Emoluments Commission and prescribed by an Act of Parliament

**Functions of  
Vice-President**

**150.** In addition to the functions of the Vice-President, specified in this Constitution or under any other law, the Vice-President -

- (a) shall perform the functions that are assigned to the Vice-President by the President; and
- (b) shall be the leader of Government Business in the National Assembly.

**Removal from  
office of Vice-  
President**

**151.** The provisions of Articles 138, 139 and 140 relating to the removal from office of the President apply to the removal from office of the Vice-President.

**Ministers**

**152.** (1) Ministers shall be appointed by the President from among persons who are qualified to be elected as members of the National Assembly, but are not members of the National Assembly.

(2) The appointment of a person as a Minister is subject to the ratification of the National Assembly but a removal from office of Minister is not subject to the ratification of the National Assembly.

(3) A Minister is responsible, under the direction of the President, for the business of the Government, including the administration of a Ministry and other State institutions as assigned by the President.

(4) The emoluments of Minister shall be as recommended by the Emoluments Commission and prescribed by an Act of Parliament.

(5) A Minister shall only attend the sittings of the National Assembly when necessary or when required to do so by the Speaker, and take part in the proceedings of the National Assembly.

**Deputy  
Ministers**

**153.** (1) The President shall, subject to ratification of the National Assembly, appoint not more than eighteen Deputy Ministers.

(2) Article 152 applies to the appointment of Deputy Ministers, with the necessary modifications.

(3) A Deputy Minister shall perform any functions assigned by the President or the Minister.

**Cabinet**

- 154.** (1) There shall be a Cabinet consisting of -
- (a) the President and the Vice-President;
  - (b) such number of Ministers as Parliament shall approve but not exceeding twenty -one; and
  - (c) Provincial Ministers,

(2) In making appointments under sub-clause (b) and (c) of clause (1) neither gender shall be less than thirty per cent.

**Functions of Cabinet**

**155.** (1) The President shall preside at the meetings of Cabinet and in the absence of the President, the Vice-President shall preside.

(2) The Cabinet may perform its functions although there is a vacancy in its membership.

(3) The Cabinet shall formulate Government policy, and is responsible for advising the President with respect to the policy of the Government and any other matter.

**Provincial Ministers**

**156.** (1) The President shall appoint a Provincial Minister, who is a Cabinet Minister, for each province.

(2) The appointment of a Provincial Minister by the President is subject to ratification by the National Assembly.

(3) The emoluments of the Provincial Ministers shall be as recommended by the Emoluments Commission and prescribed by an Act of Parliament.

**Oaths of office**

**157.** A Minister or a Provincial Minister or Deputy Minister shall not assume the duties of office unless that person has taken and subscribed to the oath of allegiance to this Constitution and the people of Zambia, the oath of secrecy and any other oaths for the performance of the functions of office, set out in the Third Schedule.

**Code of Conduct**

**158.** A Minister, Provincial Minister or Deputy Minister shall, during the tenure of office, act in accordance with a Code of Conduct prescribed by this Constitution or any other law.

**Secretary and Deputy Secretary to Cabinet**

**159.** (1) There shall be a Secretary to the Cabinet whose office is a public office and who shall, subject to ratification by the National Assembly, be appointed by the President in consultation with the Public Services Commission.

(2) The Secretary to the Cabinet -

- (a) shall be chief advisor to the President on public service management;
- (b) is the head of the Public Services and is responsible to the President for securing the general efficiency of the Public Services;
- (c) has charge of the Cabinet Office and is responsible, in accordance with the instructions of 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

(d) shall perform any other functions prescribed by or under an Act of Parliament or as directed by the President.

(3) The Secretary to the Cabinet shall not be less than forty-five years old.

(4) The term of office of the Secretary to the Cabinet is three years, subject to renewal for a further term of three years only.

(5) The Secretary to the Cabinet shall be removed from office by the President for misconduct or inability to perform the functions of office or for infirmity of mind or body.

(6) There shall be a Deputy Secretary to the Cabinet whose office is a public office and who shall be appointed by the President, in consultation with the Public Services Commission, subject to ratification by the National Assembly.

(7) The Deputy Secretary to the Cabinet shall act in the absence of the Secretary to the Cabinet and shall perform any other functions assigned by the President, the Cabinet or the Secretary to the Cabinet.

(8) The term of office of Deputy Secretary to the Cabinet is three years, subject to renewal; and the Deputy Secretary to the Cabinet shall be removed from office by the President for misconduct or inability to perform functions of the office or for infirmity of mind or body.

**Prerogative  
of mercy**

**160.** The President may -

(a) grant a pardon to a person convicted of an offence, either free or subject to lawful conditions;

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

**Advisory  
committee**

**161.** (1) There shall be an advisory committee on the prerogative of mercy which shall consist of a number of persons appointed by the President.

(2) The President may appoint different persons to the advisory committee for the purposes of giving advice in relation to persons convicted by courts-martial and for purposes of giving advice in relation to persons convicted by any other court.

(3) A member of the advisory committee shall hold office at the pleasure of the President.

(4) When a person is sentenced to death for an offence, the President shall cause the question of the exercise, in relation to that person, of the powers conferred by Article 160, to be considered by the advisory committee.

(5) Subject to clause (4), the President may refer to the advisory committee any questions as to the exercise of the powers conferred on the President by Article 160.

(6) The President may preside at any of the meetings of the advisory committee.

(7) The Advisory Committee may determine its own procedure for the meetings.

**Coalition  
Government**

**162.** There may be established, in the national interest, a government consisting of a coalition of political parties as prescribed by an Act of Parliament.

**PART X  
LEGISLATURE**

**Establishment  
of Parliament**

**163.** There is established a Parliament of Zambia which shall consist of the National Assembly and the President.

**Legislative  
power and other  
functions of  
National  
Assembly**

**164.** (1) The legislative power of the Republic, at the national level, is vested in Parliament which shall exercise this power through Bills passed by the National Assembly and assented to by the President.

(2) The National Assembly may, by a resolution passed by two-thirds majority of its members, establish a House of Representatives, as a component of Parliament, to perform such functions as may be prescribed by an Act of Parliament.

- (3) The National Assembly is responsible for -
- (a) passing legislation;
  - (b) deliberating and resolving issues of concern to the people;

- (c) considering and passing amendments to this Constitution subject to the other provisions of this Constitution;
- (d) approving the sharing of revenue among the two levels of government and appropriating funds for expenditure by the departments of the Government, State institutions and other bodies;
- (e) ensuring equity in the distribution of national resources and opportunities among all parts and communities of Zambia;
- (f) scrutinising public expenditure including defence, constitutional, special expenditures and public debt;
- (g) scrutinizing and overseeing actions of the executive organ of the State;
- (h) ratifying any appointment as required by this Constitution or by an Act of Parliament;
- (i) approving an increase or decrease in the number of Ministers and Deputy Ministers as requested by the President;
- (j) approving international treaties and international agreements before these are ratified or acceded to; and incorporating these international instruments into national laws;
- (k) approving the emoluments of the President and other officers specified under this Constitution;

- (l) summoning and dissolving the National Assembly;
- (m) impeaching the President as provided for in this Constitution;
- (n) approving declarations of state of emergency or war; and
- (o) any other functions prescribed by this Constitution or an Act of Parliament.

(4) A person or body, other than Parliament, does not have power to make a provision that has the force of law in Zambia, except under the authority conferred by this Constitution or by an Act of Parliament.

**Elections to and composition of National Assembly**

**165.** (1) Elections to the National Assembly shall be conducted under a Mixed Member Proportional Representation System as set out in clause (2).

- (2) The National Assembly shall consist of -
  - (a) such number of members directly elected on the basis of a simple majority under the First-Past-The-Post System from each single member constituency as prescribed by this Constitution and by or under an Act of Parliament;
  - (b) forty per cent of the total number of election seats on the basis of the Proportional Representation System from a list of candidates submitted to the Electoral Commission by each political party contesting the elections, as prescribed by this Constitution and by or under an Act of Parliament;

- (c) the Speaker; and
- (d) the Vice-President.

(3) The National Assembly shall, by a vote of not less than two-thirds of all the members of the National Assembly, change the electoral system provided under clause (1) to a proportional representation election system.

(4) The electoral system approved by the National Assembly under clause (3), shall be prescribed by an Act of Parliament.

**Qualifications and disqualifications of members of National Assembly**

**166.** (1) Unless disqualified under clauses (2) and (3), a person is eligible to be a member of the National Assembly if that person -

- (a) is a citizen;
- (b) is not less than twenty-one years;
- (c) is registered as a voter;
- (d) has attained a grade twelve certificate of education or its equivalent;
- (e) has been ordinarily resident in the area for three years;
- (f) satisfies any health, ethical or other requirements prescribed by this Constitution or by or under an Act of Parliament;
- (g) is in possession of a tax clearance certificate showing the payment of any tax due or has made satisfactory arrangements for paying any tax or is exempt from paying tax; and

(h) declares that person's assets and liabilities as provided under this Constitution and by an Act of Parliament.

(2) A person is disqualified from being elected as a member of the National Assembly if that person –

(a) holds, or is validly nominated as a candidate in an election for, the Office of President;

(b) holds or is acting in any office that is specified by an Act of Parliament, the functions of which involve or are connected with the conduct of elections;

(c) is of unsound mind;

(d) is an undischarged bankrupt or is insolvent;

(e) is serving a sentence of imprisonment or is under a sentence of death;

(f) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence, the sentence for which was a period of at least three years;

(g) has been removed from public office on grounds of gross misconduct; or

(h) has been found guilty of corruption in accordance with any law.

(3) Any of the following persons holding or acting in any post or office of appointment, is not qualified for election as a member of the National Assembly:

(a) the Defence Forces and the National Security Agencies;

(b) the Public Services provided for in Part XIV;

- (c) the Constitutional commissions;
- (d) any public or statutory body or any company or institution in which the Government has any interest; or
- (e) as prescribed by or under an Act of Parliament.

(4) In this Article, the reference to a sentence of imprisonment includes a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment in default of payment of a fine.

(5) A person is not disqualified under clause (2) (g) and (h), unless all possibility of appeal or review of the sentence or decision has been exhausted.

**Nomination  
for election  
to National  
Assembly**

**167.** (1) Nominations for election to the National Assembly shall be delivered to the returning officer appointed by the Electoral Commission on a day and at a time and place prescribed by the Electoral Commission under an Act of Parliament.

(2) Any nomination for election to the National Assembly is not valid unless -

- (a) the candidate has paid the election fee prescribed by or under an Act of Parliament; and
- (b) in the case of a candidate for a single member constituency the nomination is supported by not less than nine persons registered as voters in the constituency in which the candidate is standing for election to the National Assembly.

**By-elections  
for National  
Assembly**

**168.** (1) Where a vacancy occurs in the office of a member of the National Assembly due to a nullification of an election, an independent member joining a political party or the death or incapacitation of a member -

- (a) the Speaker shall, within seven days of the occurrence of the vacancy, inform in writing, the Electoral Commission of the vacancy; and
- (b) subject to clause (2), a by-election shall be held within ninety days of the occurrence of the vacancy.

(2) A by-election shall not be held within ninety days before the holding of a general election.

**Tenure of office  
and vacation of  
office of member  
of National  
Assembly**

**169.** (1) Every member of the National Assembly, with the exception of the Speaker, shall vacate the seat in the National Assembly upon a dissolution.

(2) The office of member of the National Assembly becomes vacant -

- (a) if the member ceases to be a citizen;
- (b) if the member resigns as a member of Parliament, in writing, addressed to the Speaker;
- (c) if the member becomes disqualified for election under Article 166;
- (d) upon expiration of the life of Parliament;
- (e) if the result of an election is nullified on an election petition;

- (f) if the member acts contrary to a code of conduct prescribed by this Constitution or an Act of Parliament;
- (g) if the member resigns from the political party for which the member stood as a candidate for election to the National Assembly or resigns from a coalition of parties to which that member belongs;
- (h) if, having been elected to the National Assembly as an independent candidate, the member joins a political party; or
- (i) if the member is recalled in accordance with Article 193.

(3) A member of the National Assembly who causes a vacancy in the National Assembly, due to the reasons specified under paragraphs (c), (f), (g), (h) and (i) of clause (2), is not eligible to contest any election for the duration of the term of that Parliament.

(4) If a political party is dissolved, a member of the National Assembly who stood for –

- (a) direct election as a candidate for that party in an election held in a constituency under the First-Past-The-Post System, shall retain the seat as an independent member;
- (b) election for a special seat under the Proportional Representation System, shall cease to be a member and that party shall lose the seat which seat shall be re-allocated to another political party based on the next

highest national aggregate vote obtained by that party in relation to the other parties who contested the election.

(5) The creation or dissolution of a coalition of parties of which a member's political party forms part, or a merger of two or more parties, does not amount to a member leaving the party for the purposes of clause (2)(h).

(6) Any vacancy arising, otherwise than under clause (2), shall be filled by the next candidate on the political party list of that political party.

(7) A member of the National Assembly whose election is petitioned shall hold the seat pending the determination of the petition or matter.

(8) Where a member of the National Assembly is expelled by that members' political party and the member has challenged the expulsion in a court of law, the member shall hold the seat pending the determination of the matter.

(9) If the matters referred to under clauses (7) and (8) are decided in favour of a member that member retains the seat as an independent.

**Emoluments  
of members**

**170.** (1) A member of the National Assembly shall be paid emoluments and be provided with the facilities, prescribed under an Act of Parliament, on the recommendation of the Emoluments Commission.

(2) The emoluments paid to, and the funds provided for facilities for, a member of the National Assembly are charged on the Consolidated Fund.

**Determination  
of question of  
membership**

171. (1) The Chief Justice shall establish an ad hoc Parliamentary Elections Tribunal of five members which shall hear and determine any question whether -

(a) any person has been validly elected as a member of the National Assembly; or

(b) the seat of any member has become vacant.

(2) The Chief Justice shall appoint -

(a) a Judge of the High Court as Chairperson of the Parliamentary Elections Tribunal; and

(b) four other persons, who have held the office of, or are qualified to be appointed as, Judges of the High Court.

(3) A question referred to in clause (1), shall be heard and determined within ninety days of the date of lodging the petition.

(4) The decision of the ad hoc Parliamentary Elections Tribunal is final, and the Tribunal stands dissolved on the determination of the election petition.

(5) The expenses of the Parliamentary Elections Tribunal are charged on the Consolidated Fund.

**Speaker and  
Deputy  
Speakers of  
National  
Assembly**

172. (1) There shall be -

(a) a Speaker of the National Assembly who -

(i) shall be elected by the members of the National Assembly from among persons who qualify to be elected as President; and

(ii) is not a member of the National Assembly; and

- (b) two Deputy Speakers of the National Assembly -
  - (i) elected by the members of the National Assembly from among their number; and
  - (ii) both of whom are not members of the same political party and one of whom is a woman.

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

- (3) The office of Speaker becomes vacant -
  - (a) when a new National Assembly first sits after an election;
  - (b) if the office holder becomes disqualified under any provisions of Article 166;
  - (c) if the National Assembly resolves by resolution supported by the votes of not less than two-thirds of its members to remove the Speaker on the following grounds:
    - (i) violation of this Constitution;
    - (ii) incapacity to discharge the duties of the Office of Speaker due to infirmity of body or mind; or
    - (iii) misconduct.
  - (d) if the office holder dies; or

(e) if the office holder resigns from office in a letter addressed to the President.

(4) The Speaker and the Deputy Speakers shall be elected by secret ballot.

(5) The Speaker and the Deputy Speakers shall serve for a term of five years and are eligible to serve for one more term of five years but are not eligible for election after those terms.

(6) At any time when the office of Speaker is vacant, no business shall be transacted in the National Assembly other than an election to the office of Speaker.

(7) The Speaker and the Deputy Speakers are entitled to emoluments, on the recommendations of the Emoluments Commission, prescribed by an Act of Parliament, which are charged on the Consolidated Fund.

**Presiding in  
National  
Assembly**

**173.** At any sitting of the National Assembly –

- (a) the Speaker shall preside;
- (b) in the absence of the Speaker, a Deputy Speaker shall preside; or
- (c) in the absence of the Speaker and both Deputy Speakers, any other member of the National Assembly, as the Assembly may elect for that purpose, shall preside.

**Leader of  
Opposition**

**174.** (1) The largest political party or coalition of political parties in the National Assembly, which does not form the Government, shall elect, from amongst their number, the Leader of the Opposition.

(2) The Standing Orders of the National Assembly shall provide for the effective participation in the Assembly of the Leader of the Opposition.

**Clerk of National  
Assembly**

175. (1) There shall be a Clerk of the National Assembly who shall be appointed by the Parliamentary Service Commission and ratified by the National Assembly.

(2) A person shall not be appointed Clerk of the National Assembly unless that person is at least thirty-five years old and has the academic qualifications, experience and skills prescribed by Parliament.

(3) Subject to clause (4), the Clerk of the National Assembly shall retire on attaining the age of sixty-five years.

(4) The National Assembly may, by resolution supported by the votes of not less than two-thirds of all the members of the Assembly, remove the Clerk of the National Assembly, on the same grounds that apply to the removal of a Judge of the superior court, under Article 221 (2).

**Exercise of  
legislative  
power**

176. (1) Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.

(2) Any member of the National Assembly, at the public expense, or a member of the Cabinet, may introduce Bills in the National Assembly.

(3) A Bill for an Act of Parliament that would confer a pecuniary benefit specifically on members of the National Assembly, the President or Vice-President, a Minister, Provincial Minister or Deputy Minister, shall not be introduced in the

National Assembly unless it has been approved by the Emoluments Commission.

(4) A Bill for an Act of Parliament introduced in the National Assembly shall be -

(a) accompanied by an explanatory memorandum, outlining -

(i) any Bill of Rights limitations or derogations or any other constitutional implications;

(ii) any relevant provisions of Part III that have been taken into account;

(iii) any public participation during the preparation of the Bill; and

(iv) any further public participation that is recommended before the Bill is enacted; and

(b) published in the *Gazette* at least fourteen days before the date of its introduction in the National Assembly, unless, due to the urgency of the matter, the Speaker otherwise determines.

(5) After a Bill is read the first time in the National Assembly, it shall be referred to a standing committee of the National Assembly which shall examine the Bill in detail and make inquiries in relation to it as the committee considers expedient or necessary.

(6) A Bill that has been deliberated upon by a standing committee shall be reported to the National Assembly which shall

debate the Bill and procedurally pass the Bill, with or without amendments, or reject the Bill.

(7) A Bill that has been referred to a standing committee under clause (5), shall not be delayed at that committee for more than sixty days.

**Retrospective  
legislation**

177. Parliament does not have power to enact any law which operates retrospectively to impose any limitations on, or to adversely affect the personal rights and liberties of any person or to impose a burden, an obligation or a liability on any person.

**Money Bills**

178. (1) A Money Bill shall be introduced by a Minister only.

(2) In this Part, "Money Bill" includes a Bill that contains provisions dealing with -

- (a) the imposition, repeal, remission, alteration or regulation of taxes;
- (b) the imposition of charges on the Consolidated Fund or any other fund of the Government or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (d) the grant of money to any person or authority or the variation or revocation of public money;
- (e) the raising or guaranteeing of any loan or the repayment of it; or
- (f) subordinate matters incidental to any of the matters specified under this clause.

(3) In clause (2), “tax,” “public money,” and “loan” do not include any tax, public money or loan raised by a local authority.

**Presidential  
assent and  
referral**

179. (1) Where a Bill is presented to the President for assent, the President shall, within twenty-one days after receipt of the Bill –

- (a) assent to the Bill; or
- (b) refer the Bill back to the Speaker for re-consideration by the National Assembly, noting any reservations that the President has concerning the Bill.

(2) If the President refers the Bill back for reconsideration by the National Assembly, the Assembly may –

- (a) amend the Bill in the light of the President’s reservations; or
- (b) pass the Bill a second time, without amendment, by a vote of two-thirds of all of the members of the National Assembly.

(3) If the National Assembly amends the Bill, in the light of the President’s reservation, the Speaker shall submit it to the President for assent.

(4) If the National Assembly, after considering the President’s reservations, passes the Bill a second time, by a vote supported by two-thirds of all of the members of the National Assembly, without amending it –

- (a) the Speaker shall within seven days re-submit it to the President; and

(b) the President shall within seven days assent to the Bill;

unless the President's reservation is on a question of the constitutionality of the Bill, in which case the President shall refer it to the Constitutional Court whose decision shall be final.

(5) Where any person or any member of the National Assembly challenges a Bill on a question of the constitutionality of the Bill, the President shall not assent to the Bill until the Constitutional Court has determined the matter.

(6) If the President refuses or fails to assent to a Bill within the periods prescribed in clauses (1) and (4), without further action being taken in accordance with those clauses, the Bill shall be taken to have been assented to upon the expiration of those periods.

**Coming into force of laws**

**180.** (1) A Bill passed by the National Assembly and assented to by the President –

(a) shall be published in the *Gazette* within seven days of the assent; and

(b) comes into force on the fourteenth day after its publication in the *Gazette* unless the Act otherwise provides.

(2) All laws enacted by Parliament shall be styled “Acts” and the words of enactment shall be, “Enacted by the Parliament of Zambia.”

**Right to petition National Assembly and make comments**

**181.** (1) Every person has a right to petition Parliament to enact, amend or repeal any legislation.

(2) Every citizen may make any comment on the deliberations and decisions of the National Assembly.

**Quorum**

**182.** The quorum for a meeting of the National Assembly shall be one-third of all the members of the National Assembly.

**Voting in  
National  
Assembly**

**183.** (1) Except as otherwise provided in this Constitution, any question proposed for decision in the National Assembly shall be determined by a majority of the members present and voting.

(2) Except as provided for under Article 134 (4), on a question proposed for decision in the National Assembly -

- (a) the Speaker shall have no vote; and
- (b) in the case of a tie, the question is lost.

**Procedure and  
committees of  
National  
Assembly**

**184.** (1) The National Assembly may -

- (a) regulate its own procedure and shall make Standing Orders for the orderly conduct of its proceedings;
- (b) establish standing committees and any other committees in the manner and for the general or special purposes that it considers necessary and shall regulate the procedure of any committee.

(2) The standing committees of the National Assembly shall be established at the first sitting of the National Assembly after the election of the Speaker and the Deputy Speakers.

(3) In electing members of a committee, the National Assembly shall ensure that there is equitable representation of the

political parties or groups that are represented in the National Assembly as well as of the members not belonging to any political party or group.

(4) The proceedings of the National Assembly shall not be invalid because of -

- (a) a vacancy in its membership; or
- (b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the National Assembly.

(5) A Minister shall, when necessary or where required to do so, attend proceedings of the National Assembly.

(6) There shall be a session of Parliament at least once every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the commencement of the next session.

**Functions of standing committees**

- 185.** The functions of a standing committee include, to -
- (a) investigate or inquire into the administration of Government ministries and departments;
  - (b) examine and make recommendations on Bills that are referred to the committee;
  - (c) initiate any Bill within its area of competence;
  - (d) assess and evaluate estimates of revenue and expenditure, including the management of revenue and expenditure, by the Government and other bodies who directly or indirectly receive services or resources from the Government;

- (e) carry out research and studies in its area of competence; and
- (f) report to the National Assembly on its functions and activities.

**Power to call evidence**

- 186.** (1) In the performance of its functions -
- (a) the National Assembly or any of its committees may call any Minister, any person holding a public office or any private individual to submit memoranda or appear before it to give evidence;
  - (b) a committee of the National Assembly may co-opt any member of the National Assembly or engage qualified persons to assist it in the performance of its functions; and
  - (c) the National Assembly or any of its committees has the powers of the High Court in -
    - (i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
    - (ii) compelling the production of documents; and
    - (iii) issuing a commission or request to examine witnesses abroad.

(2) A person summoned to attend to give evidence or to produce a document before the National Assembly or any of its committees, is entitled, in respect of that evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.

(3) An answer by a person to a question put by the National Assembly or any of its committees is not admissible in evidence against that person in any civil or criminal proceedings in any court, except for perjury under criminal law.

**Public access and participation**

187. (1) The National Assembly shall -
- (a) facilitate public involvement in the legislative process; and
  - (b) conduct its business in an open manner, and hold its sittings and those of its committees, in public.

(2) The National Assembly may not exclude the public, or any public or private media, from any sitting unless, in exceptional circumstances, the Speaker has determined that there are justifiable reasons for doing so.

**Powers, privileges and immunities**

188. (1) There shall be freedom of speech and debate in the National Assembly and that freedom shall not be impeached or questioned in any court or tribunal.

(2) The National Assembly shall, for the purpose of the orderly and effective discharge of the business of the National Assembly, have the powers, privileges and immunities, prescribed by an Act of Parliament.

**Seat of Parliament and sittings of National Assembly**

189. (1) The seat of Parliament shall be in Lusaka.

(2) Where a new National Assembly is elected, the President shall, by notice in the *Gazette*, appoint a date, not more than thirty days after a general election, for the first sitting of the Assembly.

(3) The President may, in writing, request the Speaker to summon a special meeting of the National Assembly to consider extraordinary or urgent business and when so requested the Speaker shall summon the National Assembly within fourteen days.

(4) The sittings of the National Assembly in any session of Parliament after the commencement of that session shall be held at such times and on such days as the Speaker shall appoint.

(5) Notwithstanding any other provision of this Article, two-thirds of the members of the National Assembly may request a meeting and on receipt of that request the Speaker shall summon the National Assembly within seven days.

(6) Where the Speaker fails to summon the National Assembly when requested to do so under this Article, two-thirds of the members of the Assembly may sit to consider the motion to summon the National Assembly and shall for that purpose elect one member from among their number to preside over the proceedings.

(7) A motion to summon the National Assembly, under clause (6), shall be passed by a vote of two-thirds of the members present.

**Life and  
prorogation of  
National Assembly**

**190.** (1) The life of Parliament is five years from the date of the declaration of the results after a general election and shall stand prorogued ninety days before the holding of presidential and National Assembly elections.

(2) At any time when the Republic is at war, the National Assembly, by resolution supported by the votes of not less than two-thirds of all the members of the National Assembly, may

extend the term of Parliament for not more than six months at a time.

- (3) Parliament may be dissolved by the President -
  - (a) if the situation is such that the Executive cannot effectively govern the Republic with the current National Assembly; and
  - (b) the Constitutional Court determines that the situation specified under paragraph (a), exists.

(4) Where Parliament is dissolved under clause (3), presidential and National Assembly elections shall be held within ninety-days of the dissolution.

(5) After a dissolution of Parliament and before the holding of presidential and National Assembly elections, the President may, due to a state of war or emergency in Zambia or any part of Zambia, recall the National Assembly that was dissolved to meet, but the presidential and National Assembly elections shall proceed in accordance with this Constitution, and the National Assembly that was recalled shall, if not sooner dissolved, stand dissolved on the date appointed for the general elections.

(6) The Speaker may, in consultation with the President, prorogue the National Assembly by proclamation.

**President may  
address National  
Assembly**

**191.** (1) The President may, at any time, attend and address the National Assembly.

(2) The President may send messages to the National Assembly and any such message shall be read, at the first convenient sitting of the National Assembly after it is received, by the Vice-President or by a Minister designated by the President.

**Statutory  
instruments**

**192.** (1) Nothing in Article 164 or 176 shall prevent Parliament from conferring on any person or authority power to make statutory instruments.

(2) Every statutory instrument shall be published in the *Gazette* not later than twenty-eight days after it is made or, in the case of a statutory instrument which will not have the force of law unless it is approved by some person or authority other than the person or authority by which it was made, not later than twenty-eight days after it is so approved, and if it is not so published it is void from the date on which it was made.

(3) Where the Constitutional Court determines that any provision of a statutory instrument is inconsistent with any provision of this Constitution, that statutory instrument is void from the date on which it was made.

**Recall of  
member of  
National  
Assembly**

**193.** (1) A member of the National Assembly who was elected directly in a single member constituency, on the basis of the First-Past-The-Post System, may be recalled by the electorate in that constituency as follows:

- (a) a recall shall only be initiated where the member of the National Assembly has -
  - (i) persistently neglected to perform the member's responsibilities in the constituency as required of the member by law; or
  - (ii) deserted the electorate without reasonable cause for a period of more than six months;

- (b) a recall shall be initiated by petition signed by at least fifty per cent of the registered voters in the constituency; and
- (c) the petition shall be presented to the Chairperson of the Electoral Commission who shall appoint a tribunal, set up in accordance with an Act of Parliament, to inquire into the matter and report back within thirty days with its recommendation.

(2) A member of the National Assembly who is the subject of an inquiry under clause (1), shall have the right of audience and representation before the Electoral Commission.

(3) The Chairperson of the Electoral Commission shall, within fourteen days of the receipt of the recommendation act in accordance with the recommendations of the tribunal.

(4) An Act of Parliament shall provide -

- (a) the functions and duties of a member in relation to the constituency the member represents; and
- (b) the composition, powers and procedures of a tribunal established under this Article.

**Oaths to be taken  
by Speaker and  
members**

**194.** (1) The Speaker and Deputy Speakers, before assuming the duties of office, shall take and subscribe before the President the oath of allegiance to this Constitution and the people of Zambia, as set out in Third Schedule.

(2) A member of the National Assembly, before taking the members seat in the Assembly, shall take and subscribe before

the Speaker the oath of allegiance to this Constitution and the people of Zambia as set out in the Third Schedule.

**Officers of  
National  
Assembly**

**195.** (1) There shall be appointed officers in the department of the Clerk of the National Assembly, as may be prescribed by an Act of Parliament.

(2) The office of Clerk and offices of members of staff are offices in the Parliamentary Service.

**Parliamentary  
Service  
Commission**

**196.** (1) There is established a Parliamentary Service Commission consisting of -

- (a) the Speaker, as Chairperson;
- (b) five members appointed by the National Assembly from among its members of whom -
  - (i) three shall be nominated by the political party or coalition of political parties forming the Government, of which at least one is a woman; and
  - (ii) two other persons of the opposite gender who shall be nominated by the other political parties, in the National Assembly, not forming the Government; and
- (c) two members of the opposite gender appointed by the National Assembly from among persons who are not members of the National Assembly and are experienced in public affairs, to serve for a period of five years.

(2) A member of the Parliamentary Service Commission shall vacate office if that member is -

- (a) a member of the National Assembly-
  - (i) upon the expiry of the life of Parliament;  
or
  - (ii) that person ceases to be a member of the Assembly; or
- (b) an appointed member, upon revocation of that person's appointment by the National Assembly.

(3) The Parliamentary Service Commission shall have the following functions:

- (a) the appointment of the Clerk of the National Assembly in accordance with this Constitution;
- (b) providing necessary services and facilities to ensure efficient and effective functioning of the National Assembly;
- (c) constituting offices in the Parliamentary Service, and appointing office holders;
- (d) preparing, jointly with the Government, the annual estimates of expenditure for the Parliamentary Service and for the National Assembly;
- (e) exercising budgetary control over the Parliamentary Service and the National Assembly;
- (f) undertaking, singly or jointly with other relevant organisations, programmes to

promote the ideals of parliamentary democracy; and

- (g) carrying out other functions –
  - (i) necessary for the well-being of the staff of the National Assembly; or
  - (ii) prescribed by or under an Act of Parliament.

(4) The office of Clerk shall be the Secretariat for the Parliamentary Service Commission.

(5) The Parliamentary Service Commission shall, with the prior approval of the National Assembly, make regulations, by statutory instrument, prescribing the terms and conditions of service of the officers and other employees in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.

(6) The Parliamentary Service Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.

(7) The expenses of the Parliamentary Service and the Parliamentary Service Commission are charged on the Consolidated Fund.

## PART XI JUDICIARY

### Vesting of judicial power

197. (1) The judicial power of Zambia vests in the courts and shall be exercised by the courts in accordance with this Constitution and the Laws of Zambia.

- (2) The Judiciary has jurisdiction in:
  - (a) civil and criminal matters;
  - (b) matters relating to, and in respect of this Constitution; and
  - (c) any other matters prescribed by or under an Act of Parliament.

(3) The President, the National Assembly or any other State institution or any other person shall not have or be given final judicial power.

(4) In exercising its jurisdiction, the courts shall be guided by the following principles:

- (a) justice shall be done to all, irrespective of social status;
- (b) justice shall not be delayed;
- (c) adequate compensation shall be awarded to victims of wrongs; and
- (d) reconciliation, mediation or arbitration between parties, where appropriate, shall be promoted.

**Independence  
of Judiciary**

**198.** (1) The Judiciary, in both its judicial and administrative functions, including financial administration, is subject only to this Constitution and the Laws and is not subject to the control or direction of any person or authority.

(2) A member of the Executive, Legislature or any other person shall not interfere with the Judges, judicial officers or other persons in the performance of their functions.

(3) All other State organs and institutions shall accord to the courts the assistance that may be required by the courts to

protect the independence, dignity and the effectiveness of the courts.

(4) A person exercising judicial power is not liable in action or suit in respect of an act or omission in the course of the exercise of judicial power.

(5) The office of a Judge of a superior court shall not be abolished while there is a substantive holder of the office.

**Financial independence of Judiciary**

**199.** (1) The Judiciary shall annually prepare and submit its budget estimates to the Minister responsible for finance, who taking into consideration equitable sharing of resources, shall determine the budget for the Judiciary.

(2) The approved budget for the Judiciary shall be released in full directly to the Judiciary and the Judiciary shall not be under funded in any financial year.

(3) The emoluments payable to or in respect of a member of the Judiciary shall not be varied to the disadvantage of the member.

(4) The operative and administrative expenses of the Judiciary, including emoluments, payable to or in respect of members of the Judiciary, are charged on the Consolidated Fund.

**Hierarchy of Judiciary**

- 200.** (1) The Judiciary consists of –
- (a) the superior courts of the judicature comprising -
    - (i) the Supreme and Constitutional Court;
    - (ii) the Court of Appeal; and
    - (iii) the High Court;
  - (b) the Subordinate Courts;

- (c) the Local Courts; and
- (d) any other courts prescribed by an Act of Parliament.

(2) The Superior courts and Subordinate courts shall be courts of record.

(3) Except as otherwise provided in this Constitution or as may be ordered by a court in the interest of public morality, public security, public order or the protection of children or other vulnerable persons, proceedings of a court, including the announcement of the decision of the court, shall be in public.

(4) In the exercise of the judicial power conferred on the Judiciary by this Constitution or any other law, the superior courts of the judicature may, in relation to any matter within their jurisdiction, issue orders considered necessary to ensure the enforcement of a judgement or an order.

**Supreme and  
Constitutional  
Court**

**201.** The Supreme and Constitutional Court consists of -

- (a) the Chief Justice;
- (b) the Deputy Chief Justice; and
- (c) not more than nine Judges, at least three of whom are persons with -
  - (i) a minimum law degree;
  - (ii) specialist training and experience in constitutional and human rights law; and
  - (iii) not less than ten years experience in the field of constitutional law.

**Composition for sittings of Supreme Court**

**202.** (1) The Supreme and Constitutional Court, when sitting as the Supreme Court and determining a matter, other than an interlocutory matter, is duly constituted by an uneven number of not less than three Judges of the Court.

(2) The Chief Justice shall preside at the sittings of the Supreme Court and in the absence of the Chief Justice, the Deputy Chief Justice shall preside and in the absence of both, the most senior Judge of the Supreme Court as constituted shall preside.

(3) The Supreme Court when reviewing its decision under paragraph (b) of clause (2) of Article 203, shall be composed of the full bench.

(4) The Supreme Court is not bound by its previous decisions if it considers it in the interest of justice and the development of the law.

**Jurisdiction of the Supreme Court**

**203.** (1) The Supreme and Constitutional Court, when sitting as the Supreme Court, is the final court of appeal of Zambia, except in constitutional matters.

(2) The Supreme Court has -

(a) appellate jurisdiction to hear and determine appeals from -

(i) the Court of Appeal; and

(ii) any other court or tribunal prescribed by an Act of Parliament;

(b) power to review a decision made by it;

(c) review and recall jurisdiction over all courts, other than the Constitutional Court, and any other adjudicating body or authority and may

in the exercise of that power, issue orders for the enforcement of that power; and

(d) any other jurisdiction conferred on it by this Constitution or under any other law.

(3) Subject to Article 210 (4) an appeal lies to the Supreme Court from a decision of the Court or Appeal with leave of the Court or leave of the Supreme Court.

**Composition  
for sittings of  
Constitutional  
Court**

**204.** (1) The Supreme and Constitutional Court, when sitting as the Constitutional Court, is constituted by not less than five and not more than nine of the Judges of the Supreme and Constitutional Court, including the Judges with specialization in constitutional and human rights laws provided for in Article 201.

(2) The Chief Justice shall preside at the sittings of the Constitutional Court and in the absence of the Chief Justice, the Deputy Chief Justice shall preside and in the absence of both, the most senior Judge of the Court as constituted shall preside.

(3) The Constitutional Court shall be constituted by the full bench when reviewing a decision made by it.

**Jurisdiction of  
Constitutional  
Court**

**205.** (1) The Supreme and Constitutional Court, when sitting as the Constitutional Court, has original and final jurisdiction -

(a) in all matters of interpretation of this Constitution;

(b) to determine a question of violation of any provision of the Bill of Rights;

(c) to determine whether an Act of Parliament, a Bill or statutory instrument made before or

after the commencement of this Constitution, contravenes a provision of this Constitution;

- (d) to determine disputes between State organs or institutions at central or local government level concerning their constitutional status, powers or functions;
- (e) to determine whether or not a matter falls within the jurisdiction of the Court; and
- (f) in any constitutional matter provided for by this Constitution or prescribed by an Act of Parliament.

(2) The Constitutional Court may review a decision made by it.

- (3) A person or group of persons who alleges that -
  - (a) an Act of Parliament, a Bill of the National Assembly or any other law or anything done under the authority of any law; or
  - (b) any act of or omission by any person or group of persons or authority;

is inconsistent with or is in contravention of a provision of this Constitution, may petition the Constitutional Court for a declaration to that effect, and for redress.

(4) Where upon determination of a petition under clause (2), the Constitutional Court considers that there is need for redress in addition to the declaration sought, the Court may -

- (a) make an order for redress; or
- (b) refer the matter to the High Court to investigate and determine the appropriate redress.

(5) Where in any proceedings in any court, a question arises as to an interpretation of a provision of this Constitution, the court shall refer the matter of the interpretation to the Constitutional Court for determination.

(6) Where a question is referred to the Constitutional Court under clause (4), the Court shall give its decision on the question and the court in which the question arose shall dispose of the case in accordance with that decision.

(7) Where a petition is submitted or a question is referred under this Constitution, the Constitutional Court shall proceed to hear and determine the petition as soon as possible and may, for that purpose, suspend any other matter pending before it.

(8) No security for costs shall be ordered by the Constitutional Court on matters relating to public interest litigation.

**Production of  
official  
documents**

**206.** (1) When in proceedings in a court, other than the Supreme Court, a question arises as to the production of an official document, and the person or authority that has custody, legal or otherwise of the document refuses, on request, to produce that document, on the ground -

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

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

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

(3) Where the Supreme Court considers that the document shall be produced, it shall make an order for that person or authority to produce the document or so much of the contents of it as is essential for the proceedings in accordance with the terms of the order.

(4) Where the question of the discovery of an official document arises in any proceedings in the Supreme Court in the circumstances mentioned in clause (1), the Supreme Court shall be governed by clause (3), for the determination of the question that has arisen.

**Chief Justice**

- 207.** (1) The Chief Justice -
- (a) is the head of the Judiciary;
  - (b) is the president of the Supreme and Constitutional Court, when the Court is sitting as the Constitutional Court; and

- (c) may issue orders and give directives considered necessary by the Chief Justice for the efficient administration of the Judiciary.

(2) In the absence of the Chief Justice or in the event of a vacancy in the office, the Deputy Chief Justice shall perform the functions of the Chief Justice until the Chief Justice resumes office or an appointment is made to the office of Chief Justice.

**Deputy Chief Justice**

**208.** (1) There shall be a Deputy Chief Justice who shall, unless otherwise provided in this Part -

- (a) perform the functions of the Chief Justice as stated under Article 207;
- (b) be the president of the Court of Appeal;
- (c) assist the Chief Justice in the performance of the administrative functions of the Chief Justice; and
- (d) perform other functions assigned by the Chief Justice.

(2) Where -

- (a) the office of the Deputy Chief Justice is vacant;
- (b) the Deputy Chief Justice is acting as Chief Justice; or
- (c) the Deputy Chief Justice is for any reason unable to perform the functions of that office;

the President shall, in consultation with the Judicial Service Commission, designate a Judge of the Supreme Court to perform those functions until the Deputy Chief Justice resumes duty or a substantive appointment is made to the office.

**Court of Appeal**

**209.** (1) There is established the Court of Appeal for Zambia.

(2) The Court of Appeal consists of -

- (a) the Deputy Chief Justice; and
- (b) not more than **six** Judges of the Court.

**Jurisdiction  
of Court of  
Appeal**

**210.** (1) The Court of Appeal as appellate court has jurisdiction to determine -

- (a) appeals from the High Court in matters prescribed by an Act of Parliament; and
- (b) appeals as prescribed by an Act of Parliament from other courts or tribunals.

(2) The Court of Appeal may review a decision made by it.

(3) The Court of Appeal shall be constituted by the full bench when reviewing a decision made by it.

(4) If the Court of Appeal refuses to grant leave to appeal to the Supreme Court on any matter, that decision shall be final and binding.

**Sittings of Court  
of Appeal**

**211.** The Court of Appeal when determining an appeal, other than an interlocutory appeal, is constituted by an uneven number of not less than three judges of the Court and shall be presided over by the Deputy Chief Justice, and in the absence of the Deputy Chief Justice, the most senior Judge of the Court as constituted shall preside.

**High Court**

**212.** (1) The High Court consists of -

- (a) the Chief Justice, as an ex-officio member; and
- (b) the number of Judges of the High Court prescribed by an Act of Parliament.

(2) The High Court is duly constituted by a single Judge of the Court.

**Jurisdiction of High Court**

**213.** The High Court has, subject to this Constitution -

- (a) unlimited and original jurisdiction in any civil and criminal matters; and
- (b) appellate and review jurisdiction as conferred on it by or under an Act of Parliament.

**Supervisory jurisdiction of High Court**

**214.** (1) The High Court has supervisory jurisdiction over courts subordinate to the High Court and over any body or authority that exercises a judicial or quasi - judicial power.

(2) The High Court, in the exercise of its supervisory powers under clause (1), may make orders and give directions to ensure the fair administration of justice.

**Divisions of High Court**

**215.** (1) The following Courts are established as divisions of the High Court, the -

- (a) Industrial Relations Court;
- (b) Commercial Court;
- (c) Juvenile Court; and
- (d) Family Court.

(2) The Industrial Relations Court has exclusive jurisdiction in industrial and labour relations matters, as prescribed by an Act of Parliament.

(3) Parliament may, by an Act of Parliament, prescribe for the composition, powers and procedures of the Industrial Relations, Commercial, Juvenile and Family Courts.

(4) Parliament may enact legislation to create other divisions of the High Court -

- (a) to sit and adjudicate in parts of the country;
- (b) to adjudicate over specified subject areas within the jurisdiction of the High Court;
- (c) consisting of a number of Judges of the court as may be assigned by the Chief Justice; and
- (d) presided over by the most senior of the Judges consisting the Court.

**Accessibility  
to courts**

**216.** Parliament shall enact legislation to provide for accessibility to the courts, including access to the superior courts at the lowest levels of administration as far as is necessary and practicable.

**Appointment of  
judges of  
superior courts**

**217.** (1) The President after consultation with the Judicial Service Commission and with the ratification of the National Assembly shall appoint -

- (a) the Chief Justice;
- (b) the Deputy Chief Justice;
- (c) the other Judges of the Supreme and Constitutional Court; and
- (d) the Judges of the Court of Appeal.

(2) The President, on the recommendation of the Judicial Service Commission and with the ratification of the National Assembly, shall appoint the Judges of the High Court.

(3) In the appointment of Judges under this Article, consideration shall be given to achieving equitable gender representation.

**Acting  
appointments**

**218.** Except with respect to the Chief Justice and the Deputy Chief Justice where -

- (a) the office of a Judge of the superior court becomes vacant;
- (b) a Judge of the superior court is unable to perform the functions of the office; or
- (c) the Chief Justice informs the President that there is the need to make an acting appointment;

the President, in consultation with the Judicial Service Commission, shall appoint a person qualified to act in the respective court until the appointment is revoked by the President acting on the advice of the Judicial Service Commission.

**Qualification  
for appointment  
of Judges of  
superior courts**

**219.** (1) A person does not qualify for appointment as a Judge of the superior court of judicature unless that person has attained the age of forty-five years, is of proven integrity and -

- (a) holds or has held a high judicial office; or
- (b) has been an advocate, in the case of -
  - (i) the Supreme and Constitutional Court, for not less than fifteen years;
  - (ii) the Court of Appeal, for not less than twelve years; or
  - (iii) the High Court, for not less than ten years.

(2) Persons appointed as Judges to specialized courts shall have the relevant expertise in the area of jurisdiction of the courts.

**Tenure of office  
of judges of  
superior courts**

**220.** (1) Subject to clause (3), the Chief Justice and the Deputy Chief Justice shall hold office for a period of ten years or on attaining the age of seventy years, whichever first occurs, and shall then retire.

(2) Any other Judge of the Supreme and Constitutional Court, Court of Appeal or the High Court shall retire from office on attaining the age of seventy years.

(3) A Judge of the Supreme and Constitutional Court, the Court of Appeal or the High Court may retire at any time after attaining the age of sixty-five years.

(4) A person who has attained the age of seventy years is not eligible to be re-appointed as a Judge.

(5) Where a Judge of the superior court has attained the prescribed retirement age and there are proceedings that were commenced before the Judge attained the age of retirement, the Judge may continue in office for a period not exceeding six months to deliver judgement or to perform any other function in relation to those proceedings.

**Removal of  
judges from  
office**

**221.** (1) A Judge of a superior court may be removed from office only in accordance with this Article.

- (2) The grounds for removal from office of a Judge are-
- (a) inability to perform the functions of office arising from infirmity of body or mind;

- (b) a breach of the code of conduct prescribed under this Constitution or by an Act of Parliament;
- (c) corruption;
- (d) incompetence;
- (e) bankruptcy or insolvency; or
- (f) stated misbehaviour or misconduct.

(3) A Judge may also be removed from office for undue or unreasonable delay in the delivery of a judgement.

**Procedure  
for removal  
of Judge**

**222.** (1) A person who has a complaint against a Judge of a superior court based on the grounds specified under Article 221 (2) may submit a petition to the Judicial Complaints Commission.

(2) The Judicial Complaints Tribunal shall, on receipt of the petition, determine whether the petition is not frivolous, vexatious or malicious and submit a report to the President within twenty-one days.

(3) The President shall, on receipt of the petition submitted under clause (2), refer the petition to the National Assembly within fourteen days of receipt of the petition.

(4) On the receipt of the petition by the National Assembly, the Speaker shall set up a committee of the National Assembly to determine whether the petition is not frivolous, vexatious or malicious and submit a report to the Speaker.

(5) Where the report of the committee states that the petition is not frivolous, vexatious or malicious -

- (a) the Speaker shall set up a tribunal to investigate the grounds, not being a ground

relating to the physical or mental incapacity of the Judge, for the removal of the Judge from office; and

(b) the National Assembly may recommend to the President the suspension of the Judge from office.

(6) The tribunal shall be composed of-

(a) a retired Judge of a supreme court or the Supreme and Constitutional Court who shall be the chairperson;

(b) a legal practitioner who qualifies to be appointed a Judge of the Court of Appeal; and

(c) one other person who is experienced in public affairs.

(7) Where the alleged ground for the removal of a Judge is on the physical or mental incapacity of the Judge, the Speaker shall appoint a medical board composed of not less than three medical practitioners, nominated by the body responsible for the registration of medical practitioners, registered under the Laws of Zambia to examine the Judge.

(8) The tribunal or medical board shall conduct the investigation or medical examination and submit its report containing its recommendations to the National Assembly, within thirty days of its appointment.

(9) Proceedings under this Article shall be held in camera, and the Judge being investigated or examined is entitled to be heard and be represented by a legal practitioner or other expert.

(10) A Judge who has been examined by the medical board or investigated by a tribunal under this Article shall be removed from office by the President -

(a) if the medical board recommends the removal of the Judge from office; or

(b) if the tribunal recommends the removal of the Judge from office.

**Remuneration  
of Judges**

**223.** (1) The Judicial Service Commission shall review and submit recommendations for the emoluments, and other conditions of service of Judges, to the Emoluments Commission.

(2) The Emoluments Commission shall on receipt of the recommendations from the Judicial Service Commission, state its opinion on the recommendations and submit the recommendations and its opinion to the National Assembly for consideration.

(3) An Act of Parliament shall prescribe the emoluments and the other terms and conditions of service for the Judges.

(4) The emoluments of the Judges shall not be reduced to their disadvantage during their tenure of office.

(5) A Judge of the superior court shall not, while the Judge continues in office, hold any other office of profit or emolument.

(6) The emoluments of the Judges are charged on the Consolidated Fund.

**Oath of office  
of Judges**

**224.** A Judge of the superior court shall before assuming the functions of office as a Judge, take and subscribe the oath of allegiance to the Constitution and the people of Zambia and the Judicial Oath, set out in the Third Schedule.

**Appointment,  
retirement and  
removal of  
magistrates and  
other judicial  
officers**

**225.** (1) There shall be such number of magistrates and other judicial officers in the Judiciary as the Judicial Service Commission shall appoint.

(2) In the appointment of magistrates and other judicial officers, consideration shall be given to achieving equitable gender representation.

(3) Judicial officers shall be appointed on terms and conditions including emoluments recommended by the Judicial Service Commission and approved by the Emoluments Commission.

(4) Qualification for appointment to a judicial office shall be as prescribed by an Act of Parliament, except that a Local Court Justice shall not be less than forty-five years of age on appointment.

(5) A judicial officer shall retire on attaining the age of sixty years, except that a Local Court Justice shall retire at the age of seventy-five years.

**Jurisdiction of  
lower courts**

**226.** (1) Parliament shall by or under an Act of Parliament provide for the jurisdiction, powers and procedures of the Subordinate Courts, the Local Courts and other lower courts.

(2) There shall be created divisions, designated as Family Court and Juvenile Court, in the Subordinate Courts and Local Courts, the composition, jurisdiction and procedures of which shall be prescribed by or under an Act of Parliament.

**Judicial Service**

**227.** The offices of the members of the Judiciary are offices in the Judicial Service.

**Judicial Service  
Commission**

228. (1) There is established the Judicial Service Commission.

- (2) The Judicial Service Commission consists of:
- (a) the Chief Justice who is the Chairperson;
  - (b) the Attorney-General;
  - (c) one person nominated by the Public Services Commission;
  - (d) the Permanent Secretary responsible for public service management;
  - (e) one Judge of the Supreme and Constitutional Court nominated by the Chief Justice;
  - (f) one judge of the Court of Appeal nominated by the Chief Justice;
  - (g) one member of the Law Association of Zambia with not less than fifteen years practice as a lawyer, nominated by the Association;
  - (h) the Dean of the Law School of any public university in Zambia;
  - (i) one member of the Human Rights Commission;
  - (j) one representative of magistrates nominated by a body representing the magistrates; and
  - (k) the person responsible for the administration of the local courts.

(3) The members of the Judicial Service Commission shall be appointed by the President.

(4) In the appointment of members of the Judicial Service Commission consideration shall be given to achieving equitable gender representation.

(5) A person nominated under paragraphs (c ) and (g), and not qualify to be appointed a member of the Judicial Service Commission unless that person is of proven integrity.

(6) A member of the Judicial Service Commission nominated under (c ), (g), (i), (j) of (k) shall hold office for a term of four years and is eligible for re-appointment for one more term of four years only.

(7) A member referred to in clause (6) shall vacate office -

- (a) at the expiry of the term of office;
- (b) if the member is elected or appointed to an office under an Act of Parliament, the holding of which office is likely to compromise the independence of the Judicial Service Commission; or
- (c) in the case of a representative of a body or institution, on the withdrawal of the membership by the relevant body or institution.

**Functions of  
Judicial Service  
Commission**

**229.** (1) The functions of the Judicial Service Commission are -

- (a) to supervise the operation of the Judiciary;
- (b) to advise the Government on the administration of justice and matters that relate to the Judiciary;
- (c) to advise the President in the exercise of the President's power to appoint persons to hold or act in offices on the recommendations of the

Judicial Service Commission, specified in this Constitution or under any other law;

- (d) to review and make recommendations on the emoluments and other terms and conditions of service of Judges and judicial officers to the Emoluments Commission;
- (e) subject to this Constitution, to appoint, discipline and remove judicial officers and other employees of the Judicial Service;
- (f) to prepare and implement programmes for the continuing education and training of Judges, judicial officers and other employees of the Judicial Service;
- (g) to advise the Government on access to justice and legal aid; and
- (h) to perform other functions conferred on it under this Constitution or by or under an Act of Parliament.

(2) The Judicial Service Commission is independent and is not subject to the direction or control of any person or authority in the performance of its functions under this Constitution or any other law.

**Chief  
Administrator  
appointment  
and functions**

**230.** (1) There shall be a Chief Administrator of the Judicial Service who shall be appointed by the President on the recommendation of the Judicial Service Commission.

- (2) The Chief Administrator -
  - (a) is responsible for the day-to-day administration of the Judicial Service and for

the implementation of the decisions of the  
Judicial Service Commission;

- (b) is the controlling officer for the Judicial Service;  
and
- (c) shall perform such other functions as  
prescribed by or under an Act of Parliament.

**Secretary to  
Judicial Service  
Commission**

**231.** The Chief Administrator shall be the Secretary to the  
Judicial Service Commission.

**Judicial Oath**

**232.** A judicial officer shall before assuming office, take the  
oath of allegiance to the Constitution and the people of Zambia and  
the judicial oath, as set out in the Third Schedule.

**Rules of Court**

**233.** (1) Parliament shall enact legislation to empower  
the Chief Justice to prescribe the rules and procedures for the  
courts and tribunals established under this Constitution or any  
other law.

(2) Rules made under clause (1), shall provide for easy  
access to the courts and tribunals and expeditious determination of  
cases before the courts and tribunals.

## **PART XII**

### **LOCAL GOVERNMENT**

#### **District, City and Municipal Councils**

**Establishment  
and objectives  
of local  
government**

**234.** There is established a local government system the  
objectives of which are to -

- (a) ensure that powers, functions, responsibilities and resources from the Central Government are transferred to the district and sub-district authorities in a co-ordinated manner;
- (b) promote the people's participation in democratic government at the local level;
- (c) promote cooperative governance with the Central Government in order to support and enhance the developmental role of local government;
- (d) enhance the capacity of district councils to plan, control, co-operate, manage and execute policies in respect of matters that affect the people within their respective localities;
- (e) promote social and economic development at the district level;
- (f) establish for each district council a sound financial base with reliable sources of revenue;
- (g) oversee the performance of persons employed by the Central Government to provide services in the districts and to monitor the provision of Government services or the implementation of projects in the districts;
- (h) ensure accountability of the district councils and sub-district structures; and
- (i) recognize the right of the districts to manage their local affairs and to form partnerships, networks and associations to assist in the management and to further their development.

**Co-operation  
between Central  
Government and  
local government  
and between local  
authorities**

**235.** (1) The Central Government and the Local Government shall –

- (a) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government at the other level and shall respect the constitutional status, institutions and rights of the two levels of government; and
- (b) maintain liaison with each other for the purpose of exchange of information, co-ordination of policies and administration and enhancement of capacity.

(2) District Councils shall assist, support, and consult with each other and shall, as appropriate, implement the laws being issued by the other.

(3) District Councils shall, to the extent necessary in any particular circumstances, co-operate in the performance of functions and, for that purpose, may set up joint committees and joint authorities.

(4) District Councils involved in an inter-district dispute shall make every reasonable effort to settle the dispute by means of procedures provided by an Act of Parliament for that purpose, and shall exhaust all other remedies before they approach a court to resolve the dispute.

**Structures and principles of decentralised government and principles**

**236.** (1) Parliament shall enact legislation applicable to provinces and local authorities as is specified in this Constitution.

(2) The Central Government shall ensure the devolution of functions, powers and responsibilities to the province, the district, and such sub-district structure as may be prescribed by an Act of Parliament.

(3) The principal role of a provincial council is to co-ordinate the implementation, within the districts forming the province, of programmes and projects that extend to two or more districts of the province and to provide a forum through which the local authorities recommend policy and legislation concerning the province for enactment by Parliament.

(4) The principal role of a district council is to issue by-laws and recommend local Bills for enactment by Parliament.

**Districts and district councils**

**237.** (1) The district is the principal unit of devolution.

(2) For the purposes of local government, Zambia shall be divided into districts, the boundaries of which shall be as prescribed by or under an Act of Parliament.

(3) There shall be such number of wards in each district as prescribed by an Act of Parliament.

(4) There is established for each district, a local authority which is the district council.

(5) Every district council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(6) Parliament shall enact legislation to determine the different types of district councils and their corporate names.

**Functions of  
district councils**

**238.** (1) Subject to this Constitution, a district council is the highest executive and legislative authority of the respective district.

(2) Parliament shall enact legislation to prescribe the functions of district councils which shall include -

- (a) the preparation of comprehensive development plans for the district for submission to the provincial administration;
- (b) the formulation and execution of plans, programmes and strategies for the effective mobilisation of resources for development of the district;
- (c) the issuance of by-laws, within its jurisdiction, and recommending or initiating local Bills for enactment by Parliament for the performance of the functions of the district council;
- (d) co-ordinating the functions of the wards and other sub-district structures within the district;
- (e) providing organised fora through which the people in the district can participate in the formulation of proposals for local Bills, budget submissions, development programmes and district council by-laws;
- (f) levying and collection of prescribed taxes, rates, duties and fees;
- (g) developing measures for the protection of natural resources and the environment;

- (h) development and maintenance of infrastructure;
- (i) the supply of water and the provision of sanitation;
- (j) disaster management;
- (k) the co-ordination of the decentralised structures relating to health and education;
- (l) the regulation of trade and business;
- (m) the provision of agriculture extension services;
- (n) provision of community policing and prison facilities;
- (o) preparation of progress reports for the district; and
- (p) any other functions as provided by an Act of Parliament.

**Composition and election of members of district councils**

**239.** (1) Subject to clause (5) elections to district council shall be conducted under the Mixed Member Proportional Representation system set out in clause (2).

- (2) A district council consists of -
  - (a) a mayor;
  - (b) councillors elected directly for each of the number of wards in the district, on the basis of First Past-the-Post system as prescribed by or under an Act of Parliament;
  - (c) forty per cent of the total number of councillors elected on the basis of the Proportional Representation System, from a list of candidates submitted to the Electoral

Commission by each political party contesting the elections as prescribed by this Constitution and by or under an Act of Parliament;

- (d) members of the National Assembly from the district;
- (e) three chiefs elected from the chiefs in the district by the chiefs to represent all the chiefs;
- (f) one representative from the Defence Forces and the National Security Agencies operating in the district; and
- (g) one representative of the Chamber of Commerce in the district.

(3) The term of a district council is five years.

(4) A councillor shall be paid allowances as may be determined by the Minister responsible for local government, subject to the ability of the district council to pay the allowances.

(5) The National Assembly shall, by a vote of not less than two-thirds of all the members of the National Assembly, change the electoral system provided under clause (1) to a proportional representation election system.

(6) The electoral system approved by the National Assembly under clause (3), shall be prescribed by an Act of Parliament.

**Petitions and  
Local  
Government  
Elections  
Tribunal**

**240.** (1) A person may file a petition to challenge the election of a councillor to a district council.

(2) The petition shall be filed within seven days after the date of the declaration of the election results.

(3) The petition shall be heard by an ad-hoc Local Government Elections Tribunal presided over by a Magistrate of the First Class sitting with two other members appointed by the Chief Justice from among retired Magistrates of the First Class or legal practitioners.

(4) The petition shall be determined within ninety days of the filing of the election petition.

(5) The decision of the Tribunal is final and the Tribunal stands dissolved on the determination of the election petition.

(6) A councillor whose election is petitioned shall hold the seat pending the determination of the petition.

(7) The councillor who is expelled by that councillors' political party and has challenged the expulsion in the court of law, shall hold the seat pending the determination of the petition or matter.

(8) If a matters referred to under clauses (6) and (7), are decided in favour of a councillor that councillor retains the seat as an independent.

**Qualifications  
and  
disqualifications  
for election to  
district councils**

**241.** (1) A person qualifies to be elected as a councillor of a district council if that person -

- (a) is not a member of the National Assembly but qualifies to be elected as a member of the National Assembly, subject to this Article;
- (b) is not less than eighteen years of age;
- (c) has attained a grade nine certificate of education or its equivalent;
- (d) has been resident in the ward for which the election is sought for a period of five years

immediately preceding the election or is in possession of a certificate showing ownership of property in the district; and

- (e) has a certificate of clearance showing the payment of council rates and rentals, where applicable.

(2) The disqualifications that apply to the election of a member of the National Assembly specified under Article 166 apply to an election of a councillor to a district council.

**Recall of  
councillor**

**242.** (1) A Councillor who was elected in a single member ward, on the basis of the First-Past-the Post System, may be recalled by the electorate in that ward as follows :

- (a) a recall shall only be initiated where a member of the council -
  - (i) persistently neglected to perform the councillor's responsibilities in the ward as may be required of the councillor by law; or
  - (ii) deserted the electorate without reasonable cause for more than six months;
- (b) a recall shall be initiated by petition signed by at least fifty per cent of the registered voters at ward; and
- (c) the petition shall be presented to the Chairperson of the Electoral Commission who shall appoint a tribunal to inquire into the

matter and report back within thirty days with its recommendation.

(2) A councillor who is the subject of a recall under clause (1), shall have the right of audience and representation before the Electoral Commission.

(3) The Electoral Commission shall act in accordance with the recommendation of the tribunal.

(4) An Act of Parliament shall prescribe for -

- (a) the composition, powers and procedures of a tribunal established under this Article; and
- (b) the functions and duties of a councillor with respect to the constituency.

**Mayor of  
district council**

**243.** (1) There shall be a mayor for every district council, who is a councillor.

(2) The mayor -

- (a) shall have executive functions over the council;
- (b) shall be elected directly by universal adult suffrage through a secret ballot by qualified registered voters resident within the district;
- (c) shall be elected for a term of five years;
- (d) shall not be elected for more than two terms of five years each; and
- (e) is subject to the same qualifications and disqualifications that apply to a member of the National Assembly.

(3) The emoluments of the mayor shall be determined by the Emoluments Commission upon recommendations of the council.

**Functions of mayor**

- 244.** The functions of the mayor are to –
- (a) preside at the meetings of the district council and the district executive committee;
  - (b) oversee and monitor generally the functions of the district council, and give directions on matters of policy as determined by the district council; and
  - (c) perform other functions prescribed by or under an Act of Parliament.

**District executive committee**

- 245.** (1) There shall be appointed for every district council, an executive committee.
- (2) An executive committee consists of –
- (a) the mayor;
  - (b) the Principal Administrative Officer of the district council. and
  - (c) such other officers as are appointed by the mayor with the approval of the district council;

**Functions of district executive committee**

**246.** Subject to this Constitution, an executive committee of a district council shall perform the executive functions of the district council which include –

- (a) ensuring the implementation of Acts of Parliament and district by-laws within the district; and
- (b) any other functions as may be conferred by a district council.

**Principal  
Administrative  
Officer and  
functions**

247. (1) There shall be appointed for every district council a Principal Administrative Officer who is the administrative head of the district and is responsible for the day-to-day administration of the district.

(2) The functions of the Principal Administrative Officer include -

- (a) co-ordinating the activities of the district council and other sub-district structures in the district;
- (b) co-ordinating and monitoring Government functions as between the district and another district and between the district and the Government; and
- (c) performing any other functions prescribed by or under an Act of Parliament.

(3) In the performance of the functions under clause (2), the Principal Administrative Officer is subject to the decisions and directions of the district council and is answerable to the council.

**Other  
committees of  
district council**

248. A district council -

- (a) shall appoint standing committees and assign to them functions the council determines; and

- (b) may appoint ad hoc committees consisting of councillors or non-councillors, or both, to advise on matters referred to them by the council.

**By-election  
for district  
council**

**249.** The provisions in Article 168 on by-elections for members of the National Assembly shall apply to by-elections to the district council, with the necessary modifications.

**Terms of office  
and vacation of  
office of  
councillors**

**250.** The provisions in Article 169 on tenure of office and conditions for vacation of office for members of the National Assembly apply to the office of councillors of district councils.

**Funds for  
district councils**

**251.** (1) There is established a Local Government Equalization Fund.

(2) Parliament shall annually make provision for the allocation of a percentage of the total annual revenues of the Republic, as may be determined by the Emoluments Commission, to the Fund for the sustenance, development and administration of the communities in the districts.

(3) The revenue referred to under clause (2), shall be in addition to revenues raised by the district councils and retained by them.

(4) The Government may provide additional funds and grants beyond what is provided under clause (2), to a district council, conditionally or unconditionally.

**Conduct of members of District councils**

**252.** (1) Members of the District Council must act in accordance with the code of ethics prescribed in this Constitution.

(2) Members of the District council may not act in any way that is inconsistent with their civic duties and responsibilities or expose themselves to the risk of conflicts of interests and may not use their positions or information entrusted to them to enrich themselves or improperly benefit any other person.

**Accountability and responsibilities**

**253.** The members of the district council are responsible and accountable collectively and individually to the residents and Central Government for the exercise of their powers and performance of their functions.

**Staff of local government**

**254.** There shall be appointed, by the Council, for the district councils, such staff and employees as are necessary for the effective implementation of the functions of the district councils.

### **Provincial Administration**

**Provinces and Provincial Ministers**

**255.** (1) The Republic of Zambia shall be divided into such Provinces as Parliament shall prescribe by or under an Act of Parliament.

(2) There shall be a Provincial Minister for each province.

(3) A Provincial Minister is the political head of the province, and the representative of the President in the province.

**Provincial administration**

**256.** (1) There is established for each province a provincial administration.

(2) Subject to this Constitution, a provincial administration consists of -

- (a) the office of the Provincial Minister;
- (b) the office of the Provincial Permanent Secretary;
- (c) the decentralised State institutions, situated in the province; and
- (d) the district councils in the province.

(2) The Provincial Permanent Secretary is the administrative head of the province.

**Provincial Council**

**257.** There is established a Provincial Council consisting of -

- (a) the Provincial Minister;
- (b) the Provincial Permanent Secretary;
- (c) the mayors of the district councils in the province;
- (d) not more than ten heads of such decentralised State Institutions as shall be appointed by the Provincial Minister; and
- (e) three chiefs representing all the chiefs in the province, elected by the chiefs.

**Functions of Provincial Council**

**258.** (1) The functions of a Provincial Council are to -

- (a) co-ordinate and consolidate district plans into provincial development plans for submission to the Central Government;

- (b) monitor the utilisation of resources and implementation of development programmes in the province;
- (c) coordinate and ensure the auditing of local government institutions in the province;
- (d) prepare provincial progress reports for the Central Government on the implementation of development programmes and projects;
- (e) ensure implementation of Central Government policies in the province;
- (f) implement national development projects and programmes;
- (g) ensure proper utilisation and maintenance of Government buildings, equipment, plant and other infrastructure in the province;
- (h) retain oversight responsibility over functions of the district councils in the province in areas of ;
  - (i) financial accountability; and
  - (ii) developmental programmes and
- (i) perform any other functions as may be prescribed by an Act of Parliament.

(2) The Provincial Permanent Secretary is responsible for ensuring the implementation of the functions specified under clause (1).

**Reserved power  
over non-  
performing  
local authorities**

**259.** (1) The Provincial Administration shall assume the executive and legislative powers of any local authority in any of the following circumstances, where:

- (a) a local authority requests and it is in the local authority's interest to do so;
- (b) it has become extremely difficult or impossible for the local authority to full-fill its executive obligations;
- (c) the local authority has failed to meet established minimum standards for rendering of services in its locality;
- (d) it is prudent to prevent the local authority from taking unnecessary action that is prejudicial to the interests of another local authority or to the province as a whole; and
- (e) it is necessary to maintain the economic and sovereign unity of the Republic.

(2) Where the provincial administration intends to assume responsibility in terms of paragraphs (b), (c), (d) and (e) of sub-article (1) it shall -

- (a) prior to assuming such responsibility obtain written permission of the minister responsible for local government; and
- (b) issue a directive to the district council describing the extent of the failure to fulfil its obligations and stating steps that would be required to meet its obligations.

(3) The Provincial Administration shall perform the functions of the local authority for a period not exceeding ninety

days after which either fresh elections shall be held to elect another council or the council shall resume its normal operations.

(4) The performance of the functions under this Article, by a Provincial Administration, shall be exercised through persons or officers and directives as prescribed by or under an Act of Parliament.

(5) Any person may challenge, the assumption by the Provincial Administration of the executive and legislative powers of a local authority under this Article, in the Constitutional Court.

(6) Parliament shall enact legislation to provide for the governance and regulation of a local authority during the period the Provincial Administration is performing the functions of the local authority.

**Legislation to further regulate local government**

**260.** Parliament shall enact legislation to provide for –

- (a) wards and other sub-district structures of the district councils;
- (b) the financial control and accountability measures for compliance by district councils;
- (c) matters that relate to the raising of loans by district councils;
- (d) the election of mayor and deputy mayor of a district council; and
- (e) the effective implementation of this Part.

**PART XIII**  
**CHIEFTAINCY AND THE HOUSE OF CHIEFS**

**Institution of  
Chieftaincy**

**261.** (1) The institution of chieftaincy together with its traditional councils as established by customary law and its usage is recognised and guaranteed, subject to the other provisions of this Constitution.

(2) Parliament has no power to enact any law which -

- (a) confers on a person or an authority the right to accord or withdraw recognition to or from a chief for any purpose; or
- (b) in any way detracts or derogates from the honour and dignity of the institution of chieftaincy.

(3) Nothing in or done by the authority of any law shall be held to be inconsistent with, or in contravention of clause (1) or (2), if the law makes provisions for -

- (a) the determination, in accordance with the appropriate customary law and usage, by a traditional council, of the validity of the nomination, election, selection, installation or deposition of a person as a chief; or
- (b) the registration of chiefs and the public notification in the Gazette or otherwise of the recognition of persons as chiefs in the Republic.

(4) Subject to the other provisions of this Constitution, the Institution of Chief shall exist in any area of Zambia in

accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

(5) In any community, where the issue of a Chief has not been resolved, the issue shall be resolved by the community concerned using a method prescribed by an Act of Parliament.

(6) Parliament may enact legislation to prescribe for matters pertaining to succession and installation of chiefs in accordance with the traditions and customs of the people.

**Concepts and principles relating to the Institution of Chiefs**

**262.** The following concepts and principles shall apply to Chiefs:

- (a) the Institution of Chief shall be a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people concerned;
- (b) nothing in paragraph (a) shall be taken to prohibit a Chief from holding any asset or property acquired in a personal capacity; and
- (c) a chief shall enjoy such privileges and benefits as may be conferred by the Government and the local government or as that leader may be entitled to under culture, custom and tradition.

**Participation of chiefs in public affairs**

- 263.** (1) A chief may -
- (a) seek and hold a public office; or
  - (b) participate in national political activities by standing for any elective public office.

(2) Parliament may enact legislation to prescribe for the recognition of the role of chiefs and traditional leaders in the management control and sharing of natural and other resources and matters affecting the local communities.

**House of  
Chiefs**

**264.** There shall be a House of Chiefs for the Republic which shall be an advisory body to the Government on traditional, customary and any other matters referred to it by the President, or by or under an Act of Parliament.

**Functions of  
House of  
Chiefs**

**265.** Notwithstanding Article 264, the House of Chiefs may -

- (a) consider and discuss any Bill dealing with, or touching on, custom or tradition before it is introduced into the National Assembly;
- (b) initiate, discuss and decide on matters that relate to customary law and practice;
- (c) initiate, discuss and make recommendations regarding the local community's welfare;
- (d) consider and discuss any matter referred to it for its consideration by the President or approved by the President for consideration by the House;
- (e) submit resolutions on any Bill or other matter referred to it by the President, and the President shall cause such resolutions to be laid before the National Assembly; and

- (f) identify persons to be bestowed with honours by the President.

**Composition  
of House of  
Chiefs**

**266.** (1) The House of Chiefs shall consist of at least three chiefs elected by the Chiefs from each province of the Republic.

(2) The Chairperson and the Vice-Chairperson shall be elected from amongst the members.

**Tenure of office  
and vacancy**

**267.** (1) A member of the House of Chiefs -

- (a) shall subject to clause (2) hold office for a period of five years and may be re-elected after a period of five years; or
- (b) may resign upon giving one month's notice in writing to the Chairperson.

(2) A Chief who has twice been elected to the House of Chiefs shall be eligible for re-election after a recess of ten years immediately preceding the second election under clause (1).

(3) The office of member shall become vacant if the member -

- (a) dies;
- (b) ceases to be a chief;
- (c) resigns;
- (d) is a member of the National Assembly or is appointed to any public office;
- (e) is adjudged or becomes an undischarged bankrupt; or

- (f) is declared or becomes of unsound mind under any law in Zambia.

**Oaths of members of House of Chiefs**

**268.** The Chairperson and every member of the House of Chiefs shall take an oath of allegiance to the Constitution and the people of Zambia, as set out in the Third Schedule.

**Staff of House of Chiefs**

**269.** (1) There shall be a Clerk of the House of Chiefs and such other staff as may be necessary for carrying out the functions under this Part.

(2) The emoluments for the Clerk and other staff of the House of Chiefs shall be determined by the Emoluments Commission and are charged on the Consolidated Fund.

**Regulations for House of Chiefs**

**270.** Subject to the provisions of this Constitution, the President may, by statutory instrument, make regulations for -

- (a) the appointment of the Clerk and other officers of the House of Chiefs;
- (b) the emoluments of the Chairperson, the Vice-Chairperson and other members of the House shall be determined by the Emoluments Commission and approved by the National Assembly;
- (c) the proceedings and conduct of the House of Chiefs;
- (d) the application of any of the privileges and immunities of the National Assembly and its members to the House of Chiefs and its members; and

- (e) such other matters as are necessary or conducive to the better carrying out of the purposes of this Part.

#### **PART XIV**

#### **PUBLIC SERVICES AND COMMISSIONS**

**Values and principles of Public Services**

- 271.** (1) The guiding values and principles of the Public Services include –
- (a) maintenance and promotion of the highest standards of professional ethics and integrity;
  - (b) promotion of efficient, effective and economic use of resources;
  - (c) effective, impartial, fair and equitable provision of services;
  - (d) encouragement of people to participate in the process of policy making;
  - (e) prompt, efficient and timely response to people’s needs;
  - (f) commitment to the implementation of public policy and programmes;
  - (g) accountability for administrative acts of omission and commission;
  - (h) transparency fostered by providing the public with timely, accessible and accurate information;
  - (i) subject to paragraph (k), merit as the basis of appointment and promotion;

- (j) adequate and equal opportunities for appointments, training and advancement of women and men and the members of all ethnic groups; and
  - (k) representation of Zambia's diverse communities, and persons with disability in the composition of the Public Services at all levels.
- (2) The principles stated under clause (1), apply to -
- (a) public service at every level of government;
  - (b) public service in all State organs and institutions; and
  - (c) public service in all public corporations and statutory bodies.

**Offices for  
Republic**

**272.** Subject to the other provisions of this Constitution and any other law -

- (a) the power to constitute offices for the Republic and the power to abolish any of those offices vest in the President; and
- (b) the power to appoint persons to hold or act in offices constituted for the Republic, to confirm appointments, to exercise disciplinary control over persons holding or acting in those offices and to remove any of those persons from office vests in the President.

**Attorney-General**

**273.** (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall, subject to

ratification by the National Assembly, be appointed by the President on the recommendation of the Judicial Service Commission.

(2) The person appointed Attorney-General under clause (1), shall not be appointed Minister or hold any other public office.

(3) The Attorney-General shall be -

- (a) an ex-officio member of the Cabinet;
- (b) not less than forty-five years; and
- (c) a person qualified to be appointed a Judge of a superior Court.

(4) Subject to this Article, a person holding the office of Attorney-General, shall retire from office on attaining the age of seventy years, and may retire on attaining the age of sixty-five years.

(5) The provisions of this Constitution relating to the grounds for the removal from office of a Judge of a superior court, under Article 221 (2) apply to the removal from office of the Attorney-General, with the necessary modifications.

(6) The Attorney-General may, in writing, resign on giving three months notice to the President.

(7) Without prejudice to clause (1), the functions of the Attorney-General includes -

- (a) the signing of all Government Bills to be presented to the National Assembly;
- (b) being the principal legal adviser to the Government;

- (c) representing the Government in the courts or any other legal proceedings to which Government is a party, and
- (d) any other functions assigned to the Attorney-General by the President or by any other law.

(8) Subject to this Constitution, an agreement, treaty or convention shall not be concluded without the legal advice of the Attorney-General, except where the National Assembly otherwise directs, and subject to the conditions provided for by an Act of Parliament.

(9) In the performance of functions under this Constitution, the Attorney General is not subject to the direction or control of any other person or authority.

**Solicitor-General**

**274.** (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President, on the recommendation of the Judicial Service Commission, subject to ratification by Parliament.

(2) A person is not qualified to be appointed to the office of Solicitor-General unless that person is qualified for appointment as a Judge of the superior court.

(3) Subject to this Article, a person holding the office of Solicitor-General, shall retire from office on attaining the age of seventy years, and may retire on attaining the age of six-five years.

(4) The Solicitor-General may in writing resign on giving three months notice to the President.

(5) A function conferred on the Attorney-General by this Constitution or any other law may be performed by the Solicitor-General -

- (a) where 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.

**Director of Public Prosecutions**

**275.** (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.

(2) A person is not qualified to be appointed to the office of Director of Public Prosecutions unless that person -

- (a) is not less than forty-five years;
- (b) has experience in criminal prosecutions; and
- (c) is otherwise qualified for appointment as Judge of a superior court.

(3) Except as otherwise provided in this Constitution or any other law, the Director of Public Prosecutions may -

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

(4) The Director of Public Prosecutions shall not enter a nolle prosequi except with the leave of the court.

(5) The operational and administrative expenses of the office of the Director of Public Prosecutions are charged on the Consolidated Fund.

(6) The functions of the Director of Public Prosecutions under clause (3), may be exercised in person or by a public officer or class of public officers specified by the Director of Public Prosecutions, acting, with the general or special instructions given by the Director of Public Prosecution; but this clause does not preclude the representation of the Director of Public Prosecutions before a court by a legal practitioner.

(7) The powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of clause (3), are vested to the exclusion of any other person or authority.

(8) For the purposes of this Article -

(a) an appeal from a judgement in criminal proceedings before a court, or a case stated or question of law reserved for the purposes of proceedings, to any other court is a part of those proceedings;

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

(9) In the performance of the functions conferred by this Article, the Director of Public Prosecutions is not subject to the direction or control of any other person or authority.

(10) In exercising the powers conferred by this article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

**Performance of functions of Director of Public Prosecutions during absence, illness**

**276.** Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office because of illness or for any other cause, the Judicial Service Commission may appoint any other person to perform the functions of the Director of Public Prosecutions until that appointment is revoked.

**Tenure of office**

**277.** (1) Subject to this Article, a person holding the office of Director of Public Prosecutions shall retire from office on attaining the age of seventy years, and may retire on attaining the age of sixty-five years.

(2) The provisions of Article 221 (2) relating to the grounds for the removal from office of a Judge of a superior court apply to the removal from office of the Director of Public Prosecutions, with the necessary modifications.

(3) The Director of Public Prosecutions may, in writing, addressed to the Judicial Service Commission resign from office.

(4) Parliament shall enact legislation to provide for any other functions of the Director of Public Prosecutions and for the decentralisation of the office of the Director of Public Prosecutions.

**Permanent Secretaries**

**278.** (1) Subject to this Constitution, a ministry or department of the Government shall be under the supervision of a Permanent Secretary whose office is a public office.

(2) A Permanent Secretary shall be a career civil servant appointed by the President on the advise of the Public Services Commission, subject to ratification by the National Assembly.

- (3) The functions of a Permanent Secretary include -
- (a) organisation and operation of the department or ministry;
  - (b) tendering advice to the responsible Minister in respect of the business of the department or ministry;
  - (c) implementation of the policies of the Government; and
  - (d) responsibility for the proper expenditure of public funds by or in connection with the department or ministry.

**Protection of public officers**

- 279.** A public officer shall not be -
- (a) victimized or discriminated against for having performed functions faithfully in accordance with this Constitution; or
  - (b) dismissed or removed from office or reduced in rank or otherwise punished without just cause.

**Establishment of Public Services Commission**

- 280.** (1) There is established the Public Services Commission which shall consist of -
- (a) a chairperson;
  - (b) a vice-chairperson; and

(c) not less than three and not more than six other persons, two of whom are women and one is a person with disability.

(2) The members shall be appointed by the President subject to ratified by the National Assembly.

**Qualification for members of Public Services Commission**

**281.** A person is not qualified to be a member of the Public Services Commission unless that person is -

- (a) a citizen by birth;
- (b) of proven integrity and impartiality; and
- (c) a person who has served with distinction in a high office in government or in a registered profession or vocation.

**Term of office and removal of members of Public Services Commission**

**282.** (1) A member of the Public Services Commission shall hold office for a term of seven years and is eligible for a further term of seven years only.

(2) A person shall not be appointed as a member of the Public Services Commission for more than two terms.

(3) A member of the Public Services Commission may only be removed from office on the same grounds and by the same procedure applicable to the removal of a Judge of superior court under Articles 221 (2) and 222, with the necessary modifications.

**Functions of Public Services Commission**

**283.** (1) Subject to this Constitution, the functions of the Public Services Commission include, to -

- (a) exercise, as delegated, the President's powers of appointment and discipline except as otherwise provided under this Constitution;

- (b) advise the President on public service human resource policies;
- (c) advise the President on the appointment of Ambassadors, High Commissioners, plenipotentiaries, diplomatic representatives and consuls;
- (d) issue policies, guidelines, regulations and practices for appointments, placements, promotions, transfers and discipline and ensure that personnel procedures conform with the principles and values set out in this Part;
- (e) sub-delegate, by statutory instrument, to the service commissions or relevant senior public officers, a power vested in or delegated to the Public Services Commission;
- (f) approve transfers within the Public Services;
- (g) hear and determine complaints and appeals from decisions of service commissions and to monitor and investigate adherence to applicable procedures in the Public Services;
- (h) monitor and evaluate delegated functions;
- (i) oversee retirement and pension issues in the Public Services;
- (j) review and recommend the terms and conditions of service, standing orders, training and qualification of public officers and matters connected with human resources and development of the Public Services;

- (k) guide, and hear appeals from, the Local Government Service Commission;
- (l) hear and determine grievances from persons appointed by local government bodies; and
- (m) report annually to the National Assembly on its activities and the performance of its functions, and provide an evaluation of the extent to which the values and principles set out in this Part have been complied with.

(2) Except as provided under clause (1) in the performance of its functions under this Constitution or any other law, the Public Services Commission is not subject to the control or direction of any person or authority.

**Public Services  
and Service  
Commissions**

**284.** (1) There is established the following Services in the Public Service:

- (a) the Civil Service;
- (b) the Judicial Service;
- (c) the Teaching Service;
- (d) the Police and Prisons Service; and
- (e) the Parliamentary Service.

(2) Parliament shall enact legislation to provide for a service commission for each service established under this Part and prescribe -

- (a) the functions of the service;
- (b) the membership of the service;
- (c) the members of the service commission; and

- (d) the structures and other provisions necessary for the proper and efficient administration and operation of the respective service.

**Establishment  
of additional  
commissions**

285. (1) In addition to the other commissions established by this Constitution, the following Commissions are established -

- (a) the Anti-Corruption Commission;
- (b) the Anti-Drug Abuse Commission;
- (c) the Judicial Complaints Commission;
- (d) the Police and Public Complaints Commission;
- (e) the Gender Equality Commission; and
- (f) such other commissions as may be established by an Act of Parliament.

(2) Parliament shall enact legislation to provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of a commission established under clause (1).

**Membership of  
commissions**

286. (1) Subject to Articles 285 and 313, an Act of Parliament enacted in respect of a commission under this Part shall provide -

- (a) that the commission shall be composed of not less than three persons and not more than seven persons;
- (b) that the members specified in paragraph (a) shall include at least two women and at least one person with disability;

- (c) that a person does not qualify to be appointed to a commission unless that person is -
  - (i) a citizen by birth;
  - (ii) permanently resident in Zambia;
  - (iii) not an office bearer or employee of any political party;
  - (iv) a person who has not been convicted of theft, fraud, forgery, perjury or any other offence that involves dishonesty; and
  - (v) a person of high moral standing and proven integrity.

(2) The members of a commission shall be appointed by the President, subject to ratification by the National Assembly.

**Tenure of  
office of  
commissions**

**287.** (1) The term of office of a commissioner or a member of a commission is five years, which may be renewed.

(2) A person shall not be appointed a commissioner for more than two terms.

(3) A member of a commission established under this Part may be removed from office on the same grounds and by the same procedure as a Judge of a superior court under Articles 221 (2) and 222, with necessary modifications.

**Independence  
and powers of  
commissions**

**288.** (1) In the performance of its functions under this Constitution or any other law, a commission is not subject to the control or direction of any person or authority.

(2) The emoluments of a commissioner or member of the commission shall be recommended by the Emoluments Commission and prescribed by or under an Act of Parliament.

(3) The emoluments and administrative expenses of a commission are charged on the Consolidated Fund.

(4) A commission shall be provided with adequate funding for the effective performance of its functions.

(5) A commission -

(a) has power to appoint its staff in consultation with the Public Services Commission;

(b) may initiate its own investigations on information or report available to it;

(c) may refer matters within its powers to appropriate State organs or institutions for action;

(d) may receive complaints from any person or group of persons on matters within its powers; and

(e) shall submit annual reports to the National Assembly on its activities and any other reports as prescribed by or under an Act of Parliament.

(6) The provisions of this Article apply to the various Commissions with necessary modifications.

**Appointment of  
chief executive of  
commissions**

**289.** (1) A commission established under this Part shall, where appropriate, have a chief executive who shall be appointed by the President on the recommendation of the

respective commission, subject to ratification by the National Assembly.

(2) The chief executive of a commission shall hold office for five years and is eligible for appointment for a further and final term of five years only.

**Decentralisation  
of commissions**

**290.** An Act of Parliament providing for a commission shall prescribe for the decentralization and establishment of their offices in all provinces in Zambia.

**Participation  
in politics**

**291.** A public officer who seeks election to a political office shall first resign from the public office.

**Retirement of  
public officers**

**292.** (1) A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years, with an option to retire with full benefits on the attainment of fifty-five years.

(2) A public officer may, unless otherwise provided in this Constitution, retire from the public service at any time after a continuous service of twenty-five years in the service, with the approval of the Government.

(3) A public officer that has retired from the public service shall not be re-engaged, except for those officers that have special professional qualifications.

**Pension of  
public officers**

**293.** (1) The right of a person in the public service to a pension or gratuity is guaranteed.

(2) Any benefit to which a person is entitled in accordance with or under an Act of Parliament shall not be

withheld or altered to that person's disadvantage, except to an upward adjustment to the extent provided by law.

(3) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution 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 favourable to that person.

(4) The law to be applied with respect to pension benefits other than as provided in clause (2), shall -

(a) where those benefits are wholly in respect of a period of service, as a public officer or as a member of the Defence Forces or of the national security agencies, that commenced before the commencement of this Constitution, be the law in force immediately before that date; or

(b) where those benefits are wholly or partly in respect of a period of service as a public officer or as a member of the Defence Forces or national security agencies that commenced after the commencement of this Constitution, 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 that person.

(5) All pension benefits, unless otherwise charged on a fund established by or under a law, are charged on the Consolidated Fund.

(6) In this Article “pension benefits” includes any pensions, compensation and gratuities or similar allowances for persons in respect of their service as public officers or members of the Defence Forces or national security agencies or for the widows, children, dependants or personal representatives of the persons in respect of the service.

(7) Reference in this Article to the law on pension benefits includes reference to the law that regulates the circumstances in which pension benefits may be granted or refused or in which pension benefits that have been granted may be withheld or reduced in amount.

**Pension to be reviewed**

**294.** (1) Pensions shall be reviewed upwards periodically to take into account changes in the value of money or shall be reviewed at any time when public service salaries are reviewed.

(2) Pension in respect of service in the public services is exempt from tax.

**Pension to be paid promptly**

**295.** (1) The payment of pension shall be prompt, regular and easily accessible to pensioners.

(2) Where pension due is not paid promptly, the retirees name shall be retained on the payroll until final payment.

**Administration of estates**

**296.** Parliament shall enact legislation to provide -

- (a) for the establishment of an efficient, fair and expeditious machinery for the administration and management of the estates of deceased public officers; and

- (b) to ensure that the sources of the organisations established for the management of pensions are decentralized and accessible to all persons who may reasonably require those services and that the interests of all beneficiaries are adequately protected.

## PART XV

### PARLIAMENTARY OMBUDSMAN

**Establishment  
of office of  
Parliamentary  
Ombudsman**

297. (1) There is established the Office of the Parliamentary Ombudsman.

(2) The Ombudsman shall be appointed by Parliamentary Service Commission subject to ratification by the National Assembly.

(3) Parliament shall enact legislation to provide for the procedures, appointments and operations of the office of the Parliamentary Ombudsman.

**Qualification  
for election and  
conditions of  
service**

298. (1) A person qualifies to be elected to the office of the Ombudsman if that person -

- (a) is qualified to be appointed a Judge of a superior court;
- (b) does not hold the Office of President, Vice-President, Cabinet Minister, Provincial Minister, Deputy Minister or member of the National Assembly;

(2) The terms and conditions of service of the Ombudsman including removal from office of the Ombudsman

shall be the same as those of a Judge of a superior court under Article 221 (2) and Article 222, with the necessary modifications.

(3) The Ombudsman shall not hold any other office of profit or emolument, public or private.

(4) Where the Ombudsman dies, resigns or is removed from office or is absent from the Republic or is for any other reason unable to perform the functions of office, the National Assembly shall, on the recommendation of the Parliamentary Service Commission, appoint a person qualified to be elected as Ombudsman -

- (a) to act until the Ombudsman assumes office; or
- (b) until the election of another Ombudsman.

**Independence  
of Ombudsman**

**299.** (1) In the performance of functions conferred on the Ombudsman under this Constitution or any other law, the Ombudsman and the staff of the office of the Ombudsman are subject only to this Constitution and are not subject to the direction or control of any other person or authority.

(2) The appointment of officers and employees of the office of the Ombudsman shall be made by the Ombudsman.

(3) The emoluments of the Ombudsman shall be determined by the Emoluments Commission and prescribed by Act of Parliament and are charged on the Consolidated Fund.

(4) The Ombudsman shall establish offices in all the provinces and take measures to educate the people on the functions of the Ombudsman.

(5) The administrative expenses of the office of the Ombudsman, or in respect of persons serving with the Ombudsman are charged on the Consolidated Fund.

**Functions of  
Ombudsman**

300. (1) The Ombudsman may investigate an action taken or omitted to be taken , as specified under clause (2), by or on behalf of -

- (a) a department or Ministry of the Republic;
- (b) a public or statutory corporation;
- (c) a member of the Defence Force, the Police Service or the Prisons Service or the national security agencies;
- (d) constitutional commissions;
- (e) a public officer;
- (f) any other State institution;

(2) An action taken or omitted to be taken under clause (1), is an action which is -

- (a) an abuse of office;
- (b) an unfair or unjust decision or action;
- (c) an action not complying with the rules of natural justice; or
- (d) an act taken or omitted to be taken in the performance of an administrative function of that State institution.

(3) For the purpose of clauses (1) and (2), the Ombudsman may -

- (a) subject to the approval of the Director of Public Prosecutions initiate, institute or prosecute, proceedings against any person who holds or has held a public office;
- (b) bring an action before a court and seek a remedy which is available from the court;

- (c) hear and determine an appeal by a public officer or an employee of a State institution in respect of an act or omission in the performance of an administrative function;
  - (d) make recommendations after appropriate investigations for disciplinary action against a public officer which recommendation shall be implemented by the appropriate authority; and
  - (e) issue Regulations, subject to approval by the National Assembly, regarding the manner and procedure for bringing complaints before the Ombudsman and the investigation of matters or complaints.
- (4) The Ombudsman may also -
- (a) issue a statement of opinion on the administration of State institutions;
  - (b) make recommendations on the review, harmonisation and development of the law for the purpose of improving administrative justice in State institutions; and
  - (c) perform any other functions prescribed by an Act of Parliament.
- (5) The Ombudsman has the powers of the High Court in -
- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
  - (b) compelling the production of documents; and
  - (c) issuing a commission or request to examine witnesses abroad.

(6) A person summoned to attend to give evidence or to produce a document before the Ombudsman is entitled, in respect of that evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.

(7) An answer by a person to a question put by the Ombudsman is not admissible in evidence against that person in any civil or criminal proceedings in any court, except for perjury under criminal law.

**Limitation of powers of Ombudsman**

- 301.** The Ombudsman shall not investigate a matter -
- (a) which is before a court or a quasi-judicial tribunal for determination by that court or tribunal;
  - (b) involving the relations or dealings between the Government and any foreign government or an international organization; or
  - (c) relating to the exercise of the prerogative of mercy.

**Accountability**

**302.** The Ombudsman is accountable to the National Assembly.

**Accounts and audit**

**303.** (1) The Ombudsman shall keep books of account and proper records in relation to the accounts in the form approved by the Auditor-General.

(2) The Ombudsman shall, within three months after the end of the financial year, submit accounts to the Auditor-General for audit.

(3) The Auditor-General shall within three months of the submission under clause (2), make a report on the audit to the Ombudsman with a copy of the report to the President and to the National Assembly.

**Annual report**

**304.** The Ombudsman shall, within six months after the end of each financial year, submit an annual report on the activities of the office of the Ombudsman, for the previous year, to the National Assembly with a copy to the President.

(2) The annual report shall contain a review of all the complaints lodged with the Ombudsman, a summary of the matters dealt with and the actions taken on them and the remedies awarded to aggrieved persons, and stating the areas where the Ombudsman had failed to take action to remedy an injustice and the reasons for the failure.

**PART XVI**

**DEFENCE AND NATIONAL SECURITY**

**General**

**Establishment of  
defence and  
national security  
agencies**

**305.** (1) There is established the defence and national security agencies of Zambia which are -

- (a) the Defence Forces, consisting of the Zambia Army and the Zambia Air Force; and
- (b) the national security agencies comprising -
  - (i) the Zambia Police Service;
  - (ii) the Zambia Prisons Service; and
  - (iii) the Zambia Security Intelligence Service.

(2) Except as provided for under this Constitution or by an Act of Parliament consistent with this Constitution, a person shall not -

- (a) raise an armed force;
- (b) establish -
  - (i) a police service;
  - (ii) a prisons service; or
  - (iii) a security intelligence service; or
- (c) be concerned in the raising of an armed force or the establishment of any of the security agencies specified in paragraph (b) of clause (1).

(3) A person shall not be appointed a member of the Defence Forces and the national security agencies unless that person is -

- (a) a citizen by birth and is of good character; and
- (b) patriotic, professional and disciplined.

(4) The operative and administrative expenses of the Defence and National Security agencies are charged on the Consolidated Fund.

**Objectives of  
Defence Forces  
and national  
security agencies**

**306.** (1) The primary objective of the Defence Forces and the national security agencies is to -

- (a) safeguard the well-being of the people of Zambia; and
- (b) secure and guard the sovereignty, peace, national unity and territorial integrity of the Republic in accordance with national and international laws.

(2) The Defence Forces and the national security agencies shall not -

- (a) act in a partisan manner;
- (b) further the interests or cause of a political party; or
- (c) act against a political interest or a cause permitted under this Constitution or any other law.

(3) Clause (2) applies to every member of the Defence Forces and the national security agencies, but nothing prevents a member from voting at public or national elections or referenda.

(4) The Defence Forces and the national security agencies-

- (a) are subject to civilian authority; and
- (b) shall be adequately and properly equipped to enable them effectively attain their objective and perform their functions.

**Deployment  
outside country**

307. Except where a mission or service is recommended by the President, and has the prior approval of not less than two-thirds of the vote of the members of the National Assembly, troops of the Defence Forces or personnel of the Police Service shall not be deployed outside the Republic on -

- (a) a peace-keeping mission; or
- (b) any service.

**Defence Forces**

**Function of  
Defence Forces**

308. The Defence Forces shall -

- (a) preserve and defend the sovereignty and territorial integrity of the Republic;
- (b) foster harmony and understanding between the Defence Forces and members of the society;
- (c) co-operate with the appropriate civilian authority in times of emergencies and natural disasters;
- (d) engage in productive activities for the development of the country ; and
- (e) perform other functions prescribed by or under an Act of Parliament.

**Defence Council**

- 309.** There is established a Defence Council consisting of -
- (a) the President who is the chairperson;
  - (b) the Minister responsible for Defence;
  - (c) the Minister responsible for Home Affairs;
  - (d) the Minister responsible for Foreign Affairs;
  - (e) the Army Commander;
  - (f) the Air Force Commander;
  - (g) the Director-General of the Intelligence Security Service; and
  - (h) one other person appointed by the President.

**Functions of  
Defence  
Council**

- 310.** The functions of the Defence Council are to advise -
- (a) the President on matters of policy that relate to defence and strategy, including -
    - (i) the role of the Defence Forces;
    - (ii) military budgeting, military purchases and finances; and

- (iii) operational command and administration of the Defence Forces; and
- (b) the President on the appointment, recruitment, promotion and the terms and conditions of service of members of the Defence Forces.

### **Zambia Police Service**

**Functions of Zambia Police Service**

311. (1) The functions of the Zambia Police Service are to -
- (a) protect life and property;
  - (b) preserve law, peace and order;
  - (c) ensure the security of the people;
  - (d) prevent and detect crime;
  - (e) protect the rights and freedoms enshrined in this Constitution;
  - (f) work to eliminate corruption;
  - (g) foster and promote good relationship with members of the society; and
  - (h) perform other functions prescribed by or under an Act of Parliament.
- (2) The Minister responsible for police services shall register, regulate and supervise private security organisations.

### **Zambia Prisons Service**

**Functions of Prisons Service**

312. The Prisons Service has responsibility for the management and control of prisoners and prisons and for other

functions that relate to prisoners as prescribed by an Act of Parliament.

**Police and Prisons Services Commission**

**313.** (1) Notwithstanding Article 286, the Police and Prisons Services Commission shall consist of -

- (a) a chairperson, appointed by the President;
- (b) one representative of the Attorney-General not below the rank of Director;
- (c) the Minister responsible for Home Affairs;
- (d) the Inspector-General of Police;
- (e) the Commissioner of Prisons;
- (f) one medical practitioner nominated by the association that represents registered medical practitioners in Zambia;
- (g) one representative of the Ministry responsible for social welfare; and
- (h) one representative of the Law Association of Zambia.

(2) The members of the Police and Prisons Services Commission shall be appointed by the President, subject to ratification by the National Assembly.

**Functions of Police and Prisons Services Commission**

**314.** The Police and Prisons Services Commission shall -

- (a) advise the President on matters that relate to -
  - (i) the internal security, including the role of the Police Service, budgeting, finance and administration of the Police Service;

- (ii) the organisation and maintenance of the prison system including the role of the Prison Service, budgeting, finance and administration of the Prison Service;
  - (iii) the appointment, recruitment, promotion, discipline and conditions of service of personnel in the Police Service and the Prisons Service; and
- (b) perform other functions prescribed by or under an Act of Parliament.

### **Security Intelligence Service**

#### **Security Intelligence Service**

**315.** There is established the Security Intelligence Service Commission which is responsible for -

- (a) security intelligence and counter intelligence aimed at ensuring national security;
- (b) defence of this Constitution against any act of sabotage or subversion; and
- (c) other functions as prescribed by or under an Act of Parliament.

#### **National Intelligence Council**

**316.** There is established the National Intelligence Council consisting of -

- (a) the President;
- (b) the Director-General of the Security Intelligence Service;
- (c) the Army Commander;
- (d) the Air Commander;

- (e) the Inspector-General of Police;
- (f) the Commissioner of prisons;
- (g) the Ministers responsible for home affairs, defence and foreign affairs; and
- (h) such other persons as the President may appoint.

**Functions of National Intelligence Council**

317. The functions of the National Intelligence Council are to –

- (a) formulate national intelligence policies;
- (b) assess and appraise the risks, commitments and capabilities of the Republic in relation to actual or potential danger to the security of the Republic;
- (c) give general directions and guidelines on the administration of the Security Intelligence Service;
- (d) advise the President on appointment, promotion and the terms and conditions of service of the staff and other employees of the Security Intelligence Service; and
- (e) other functions as prescribed by or under an Act of Parliament.

**Zambia National Service**

**Zambia National Service**

318. (1) There is established the Zambia National Service.

(2) Parliament shall enact legislation to provide for the structures and functions of the Zambia National Service, and any other matters relating to the National Service.

**Appointment  
of defence  
and security  
chiefs**

**319.** (1) There shall be appointed for the Defence Forces and the national security agencies the following security chiefs, in the case of:

- (a) the Army, the Army Commander;
- (b) the Air Force, the Air Force Commander;
- (c) the Zambia Security Intelligence Service, the Director General of the Security Intelligence Service;
- (d) the Police Service, the Inspector-General of Police; and
- (e) the Prison Service, the Commissioner of Prisons.

(2) The appointments under clause (1), shall be made by the President on the recommendation of the respective service commissions or Council provided for under this Part and for a tenure determined by the President.

(3) A person does not qualify for appointment under clause (1), unless that person -

- (a) is a citizen by birth; and
- (b) has attained the age of forty-five years.

(4) A security chief appointed under clause (1), shall, subject to the general direction of the respective service commission or Council on matters of policy, be responsible for the administration, control supervision and operations of the respective Force or Service.

(5) The emoluments and other terms and conditions of service of the security chiefs shall be determined by the President in consultation with the Emoluments Commission.

**Power of appointment of other personnel and delegation of power of appointment**

**320.** (1) The power to appoint other persons to hold or act in an office in the Defence Forces or any of the national security agencies vests in the President, who shall exercise the power on the advice of the respective Service Commission or Council.

(2) The President may, subject to specified conditions in writing, delegate the powers of appointment, conferred on the President under this Part, in respect of -

- (a) the Defence Forces, to the Defence Council;
- (b) the Police and Prison Service, to the Police and Prison Service Commission; and
- (c) the Security Intelligence Service, to the National Intelligence Council.

**Retirement of defence and security personnel**

**321.** (1) Subject to this Constitution, a member of the Defence Forces or of a national security agency may retire after twenty years service and shall retire on attaining the age of fifty-five years.

(2) A person who has held an office in the Defence Forces or any of the national security agencies as a defence or security personnel and is retired, is not eligible for re-appointment in the Defence Forces or any of the national security agencies.

- (3) Retired defence and national security personnel -
- (a) shall be integrated into civilian life and provided -
    - (i) adequate retirement benefits; and

- (ii) a settlement scheme; and
- (b) may be recalled for service in the event of war or a declaration of a state of emergency.

**Parliament to further regulate for Defence Forces and security agencies**

**322.** Subject to this Constitution, Parliament shall enact legislation to provide generally for the effective operation of the Defence Forces and the national security agencies and shall in particular provide for -

- (a) their organs and structures;
- (b) the recruitment of persons from every district of the country into the Defence Forces and the national security agencies; and
- (c) the terms and conditions of service of members.

## **PART XVII**

### **PUBLIC FINANCE AND BUDGET**

**Imposition of tax**

**323.** (1) A tax shall not be imposed, except by or under an Act of Parliament.

(2) Where a law enacted under clause (1), confers powers on any person or authority to waive or vary a tax imposed by that law, that person or authority shall report to the National Assembly periodically on the exercise of those powers, as shall be prescribed by an Act of Parliament.

(3) Parliament may enact legislation to confer power on a local authority established by law, to impose tax specified in that Act, within the area of authority of that local authority.

**Consolidated  
Fund**

**324.** (1) There is established a fund to be known as the Consolidated Fund of the Republic.

(2) Subject to clause (3), all money raised or received for the purposes of, on behalf of, or in trust for the Republic shall be paid into the Consolidated Fund.

(3) The money referred to in clause (2), does not include money -

(a) that is payable under this Constitution or an Act of Parliament into some other public fund established for a specific purpose; or

(b) that may, under this Constitution or an Act of Parliament, be retained by the State organ or institution that receives it for the purpose of defraying the expenses of that State organ or institution.

**Withdrawal  
from  
Consolidated  
Fund**

**325.** (1) Subject to Article 326, money shall not be withdrawn from the Consolidated Fund except -

(a) to meet expenditure charged on the Consolidated Fund by this Constitution or by an Act of Parliament; or

(b) where the issuance of that money has been authorized by an Appropriation Act or a Supplementary Appropriation Act.

(2) Money shall not be withdrawn from any public fund of the Republic, other than the Consolidated Fund, unless the issue of the money has been authorized by an Act of Parliament.

(3) Money shall not be withdrawn from the Consolidated Fund unless the withdrawal has been approved in the manner prescribed by an Act of Parliament.

**Expenditure in  
advance of  
appropriation**

**326.** (1) Where in any financial year, the President is satisfied that the Appropriation Act in respect of that financial year will not come into operation by the beginning of that year, the President may -

- (a) with the prior approval of the National Assembly; and
- (b) subject to this Article;

authorize the withdrawal of money from the Consolidated Fund to meet expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is earlier.

(2) Money withdrawn in any financial year from the Consolidated Fund under clause (1), in respect of any service of the Republic -

- (a) shall not exceed the amount shown as required on account in respect of that service in the vote approved by the National Assembly for that financial year; and
- (b) shall be set off against the amount provided in respect of that service in the Appropriation Act for that financial year when that Act comes into operation.

**Compensation  
Fund**

**327.** (1) Parliament shall enact legislation to establish a Compensation Fund for purposes of paying victims of crime and claims against the State and to provide for the operation of the Compensation Fund.

(2) Money shall not be withdrawn from the Compensation Fund unless the withdrawal is authorized under the Act of Parliament.

**Annual financial  
estimates**

**328.** (1) The President shall cause to be prepared and laid before the National Assembly in each financial year not later than ninety days before the commencement of the financial year, estimates of revenues and expenditure of the Government for the next financial year.

(2) Not later than six months before the end of each financial year, the heads of each State organ and institution, shall submit estimates of revenues and expenditure for the following financial year to the Minister responsible for finance.

(3) In the preparation of the estimates and expenditure under clause (2), the inputs of the people in the wards, districts and provinces shall be sought.

(4) The estimates prepared under clause (2), shall be laid before the National Assembly by the Minister responsible for finance, on behalf of the President, in accordance with clause (1).

(5) Despite clause (1), the President may cause to be prepared and laid before the National Assembly -

- (a) fiscal and monetary programmes and plans for economic and social development covering periods exceeding one year; and

(b) estimates of revenue and expenditure covering periods exceeding one year.

(6) Before the National Assembly considers the estimates of the revenues and expenditure laid before it by the Minister responsible for finance, the appropriate committee of the National Assembly shall discuss and review the estimates and make appropriate recommendations to the National Assembly.

(7) The committee shall in considering the estimates, seek public opinion including opinion from the district and provinces and shall take these into consideration in its recommendations to the National Assembly.

(8) The National Assembly may amend, but shall not vary the total estimates of revenues and expenditure and shall in any case approve the budget not later than the thirty-first day of December.

(9) As far as possible, money for the annual budget shall be derived from the resources of the country.

**Budget Act**

**329.** Parliament shall enact a Budget Act which shall provide for matters that relate to the annual budget and shall include -

- (a) the method for the preparation of the budget;
- (b) the preparation of medium and long-term development plans indicating corresponding sources of financing;
- (c) the participation of the people at the district and provincial levels ensuring gender participation in the formulation of

development plans and in the preparation of the annual budget;

- (d) the submission of anticipated revenues and expenditure for each financial year by the Minister responsible for finance to the appropriate committee of the National Assembly for prior consideration before the preparation and submission of the actual estimates for the financial year; and
- (e) the contents, subject to this Constitution, of the Financial Report of the Government provided for under Article 333.

**Appropriation  
Bill and  
Supplementary  
Appropriation  
Bill**

**330.** (1) When the estimates of expenditure, other than expenditure charged on the Consolidated Fund by this Constitution or by an Act of Parliament, have been approved by the National Assembly, they shall be included in an Appropriation Bill the issue from the Consolidated Fund of the sums necessary to meet that expenditure and for the appropriation of those sums for the purposes specified in the Bill.

(2) Where in respect of a financial year the amount appropriated under the Appropriation Act is insufficient or a need arises for expenditure for a purpose for which an amount has not been appropriated under that Act, a supplementary estimate showing the amount required, shall be laid before the National Assembly for approval.

(3) Where a supplementary estimate is approved under clause (2), a Supplementary Appropriation Bill showing the

estimate approved shall be laid before the National Assembly in the next financial year.

(4) Subject to this Constitution, the Minister responsible for finance shall release approved budgetary allocations on quarterly basis, in full and on time, to the institutions and bodies entitled to the allocations.

**Borrowing by  
Government**

**331.** (1) The Government may, subject to this Article, borrow from any source.

(2) Government shall not borrow, guarantee, or raise a loan on behalf of itself or any State organ or institution, authority or person except as authorized by or under an Act of Parliament.

(3) An Act of Parliament enacted under clause (2), shall provide -

(a) that the terms and conditions of the loan shall be laid before the National Assembly and shall not come into operation unless they have been approved by a resolution of the National Assembly; and

(b) that any money received in respect of that loan shall be paid into the Consolidated Fund and form part of that Fund or into some other public fund which exists or is created for the purpose of the loan.

(4) The President shall, at such times as the National Assembly may determine, cause to be presented to the National Assembly information concerning any loan including -

(a) the source of the loan;

- (b) the extent of the total indebtedness by way of principal and accumulated interest;
- (c) the provision made for servicing or repayment of the loan and tenor; and
- (d) the utilization and performance of the loan.

(5) The National Assembly may, by resolution, authorize the Government to enter into an agreement for the giving of a loan or a grant out of any public fund or public account.

(6) An agreement entered into under clause (5), shall be laid before the National Assembly and shall not come into operation unless it has been approved by a resolution of two-thirds of the members of the National Assembly.

(7) For the purposes of this Article, "loan" includes any money lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which money from the Consolidated Fund or any other public fund may be used for payment or repayment.

**Public debt**

**332.** (1) The public debt of Zambia is charged on the Consolidated Fund and other public funds of the Republic.

(2) The National Assembly shall approve all international and domestic contracts, entered into by the Government with any person, institution or government, for the purposes of, incurring public debt, or any loan guarantees, before these take effect.

(3) For the purposes of this Article, the public debt includes the interest on that debt, sinking fund payments in respect of that debt, the costs, charges and expenses incidental to the management of that debt and all expenditure in connection with the raising of the loan on the security of the revenues of the former

Protectorate of Northern Rhodesia or the Republic and on the service and redemption of debt created by those.

**Financial  
Report of  
Government**

333. (1) The Minister responsible for finance shall within six months after the end of each financial year prepare and submit to the Auditor-General the Financial Report of the Government in respect of the preceding financial year.

(2) The Financial Report referred to under clause (1), shall include information on -

- (a) revenue and other money received by the Government during that financial year;
- (b) the expenditure of the Government during that financial year including expenditure charged by this Constitution or any other law, on the Consolidated Fund;
- (c) debt repayments;
- (d) payment made in that financial year for purposes other than expenditure;
- (e) the financial position of the Republic at the end of that financial year; and
- (f) other information that shall be prescribed under the Budget Act.

(3) The Auditor-General shall examine the Financial Report submitted by the Minister responsible for finance under clause (1), and express an opinion on the report.

(4) The Minister responsible for finance shall within nine months after the end of the financial year lay the Financial Report of the Government with Auditor General's opinion before the National Assembly.

**Disposal of  
state assets**

**334.** A major state asset, such as a parastatal company or a commercial enterprise of the State, shall not be sold, transferred or disposed of, except with the prior resolution of the National Assembly, supported by a vote of not less than two-thirds of all the members of the National Assembly.

**Auditor-General**

**335.** (1) There is established the Office of the Auditor-General the holder of which is the Auditor-General and which is a public office.

(2) The Auditor-General shall be appointed by the President, on the recommendation of the State Audit Commission and ratified by the National Assembly.

(3) A person does not qualify to be appointed Auditor-General unless that person -

- (a) is a citizen;
- (b) is a qualified professional accountant;
- (c) has served for at least fifteen years in the area of management of public accounts;
- (d) has attained the age of forty-five years; and
- (e) is of proven integrity.

(4) The Auditor-General shall before assuming office take and subscribe to the Oath of allegiance to the Constitution and the people of Zambia, the oath of secrecy and any other oath as set out in the Third Schedule.

(5) The Auditor-General shall retire from office on the attainment of seventy years of age.

(6) The emoluments and other terms and conditions of service of the Auditor-General shall be as recommended by the Emoluments Commission and approved by the National Assembly.

(7) The grounds stated under Article 221 (2) and 222 on the procedure for the removal of a judge of a superior court shall apply to the Auditor-General with necessary modifications.

**Independence  
of Auditor-  
General**

**336.** (1) In the performance of the functions conferred on the Auditor-General under this Constitution or by any other law, the Auditor-General and the Office of the Auditor-General is not subject to the direction or control of any person or authority.

(2) All allocation of money made to and due in respect of the Office of the Auditor-General and the employees of that Office are charged on the Consolidated Fund and shall be paid to the Office of the Auditor-General by the Minister responsible for finance.

**Functions of  
Auditor-General**

- 337.** (1) The Auditor-General shall -
- (a) audit the accounts of -
- (i) the Central Government and local authorities;
  - (ii) all offices financed wholly or partly from public funds including the universities, public corporations, the Central Bank, the courts and other State organs and institutions established under this Constitution or by or under an Act of Parliament;

- (b) audit the accounts that relate to the stocks, shares and stores of the Government;
- (c) conduct financial and value for money audits in respect of any project that involves the use of public funds;
- (d) ascertain that money appropriated by the National Assembly or raised by the Government and disbursed –
  - (i) has been applied for the purpose for which it was appropriated;
  - (ii) was expended in conformity with the authority that governs it; and
  - (iii) was expended economically, efficiently and effectively; and
- (e) recommend to the Director of Public Prosecutions or any other law enforcement agency any matter, within the competence and functions of the Auditor-General, that may require to be prosecuted.

(2) For the purposes of clause (1), the Auditor-General or a person authorized or appointed by the Auditor-General shall have access to all documents that relate to or are relevant to the accounts.

(3) Accounts subject to auditing by the Auditor-General shall be kept in the form approved by the Auditor-General.

(4) The Auditor-General shall not later than nine months after the end of each financial year submit a report of the accounts audited under clause (1), in respect of the immediately preceding financial year to -

- (a) the President; and
- (b) the National Assembly.

(5) The National Assembly shall, within three months after the submission of the report referred to in clause (4), consider the report and take appropriate action.

(6) The Auditor-General may conduct audits of public accounts at intervals and with the regularity that the Auditor-General considers necessary.

(7) The President or the National Assembly may, at any time, in the public interest, request the Auditor-General to audit the accounts of a public body or State organ or institution, subject to audit under this Part.

(8) The accounts of the Office of the Auditor-General shall be audited and reported on to the National Assembly by external auditors appointed by the National Assembly.

**Reference  
by Auditor-  
General**

**338.** The Auditor-General may refer any case of malpractice or financial impropriety to such public institution, as the Auditor-General considers appropriate, for action.

**Staff of Office  
of Auditor-  
General**

**339.** The Office of the Auditor-General has power, under the supervision of the State Audit Commission, to recruit, grade, promote and discipline its staff.

**State Audit  
Commission**

**340.** (1) There is established a State Audit Commission.

(2) The State Audit Commission shall consist of a chairperson and five other members.

(3) The members of the State Audit Commission shall be persons from the private sector with -

- (a) expertise and experience in state audit, internal or external audit or finance;
- (b) considerable experience in the public finance; or
- (c) professional qualifications of relevance to the work of the State Audit Commission.

(4) The members of the State Audit Commission shall be appointed by the President, subject to ratification by the National Assembly.

(5) The tenure of office of a member of the State Audit Commission is three years and the member is eligible for re-appointment for another term of three years only.

**Functions of State Audit Commission**

- 341.** The functions of the State Audit Commission include-
- (a) making recommendations to the President for the appointment of the Auditor-General;
  - (b) supervising the operations of the Office of the Auditor-General; and
  - (c) performing such other functions as prescribed by this Constitution and by an Act of Parliament.

**National Fiscal and Emoluments Commission**

**342.** (1) There is established the National Fiscal and Emoluments Commission, the membership, functions and structures of which shall be prescribed by an Act of Parliament.

(2) Without limiting the scope of clause (1), the functions of the National Fiscal and Emoluments Commission include -

- (a) assessing the financial and fiscal policies of the Government and recommending to the Government equitable financial and fiscal allocations from the Consolidated Fund to the Government, the provinces and local authorities; and
- (b) recommending for the approval of the National Assembly the emoluments of -
  - (i) the President and Vice President;
  - (ii) the Chief Justice and Deputy Chief Justice and other Judges of the Superior court
  - (iii) the Speaker and Deputy Speakers;
  - (iv) Ministers, Provincial Ministers and Deputy Ministers;
  - (v) members of the National Assembly;
  - (vi) the Secretary to the Cabinet and the Deputy Secretary to the Cabinet
  - (vii) the security chiefs, heads of the Defence Force and the national security agencies;
  - (vii) the Auditor-General;
  - (ix) the Governor of the Central Bank;
  - (x) the other public office holders specified under this Constitution; and
  - (xi) other public office holders as prescribed by or under an Act of Parliament.

**PART XVIII**  
**CENTRAL BANK**

**Central Bank**

**343.** (1) The Bank of Zambia is the Central Bank of Zambia and is the only authority to issue the currency of Zambia.

(2) The authority of the Central Bank vests in the board of directors of the Bank consisting of the Governor and not more than six other persons.

(3) In appointing the Governor and the other members of the Board, consideration shall be given to achieving equitable gender representation.

**Independence  
of Central  
Bank**

**344.** (1) In the performance of its functions the Central Bank is subject to this Constitution, and is not subject to the direction or control of any person or authority.

(2) Except as otherwise provided in this Constitution, the appointment, promotion, discipline and determination of the terms and conditions of service of staff and other employees of the Central Bank vests in the Board of Directors.

**Functions of  
Central  
Bank**

**345.** The Central Bank shall -

- (a) formulate and implement monetary and supervisory policies aimed at maintaining the stability of the value of the currency of Zambia;
- (b) license, supervise and regulate the activities of banks and financial institutions to promote the safe, sound and efficient operations and development of the financial system;
- (c) promote efficient payment mechanisms;

- (d) issue notes and coins of Zambia;
- (e) act as banker and fiscal agent to the Republic;
- (f) support the efficient operation of the exchange system;
- (g) act as adviser to the Government on matters that relate to economic and monetary management; and
- (h) perform other functions prescribed by an Act of Parliament, consistent with this Constitution.

**Governor  
and Deputy  
Governor**

**346.** (1) who –

- (1) There shall be a Governor of the Central Bank
  - (a) is a citizen by birth;
  - (b) is not less than forty-five years old;
  - (c) is a person with extensive knowledge and experience in matters that relate to economics, finance or accounting;
  - (d) is a person of proven integrity;
  - (e) is appointed by the President and ratified by the National Assembly for a period not exceeding four years which may be renewed for a further four year term only;
  - (f) is the chairperson of the Board of directors; and
  - (g) shall be removed from office only on the same grounds and by the same procedure for the removal of a judge of a superior court, under

Articles 221 (2) and 222, with necessary modifications.

(2) The emoluments of the Governor shall be as recommended by the Emoluments Commission and approved by the National Assembly.

(3) There shall be a Deputy Governor of the Bank who-

(a) shall have the same qualifications as the Governor; and

(b) shall be appointed by the Board of Directors from among the employees of the Bank or from non-employees of the Bank.

(4) The Board shall determine the terms and conditions of service of the Deputy Governor.

**Act of Parliament  
to further regulate  
Central Bank**

**347.** Parliament shall enact legislation to provide for -

(a) the appointment, qualifications, tenure and other terms and conditions of service of the Board of Directors, other than the Governor;

(b) election of a vice-chairperson from among the members of the Board of Directors;

(c) the grounds for removal of a director of the Board other than the Governor;

(d) the functions of the Deputy-Governor; and

(e) other matters necessary for the effective performance of the functions of the Bank.

**Oath of Office**

**348.** The Governor of the Central Bank shall before assuming office take and subscribe to the Oath of allegiance to the

Constitution and the people of Zambia, the Oath of Secrecy and any other Oath, as set out in the Third Schedule.

**PART XIX**  
**LAND AND PROPERTY**

**Basis of  
land policy**

- 349.** (1) The land policy of Zambia shall ensure –
- (a) equitable access to land and associated resources;
  - (b) security of land rights for land holders, users and occupiers in good faith;
  - (c) sustainable and productive management of land resources;
  - (d) transparent and cost effective administration of land;
  - (e) sound conservation and protection of ecologically sensitive areas;
  - (f) cost effective and efficient settlement of land disputes;
  - (g) that forestry reserves are de-gazetted as the population increases in a particular area; and
  - (h) that river frontages, islands and lakeshores are not leased, fenced or sold.

(2) All land in Zambia shall be administered and controlled for the use or common benefit, direct or indirect, of the people of Zambia.

**Land tenure**

**350.** (1) Land in Zambia shall be alienated and held on the basis of customary or leasehold tenure, as prescribed by this Constitution or an Act of Parliament.

(2) Subject to clause (1), State land may be held on a lease of ninety-nine years or such lesser years as may be prescribed in legislation for different categories of State land.

(3) A person who is not a citizen is only entitled to lease land for a restricted period of time, as prescribed by an Act of Parliament.

(4) Parliament shall, by an Act of Parliament, prescribe the categories of non-citizens and the conditions under which non-citizens may hold land.

**Vesting of land**

**351.** (1) Land in Zambia is vested in the President and is held by the President in trust for and on behalf of the people of Zambia.

(2) Subject to clause (3), the President may, through the National Lands Commission, Chiefs or local authorities, alienate land to citizens or to non-citizens, as prescribed by this Constitution and by an Act of Parliament.

(3) Land situated in a district shall be administered by the local authority.

**Classification of land**

**352.** All land in Zambia is classified as customary land or State land, as may be delimited by or under an Act of Parliament.

**State land**

**353.** (1) State land is -

- (a) land held by any person under leasehold tenure;

- (b) land which at the commencement of this Constitution was unalienated State land as defined by an Act of Parliament;
- (c) land lawfully held, used or occupied by any government Ministry, department, agency or local authority;
- (d) land on or under which minerals are found as specified under law;
- (e) land in respect of which no heir can by ordinary legal process be identified;
- (f) land occupied by, or through which, any natural resource passes including gazetted or declared forests, game reserves, and water catchment areas, rivers and other natural flowing water resources, national parks, animal sanctuaries and specially protected areas;
- (g) any land not classified as customary land under this Constitution; and
- (h) any other land declared as State land by an Act of Parliament.

(2) State land shall not be alienated or otherwise used except in terms of legislation specifying the nature and terms of that alienation or use.

**Customary  
land**

**354.** (1) Customary land is land held by communities identified on the basis of tribe, residence or community of interest.

(2) For the purposes of clause (1), "customary land" includes -

- (a) land customarily held, managed or used by specific communities as community forests, grazing areas or shrines;
- (b) land lawfully alienated to a specific community by any process of law;
- (c) ancestral lands traditionally occupied by an ethnic community; and
- (d) any other land declared to be customary land by an Act of Parliament.

(3) Customary land shall not be alienated or otherwise used until the approval of the chief and local authority in whose area the land is situated has first been obtained, and as may be provided by or under an Act of Parliament.

(4) An approval under clause (3), shall not be unreasonably withheld.

**Regulation  
of land use**

355. (1) The State is empowered to regulate the use of any land, interest or right in land in the interest of defence, public safety, public order, public morality, public health, land use planning or the development or utilization of property.

(2) The State shall encourage and provide a conducive, social, economic, political and legal atmosphere for the creation, development and management of property.

(3) Parliament shall enact legislation -

- (a) requiring the Government and relevant organizations, including local authorities, to encourage the use of acceptable, affordable and reasonable

- intermediate technologies and building materials;
- (b) for the use of innovations and methods in the property sector, provided their use is not harmful or injurious to persons and the environment; and
- (c) ensuring that major investments in property benefit local communities and their economy.

**National  
Lands Board**

**356.** (1) There is established a National Lands Board which shall consist of the following persons appointed by the President and ratified by the National Assembly:

- (a) the Commissioner of Lands;
- (b) one representation of the Environmental Council of Zambia;
- (c) one representative of the Institute of Surveyors;
- (d) a representative of the House of Chiefs;
- (e) one representative from the department responsible for town and country planning;
- (f) one representative of the Ministry responsible for lands; and
- (g) one representative of the Law Association of Zambia, with not less than fifteen years experience in law.

(2) The Chairperson shall be appointed from amongst the members of the Board by the President and ratified by National Assembly.

(3) In the appointment of members of the National Lands Board consideration shall be given to achieving equitable gender representation.

(4) Parliament shall enact legislation to providing for the National Lands Board's, financial resources and financial management, procedures, administration and staffing and generally for the functioning of the Board.

(5) The National Lands Board shall establish offices in every province.

**Commissioner of lands**

**357.** (1) The Commissioner of Lands shall be the chief administrator of the National Lands Board.

(2) The term of office of the Commissioner of lands shall be five years, subject to renewal or until the person attains retirement age.

**Tenure of office**

**358.** (1) A member of the National Lands Board, except the Commissioner of Lands, shall hold office for a term of three years, subject to renewal for a further term of 3 years only.

(2) A member of the National Lands Board enjoys security of tenure during the member's term of office and may be removed from office on the same grounds provided under Article 221 (2) and under the same procedure for the removal of a Judge of a superior court, Article 222 with necessary modifications.

**Functions of National Lands Board**

**359.** The functions of the National Lands Board are to-

- (a) administer, manage and alienate land on behalf of the President;

- (b) formulate and recommend to the Government a national lands policy;
- (c) advise the national and local governments on a policy framework for the development of selected areas of Zambia and to ensure that the development of customary land is in accordance with the development plan for the area;
- (d) advise the Government on, and assist in the execution of, a comprehensive programme for the registration of Leasehold title in land throughout Zambia;
- (e) conduct research related to land and natural resource use, and make recommendations to appropriate authorities;
- (f) facilitate the participation of communities in the formulation of land policies;
- (g) encourage the application of traditionally accepted systems of dispute resolution in land conflicts;
- (h) assess tax on land and premiums on property in any area designated by law;
- (i) monitor and have oversight responsibilities over land use planning throughout the country; and
- (j) any other functions as may be prescribed by or under an Act of Parliament

- (a) revise, consolidate and rationalise existing laws relating to land;
- (b) prohibiting speculation in land;
- (c) revise sectoral land use law in accordance with the national land policy;
- (d) regulate the manner in which any land may be converted from one category to another;
- (e) enable the ascertainment of land held for the benefit of any community by any person or agency, and the transfer of such land to communities entitled to it;
- (f) protect, conserve and provide equitable access to all State land;
- (g) enable the settlement of landless people including the rehabilitation of spontaneous settlements of rural and urban communities; and
- (h) prescribe minimum and maximum land holding acreage in arable areas.

## **PART XX**

### **ENVIRONMENT AND NATURAL RESOURCES**

**Basis of  
environment  
policy**

**361.** The management and development of Zambia's natural resources shall –

- (a) respect the integrity of natural processes and ecological communities, including conservation of habitats and species;
- (b) ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources for the present and future and generation;
- (c) ensure equitable sharing of benefits, amongst the local communities, accruing from exploitation, utilization and management of the environment and natural resources;
- (d) ensure equitable access to all natural resources;
- (e) recognise that natural resources have an economic and social value and this should be reflected in their use;
- (f) not bestow private ownership of any natural resource or authorise its use in perpetuity;
- (g) ensure gender mainstreaming by promoting equity between women and men and involving women in decision making processes relating to the use of natural resources and efforts to reduce poverty are reflected in all decisions;
- (h) ensure that social and cultural values and methods traditionally applied by local communities for the sustainable management of the environment and natural resources are observed;

- (i) ensure that planning and utilization of the environment takes account of disadvantaged areas and their inhabitants;
- (j) promote energy saving and the use of solar energy and other renewable energy sources;
- (k) prevent pollution and ecological degradation; and
- (l) allocate adequate resources to reclaim and rehabilitate degraded areas and those prone to disasters to make them habitable and productive.

**Protection of environment**

**362.** Every person has a duty to co-operate with State organs and institutions and other persons –

- (a) to ensure ecologically sustainable development and use of natural resources;
- (b) to respect, protect and safeguard the environment;
- (c) to prevent or discontinue an act which is harmful to the environment;
- (d) to direct the appropriate authority to take measures to prevent or discontinue an act or omission which is harmful to the environment; and
- (e) to maintain a clean, safe and healthy environment.

**Conservation of environment**

**363.** In the utilization and management of the environment the State shall –

- (a) protect genetic resources and biological diversity;
- (b) discourage waste and encourage recycling;
- (c) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
- (d) encourage public participation;
- (e) protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of the local communities; and
- (f) ensure that the environmental standards enforced in the Republic are of essential benefit to all citizens and are the accepted international standards.

**Enforcement of environmental rights**

**364.** (1) If a person alleges that a right to a clean and healthy environment recognized and protected under this Constitution has been, is being or is likely to be, contravened, in addition to any other legal remedies which are available in respect to the same matter, that person may apply to the Constitutional Court for redress.

(2) On an application by a person under clause (1), the Constitutional Court may make an order, or give directions that it considers appropriate, to –

- (a) prevent, stop or discontinue any act or omission which is harmful to the environment;

- (b) compel any public officer to take measures to prevent or discontinue any act or omission which is harmful to the environment; and
- (c) provide compensation for any damage to property arising from the exploitation of natural resources, any other person or for the injury or death of any person, caused by a harmful environment.

(3) A person may make an application under this Article even if that person cannot show that the defendant's act or omission has caused or is likely to cause that person any personal loss or injury.

**Utilization and development of natural resources**

**365.** (1) The State shall ensure the protection, management, promotion and sustainable development of natural resources in accordance with the basic policy under this Constitution and shall -

- (a) ensure an increase in output and profits;
- (b) undertake strategic research to ensure their enhancement;
- (c) eliminate unfair trade practices in their production, processing, distribution and marketing;
- (d) regulate their exportation and importation;
- (e) regulate their origin, quality, methods of production, harvesting and processing;
- (f) eliminate processes and activities that are likely to endanger or curtail their existence; and

- (g) utilize them for the benefit of all the people of Zambia.

(2) Parliament may enact legislation to provide for the utilization and management of a natural resource by a local authority where the resource is located and shall enact legislation to –

- (a) regulate sustainable exploitation, utilization, management and equitable sharing of benefits accruing from natural resources; and
- (b) protect the intellectual property rights and indigenous knowledge of local communities in biodiversity and access to genetic resources.

**Agreements relating to natural resources**

**366.** A transaction involving the grant of a right or concession by or on behalf of any person, including the Government, to another person, for the exploitation of any natural resource of Zambia shall be in accordance with this Constitution and royalties shall be paid in respect of the exploitation of the natural resource.

## **PART XXI**

### **NON-GOVERNMENTAL ORGANISATIONS**

**Guiding principles of Non-Governmental Organisations**

**367.** The following principles shall guide non-governmental organisations –

- (a) transparency and accountability;

- (b) independence, self governing, impartiality and integrity;
- (c) voluntarism;
- (d) responsibility, service and public spiritedness;
- (e) co-operation beyond state boundaries;
- (f) human rights and dignity; and
- (g) non-profitability.

**Establishment of Non-Governmental Organisations**

**368.** (1) The right to establish and form non-governmental organisations is guaranteed.

(2) A non-governmental organisation is a voluntary, non profit independent body.

**Registration**

**369.** Subject to this Part, a non-governmental organisation shall be registered in accordance with an Act of Parliament which shall provide for the code of ethics, for the regulation of the funds and management of the organisation.

**PART XXII  
AMENDMENTS TO, AND REVIEW  
OF, CONSTITUTION**

**Amendment of Constitution**

**370.** (1) Subject to this Constitution, the National Assembly may, by an Act of Parliament, amend a provision of this Constitution.

(2) An amendment of this Constitution shall be in accordance with the procedure laid down in this Part.

(3) A Bill to amend this Constitution shall have the sole purpose of amending this Constitution and shall not provide for any matter.

(4) A Bill to amend a provision of this Constitution which is on the objectives, principles or structures of local government, shall not be introduced in the National Assembly unless the Bill has been approved by a resolution of not less than two-thirds of all councillors of the district councils.

(5) For the purpose of this Part, “amend” means to alter, repeal, replace, vary, add to or cancel, whether in part or in whole a provision of this Constitution.

(6) A complete review or replacement of this Constitution shall only be effected under an Act of Parliament which provides for the conditions, the process and method of review.

**Amendment by  
referendum**

**371.** (1) A Bill to amend this Constitution in respect of any of the following areas shall be by a referendum and in accordance with this Article:

- (a) the supremacy and defence of this Constitution and the Republic of Zambia and its sovereignty, Parts I and II;
- (b) citizenship;
- (c) the Bill of Rights, Part VI;
- (d) Representation of the People, Articles 105 to 119;
- (e) the Executive, Articles 130, 131, 132, 133, 137, 138, 139, 143, 145, 147, 149, 151, 152 (1) (2),
- (f) the Legislature, Articles 166 and 177;

(g) the Judiciary; Articles 197, 198, 199, 219 and 221;

(h) Amendment of Constitution, Part XXII.

(2) The Bill shall be published in the *Gazette* and shall be laid before the National Assembly for first reading at the end of one month after the publication.

(3) After the first reading, the Speaker shall suspend further action on the Bill and refer the Bill to the Electoral Commission for a referendum to be held on the Bill throughout Zambia within thirty days of receipt of the reference.

(4) Where in the referendum, at least fifty percent of the registered voters vote and of those who voted, seventy percent vote in favour of the amendment, the National Assembly shall proceed to pass the Bill.

**Amendment  
without  
referendum**

**372.** (1) A Bill to amend a provision of the Constitution, other than those specified in Article 371 (1), shall be in accordance with this Article.

(2) The Bill shall be published in the *Gazette*.

(3) One month after the date of the publication, the Bill shall be laid before the National Assembly.

(4) The Bill shall not be taken as passed by the National Assembly unless the Bill is approved at the second and third readings by the votes of at least two-thirds of all the members of the National Assembly through a secret ballot.

**Certificate of  
compliance**

**373.** A Bill for the amendment of this Constitution which has been passed in accordance with this Part, shall be assented to by the President only if -

- (a) it is accompanied by a certificate from the Speaker that the provisions of this Part have been complied with in relation to it; and
- (b) in the case of a Bill to amend a provision that requires referendum, it is accompanied by a certificate from the Electoral Commission, signed by the Chairperson of the Commission and bearing the seal of the Commission, that the Bill was approved at a referendum in accordance with this Part.

**PART XXIII**  
**MISCELLANEOUS**

**Legal Aid**

**374.** For the purposes of enforcing a provision of this Constitution, a person is entitled to legal aid in connection with any proceedings relating to this Constitution if that person has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings.

**Regulation of  
grant of legal  
aid**

**375.** (1) Parliament shall by or under an Act of Parliament, regulate the grant of legal aid.

(2) Parliament may, under clause (1), provide for the granting of legal aid in matters other than those referred to in Article 374.

(3) For the purposes of this Article, legal aid consists of representation by a legal practitioner, including all assistance given by a legal practitioner in any preliminary or incidental matters.

**Interpretation  
of Constitution**

**376.** (1) This Constitution shall be interpreted in a manner that -

- (a) promotes its purposes, values and principles;
- (b) advances human rights and fundamental freedoms and the rule of law;
- (c) permits the development of the law; and
- (d) contributes to good governance.

(2) If there is a conflict between different language versions of this Constitution, the English language version shall prevail.

(3) Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking, and accordingly -

- (a) a power granted or duty imposed by this Constitution may be exercised or performed as occasion requires, by the person holding the office to which the power is granted or the duty is assigned;
- (b) any reference in this Constitution or any other law to a person holding an office under this Constitution or under any other law, includes a reference to the person lawfully performing the functions of that office at any particular time;
- (c) a reference in this Constitution or any other law to an office, State organ or institution or locality named in this Constitution shall be read with any formal alteration necessary to make it applicable in the circumstances; and

(d) a reference in this Constitution to an office, body or organisation is a reference to that office, body or organisation, or if the office, body or organisation has ceased to exist, to its successor or to the equivalent office, body or organisation.

(4) For the purposes of this Constitution and any other law, a person shall not be considered as holding a public office by reason only of the fact that that person is in receipt of emoluments in respect of service under or for the Government.

(5) Under this Constitution or any other law, power to appoint a person to hold or to act in an office in the Public Services includes the power to confirm appointments, to exercise disciplinary control over the person holding or acting in the office and to remove that person from office;

(6) A provision of this Constitution or of any other law, to the effect that a person, an authority or institution is not subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law, does not preclude a court from exercising jurisdiction in relation to any question whether that person, authority or institution has performed those functions in accordance with this Constitution or the law.

(7) Where in this Constitution or any other law, power is given to a person or an authority to do or enforce the doing of an act, the power includes the necessary and ancillary powers to enable that person or authority to do or enforce the doing of the act.

(8) Where in this Constitution or any other law, power is conferred on a person or an authority to issue orders, make rules,

regulations, other statutory instrument, a resolution or direction, the power includes the power to be exercised in the same manner, to amend or revoke the orders, rules, regulations other statutory instrument, resolution or direction.

(9) In this Constitution, unless the context otherwise requires -

- (a) persons include corporations;
- (b) words in the singular include the plural, and words in the plural include the singular; and
- (c) where a word or expression is defined, any grammatical variation or cognate expression of that word shall be read with the changes required by the context.

**Exercise of discretionary power**

377. Where in this Constitution or in any other law, discretionary power is vested in any person or authority -

- (a) that discretionary power implies a duty to be fair and candid; and
- (b) the exercise of the discretionary power shall not be arbitrary, capricious, unreasonable or biased, either by resentment, prejudice or personal dislike and shall be in accordance with the due process of law.

**Definitions**

378. In this Constitution, unless the context otherwise requires -

“adult” means an individual who has attained the age of eighteen years;

“affirmative action” includes any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or freedom;

“chief” means a person recognised as chief and who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that chief;

“child” means an individual who has not attained the age of eighteen years;

“citizen” means a citizen of Zambia;

“commission” means a commission established by or under this Constitution;

“Constitutional Court” means the Supreme and Constitutional Court sitting as a Constitutional Court;

“councillor” means a member of a city, municipal or district council;

“court” means a court of competent jurisdiction established by or under the authority of this Constitution;

“district council” includes a city or municipal council;

“disability” means any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being, and would or would not entail the use of supportive or

therapeutic devices and auxiliary aids, interpreters, white cane, reading assistants, hearing aids, guide dogs or any other trained animals trained for that purpose;

“Electoral Commission” means the Electoral Commission of Zambia established by Article 112;

“emolument” includes salaries, allowances benefits and rights that form an individual’s remuneration for an office, including pension, gratuity and other benefits on retirement;

“Emoluments Commission” means the National Fiscal and Emoluments Commission established by Article 342;

“Ethics Commission” means the Ethics Commission established by Article 103;

“executive function” means the functions of the President set out in this Constitution;

“functions” includes powers and duties;

“general elections” means Presidential, Parliamentary and local government elections;

“individual” means a natural person;

“judgement” includes a decision, an order or decree of a court or any authority prescribed by an Act of Parliament;

“Judicial officers” includes magistrates, local court justices and senior administrative staff;

“Laws” means the Laws of Zambia;

“legislation” means an Act of Parliament or a law made under a power conferred by an Act of Parliament;

“mayor” includes a chairperson of a city, municipal or district council;

“Minister” means a Cabinet Minister;

“non-governmental organisation” includes a body of persons corporate or unincorporated who agree to work together for a common purpose, or an association formed for any ethnic, social, cultural, occupation or religious purpose and a quasi-non- governmental body;

“oath” includes an affirmation;

“office holder” means a person who holds an office of trust, whether as a public leader or in the public or private sector;

“older member of society” means an individual who is above the age of sixty-five years;

“Ombudsman” means the Parliamentary Ombudsman;

“person” includes an individual, a company, an association of persons whether corporate or unincorporated;

“political party” means an association of individuals organized in accordance with Article 120;

“power” includes privilege, authority and discretion;

“public office” includes an office the emoluments of which are paid directly from the Consolidated

Fund or directly out of money provided and as approved by Parliament;

“public officer” means a person holding or acting in a public office;

“public service” includes service in a public office, public corporation and statutory body other than those set up for commercial ventures;

“principal officer” includes a town clerk and a council secretary;

“Republic” means the Republic of Zambia;

“single member constituency” means a constituency whose electoral system is based on first-past the-post as opposed to proportional representation system;

“State organ” means the Executive, the Legislature or the Judiciary;

“State institution” includes a Ministry, department of the Government, a public office or agency or institution, statutory body or public corporation, commission or body established under this Constitution or by or under an Act of Parliament;

“statutory instrument” means a rule, regulation, by-law, order or other similar law made under a power conferred by an Act of Parliament;

“Supreme Court” means the Supreme and Constitutional Court sitting as a Supreme Court;

“taxes” includes rates, levies, charges and duties;

“treason” includes -

- (a) instituting a war against the Republic or assisting any state or person or inciting or conspiring with any state or person to institute war against the Republic;
- (b) effecting or attempting to effect by force of arms or other violent means the overthrow of a State organ or institution;
- (c) effecting or attempting or being concerned in any act to overthrow, abrogate or suspend the operation of this Constitution; and

“youth” means a person who is eighteen years of age but below the age of thirty five.

**FIRST SCHEDULE**

(Article 4)

**MAP OF ZAMBIA**

**SECOND SCHEDULE**

(Article 6 (a))

**NATIONAL SYMBOLS**

(Article 6 (a))

**FLAG**

**SECOND SCHEDULE**

(Article 6 (b))

**NATIONAL SYMBOLS**

(Article 6 (b))

**NATIONAL ANTHEM**

**SECOND SCHEDULE**

(Article 6 (c))

**NATIONAL SYMBOLS**

(Article 6 (c))

**COURT OF ARMS**

**SECOND SCHEDULE**

(Article 6 (d))

**NATIONAL SYMBOLS**

(Article 6 (d))

**PUBLIC SEAL**

**SECOND SCHEDULE**

(Article 6 (e))

**NATIONAL SYMBOLS**

(Article 6 (e))

**MOTTO**

**THIRD SCHEDULE**

**FORMS OF OATH**

**THE PRESIDENTIAL OATH**

I, .....  
having been elected to the high office of President of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm) that I will be faithful and true to the people of the Republic of Zambia; that I will at all times preserve, protect and defend the Constitution of the Republic of Zambia; and that I dedicate myself to the service and well-being of the people of the Republic of Zambia and to do right to all manner of persons.

I further (solemnly swear) (solemnly affirm) that should I at any time break this oath of office, I shall submit myself to the laws of the Republic of Zambia and suffer the penalty for it.

**SO HELP ME GOD**

*To be administered by the Chief Justice.*

## THE OATH OF THE VICE-PRESIDENT

I, .....  
having been elected to the office of Vice-President of the Republic of Zambia, do (in the name of the Almighty God swear) (solemnly affirm) that I will be faithful and true to the people of the Republic of Zambia; that I will at all times preserve, protect and defend the Constitution of the Republic of Zambia; and that I dedicate myself to the service and well-being of the people of the Republic of Zambia and to do right to all manner of persons.

I further (solemnly swear) (solemnly affirm) that should I at any time break this oath of office, I shall submit myself to the laws of the Republic of Zambia and suffer the penalty for it.

### SO HELP ME GOD

*To be administered by the Chief Justice.*

## THE JUDICIAL OATH

I, ..... having been appointed (a Judge/judicial officer do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true and faithful allegiance to the people of the Republic of Zambia; that I will uphold the sovereignty and integrity of the Republic of Zambia and that I will truly and faithfully perform the functions of my office without fear or favour, affection or ill-will; and that I will at all times uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established.

### SO HELP ME GOD

*To be sworn before the President, the Chief Justice or such other person as the Chief Justice may designate.*

## THE OATH OF MINISTER/DEPUTY MINISTER

I, ..... having been appointed Minister/Deputy Minister of the Republic of Zambia, do (in the name of the Almighty God swear) (solemnly affirm) that I will at all times well and truly serve the people of the Republic of Zambia in the office of Minister/Deputy Minister; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established; that I will, to the best of my judgement, at all times when required, freely give my counsel and advice for the good governance of the Republic of Zambia; and that I will not directly or indirectly reveal matters that shall come to my knowledge in the discharge of my duties and committed to my secrecy.

### SO HELP ME GOD

*To be sworn before the President.*

## THE OATH OF SECRECY

I, ..... holding the of office ..... do (in the name of the Almighty God swear) (solemnly affirm) that I will not directly communicate or reveal to any person any matter which shall be brought under my consideration or shall come to my knowledge in the discharge of my official duties except as may be required for the discharge of my official duties or as may be specially permitted by law.

### SO HELP ME GOD

*To be sworn before the President, the Chief Justice or such other person as the President may designate.*

**THE OFFICIAL OATH**

**I**, ..... do (in the name of the Almighty God swear) (solemnly affirm) that I will at all times well and truly serve the people of the Republic of Zambia in the office of..... and that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established.

**SO HELP ME GOD**

*To be sworn before the President or such other person as the President may designate.*

**THE SPEAKER'S OATH**

**I**, ....., do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the people of the Republic of Zambia; that I will uphold the integrity of the Republic of Zambia; that I will faithfully and conscientiously discharge my duties as Speaker of the National Assembly; and that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established; and that I will do right to all manner of persons in accordance with the Constitution of Zambia and the laws and conventions of the National Assembly without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the Chief Justice.*

**THE OATH OF A MEMBER OF THE NATIONAL ASSEMBLY**

I, ....., having been elected a member of the National Assembly do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the Constitution and the people of the Republic of Zambia; that I will uphold, preserve, protect and defend the Constitution of Zambia by law established the Republic of Zambia and that I will faithfully and conscientiously discharge the duties of a member of the National Assembly.

**SO HELP ME GOD**

*To be sworn before the Speaker*

**THE OATH OF THE AUDITOR-GENERAL**

I, ....., having been appointed Auditor-General of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the people of the Republic of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President, or such other person as the President may designate.*

**THE OATH OF MEMBER OF HOUSE OF CHIEFS**

**I,** ....., having been appointed as a representative in the House of Chiefs of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the people of the Republic of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President, or such other person as the President may designate*

**THE OATH OF THE ATTORNEY-GENERAL**

**I,** ....., having been appointed Attorney-General of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the people of the Republic of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President, or such other person as the President may designate*

**THE OATH OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

**I**, ....., having been appointed Director of Public Prosecutions of the Republic of Zambia do (in the name of the Almighty God swear) (solemnly affirm) that I will bear true faith and allegiance to the people of the Republic of Zambia; that I will uphold, preserve, protect and defend the Constitution of the Republic of Zambia as by law established; and that I will truly and faithfully perform the functions of my office without fear, favour, affection or ill-will.

**SO HELP ME GOD**

*To be sworn before the President, or such other person as the President may designate*