

**DRAFT CONSTITUTION 2012  
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**DRAFT CONSTITUTION OF ZIMBABWE  
CONSTITUTION OF ZIMBABWE  
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**CHAPTER 1**  
**FOUNDING PROVISIONS**

**1. The Republic**

Zimbabwe is a sovereign republic

**2. Supremacy of the Constitution**

(1) This Constitution is the supreme law of Zimbabwe and any other law or conduct inconsistent with it is invalid.

(2) The obligations imposed by this Constitution are binding on everyone, including all executive, legislative and judicial institutions of the State at all levels of government, and must be fulfilled by them.

**3. Founding values and principles**

(1) Zimbabwe is founded on the following values-

- (a) supremacy of the Constitution and the rule of law;
- (b) respect for fundamental human rights and freedoms;
- (c) respect for the inherent dignity and worth of each human being;
- (d) recognition of the equality all human beings, in particular gender equality;
- (e) Good governance.

(2) The principles of good governance, which bind all institutions of the State and government at all levels, include-

- (a) a multi-party system of democratic government;
- (b) an electoral system based on universal adult suffrage and free, fair and regular elections to ensure adequate representation of the electorate;
- (c) the orderly transfer of power following elections;
- (d) observance of the separation of powers;
- (e) respect for the people of Zimbabwe, from whom the authority to govern is derived;
- (f) openness, justice, accountability and responsiveness on the part of all institutions of government;

(g) the fostering of national unity, peace and stability, with due regard to diversity of languages, customary practices and traditions;

(h) recognition of the rights of racial, ethnic, cultural, linguistic, religious and political minorities;

(i) the equitable sharing of national resources including land;

(j) due respect for vested rights; and

(k) The devolution of governmental power to provinces and other appropriate levels.

**4 National territory**

Zimbabwe consists of the territory comprising Zimbabwe on the effective date and any additional territory as defined by an Act of Parliament.

**5 National Flag, National Anthem Public Seal and Coat of arms**

Zimbabwe must have a National Flag, a National Anthem, a Coat of Arms and a Public Seal, details of which are to be prescribed in an Act of Parliament.

**6 Languages**

(1) The official languages of Zimbabwe are English, Ndebele and Shona.

(2) English is the language of record

(3) An Act of Parliament may declare further languages to be official languages and languages of record.

(4) All State institutions and agencies at every level must

(a) ensure that all the official languages are treated equitably; and

(b) Take into account the language preferences of people affected by governmental measures or communications.

(5) The State must promote and advance the use of all languages used in Zimbabwe, including sign language, and must create conditions for the development of these languages.

**7. Promotion of public awareness of Constitution**

The State must promote public awareness of this Constitution by-

(a) translating it into the languages that are used by substantial numbers of people in

Zimbabwe and disseminating it as widely as possible;

(b) requiring this Constitution to be taught in educational institutions and as part of the training of members of the Defence Forces, the Police Service, the Prison Service and members and employees of public institutions; and

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

## **CHAPTER 2 NATIONAL OBJECTIVES**

### **2.1 Objectives to guide all institutions and agencies of State and Government**

The object set out in this Chapter guide all institutions and agencies of the State and Government at all levels, in taking and implementing policy decisions that will lead to the establishment and promotion of a just, free and democratic society in which people can enjoy prosperous and fulfilled lives.

### **2.2 Good governance**

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

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

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

### **2.3 Development and empowerment**

(1) All State and governmental institutions and agencies at every level must endeavour to facilitate rapid and equitable development, and in particular must take measures-

(a) to promote private initiative and self reliance;

(b) to foster agricultural, commercial, industrial, technological and scientific development

(c) foster the development of industrial and commercial enterprises in order to empower citizens of Zimbabwe

(d) to bring about balanced development of the different areas of Zimbabwe and a proper balance in the development of rural and urban areas; and

(e) To redress imbalances resulting from past practices and policies.

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

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

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

### **2.4 Food security**

The State must-

(a) encourage people to grow and store adequate food;

(b) secure the establishment of adequate food reserves; and

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

### **2.5 Cultural objectives**

(1) All State and governmental institutions and agencies at every level must promote and preserve cultural values and



practices, which enhance the dignity, well being and equality of Zimbabweans.

(2) All State and governmental institution agencies at every level, and all citizens, must endeavour to preserve and protect Zimbabwe's heritage.

## **2.6 Foreign policy objectives**

(1) The foreign policy of Zimbabwe must be based on principles of –

- (a) promotion and protection of the national interests of Zimbabwe;
- (b) respect for international law;
- (c) peaceful co-existence with other nations; and
- (d) The settlement of international disputes by peaceful means.

(2) The State must promote regional and pan-African cultural, economic and political cooperation and integration and must participate in international and regional organisations that stand for peace and the well being and progress of the region, the continent and humanity.

## **2.7 Gender balance and fair representation of marginalised groups**

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

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

(3) The State must ensure that all international conventions and treaties to which Zimbabwe is party and which address gender issues are incorporated into domestic law.

(4) All State and governmental Institutions and agencies at every level must take all practical measures to ensure that women have access to land and other resources on the basis of equality with men.

## **2.8 Children**

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

(a) enjoy family or prenatal care, or appropriate alternative care when removed from the family environment;

(b) receive shelter and basic nutrition, health care and social services; and

(c) Are protected from maltreatment, neglect abuse, exploitation, corruption or degradation.

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

(a) to protect children from exploitative labour practices; and

(b) to ensure that children are not required or permitted to perform work or provide services that –

(I) are inappropriate for the children's age; or

(II) Place at risk the children's well being, education, physical or mental health or spiritual, moral or social development.

(3) The State must ensure that all international conventions and treaties to which Zimbabwe is a party and which protect children are incorporated into domestic law.

## **2.9 Youth**

All State and governmental institutions and agencies at every level must take reasonable measures, including affirmative action programmes, to ensure that the youth, that is to say people between the ages of fifteen and thirty five years-

(a) have access to appropriate education and training;

(b) Have opportunities to associate and to be represented and participate in political, social, economic and other spheres of life.

(c) Are afforded opportunities for employment and other avenues to economic betterment;

(d) Have opportunities for healthy recreational activities and access to recreational facilities; and

(e) Are protected from harmful cultural practices and exploitation.

### **2.10 Elderly persons**

(1) All State and governmental institutions and agencies at every level must take reasonable measures, including legislative measures, to secure respect, support and protection for elderly persons and to encourage their participation in the life of the community.

(2) In particular, State and governmental institutions and agencies must endeavour, within the resources available to them-

(a) to provide facilities, food and care for elderly persons who are unable to provide for themselves;

(b) to develop programmes to give elderly persons the opportunity to engage in productive activity suited to their abilities and consistent with their vocations and desires; and

(c) To foster social organisations aimed at improving the quality of life of elderly persons.

### **2.11 Persons with disabilities**

(1) All State and governmental institutions and agencies at every level must recognise the right of persons with physical, mental or other disabilities to be treated with respect for their dignity as human beings.

(2) All State and governmental institutions and agencies at every level must endeavour, within the resources available to them; to assist persons with physical, mental or other disabilities to achieve their full potential and to minimise the disadvantages suffered by them.

(3) In particular, State and governmental institutions and agencies must endeavour-

(a) To develop programmes for persons with physical, mental or other disabilities, especially work programmes consistent with their capabilities and acceptable to them or their legal representatives;

(b) To consider the specific requirements of persons with physical,

mental or other disabilities as one of the priorities in development plans;

(c) To encourage the use and development of forms of communication suitable for use by persons with physical, mental or other disabilities; and

(d) To foster social organisations aimed at improving the quality of life of persons with physical, mental or other disabilities.

### **2.12 War Veterans**

All State and governmental institutions and agencies at every level must accord due respect to war veterans, that is to say—

(a) those who fought in the war of liberation and those who assisted the fighters; and

(b) those were detained for political reasons during the war of liberation.

### **2.13 Work and labour relations**

(1) All state and governmental institutions and agencies at every level must adopt reasonable policies and measures, within the resources available to them, to provide everyone with an opportunity to work in a freely chosen activity, in order to secure a decent living for themselves and their families.

(2) in particular, state and governmental institutions and agencies must endeavour to secure-

(a) full employment;

(b) just, equitable and satisfactory conditions of work, particularly with respect to-

(i) Adequate remuneration;

(ii) Equitable opportunity for promotion;

(iii) safety at work;

(iv) maternity leave; and

(v) rest, leisure, limitation of working hours, periodic holidays with pay and remuneration for public holidays;

(c) the removal of restrictions that unnecessarily inhibit or prevent people

from working and otherwise engaging in gainful economic activities;

(d) vocational guidance and the development of vocational and training programmes, including those for persons with disabilities;

(e) the implementation of measures such as family care that enable women to enjoy a real opportunity to work; and

(f) the rights of employers and employees to engage in collective bargaining and, where necessary, to engage in appropriate collective job action to enforce their rights.

#### **2.14 Protection of the family**

(1) All State and governmental institutions and agencies at every level must protect and foster the institution of the family as the natural and basic unit of society.

(2) in particular, state and governmental institutions and agencies must endeavour, within the resources available to them, to adopt measures for –

(a) the provision of care and assistance to mothers, fathers and other family members who have charge of children; and

(b) the prevention of domestic violence.

#### **2.15 Marriage**

The State must take appropriate measures to ensure that -

(a) there is equality of rights and responsibilities of spouses during marriage and at its dissolution; and in the event of dissolution of a marriage, whether through death or divorce, provision is made for the necessary protection of any children and spouses.

#### **2.16 Education**

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

(2) In particular the State must take measures to ensure, so far as possible, that girls are afforded the same opportunities as boys to obtain education at all levels.

(3) The State must take appropriate measures, within the resources available to it -

(a) to afford adults access to basic and continuing education; and

(b) to afford equitable access to higher education

#### **2.17 Shelter**

All State and governmental institutions and agencies at every level must take reasonable legislative and other measures, within the resources available to them, to enable everyone to have access to adequate shelter.

#### **2.18 Health services**

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

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

#### **2.19 Social Welfare**

The state must take all practical measures, within the limits of the resources available to it, to provide social security and social care to those who are in need of it, in particular war veterans.

#### **2.20 Legal aid**

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

### **CHAPTER 3 CITIZENSHIP**

#### **3.1 Zimbabwean citizenship**

(1) All Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship.

(2) It is the duty of every Zimbabwean citizen-

(a) to observe this constitution and to respect its ideals and institutions;

(b) to respect the national flag and the national anthem; and

(c) to the best of their ability, to defend Zimbabwe in time of need.

(3) Zimbabwean citizens are entitled to the protection of the State wherever they may be.

(4) Zimbabwean citizenship may be acquired by birth or registration.

### **3.2 Citizenship by birth**

(1) Persons are Zimbabwean citizens by birth if when they are born, whether in Zimbabwe or elsewhere, either their mother or father is a citizen of Zimbabwe.

(2) An act of Parliament may limit the effect of subsection (1) on the descendents of Zimbabwean citizens who were born outside Zimbabwe and who acquired their citizenship through persons who were themselves born outside Zimbabwe.

(3) A child found in Zimbabwe who is, or appears to be, less than twelve years of age, and whose nationality and parents are not known, is presumed to be Zimbabwean citizen by birth.

(4) Subsection (1) and (3) apply also to people born before the effective date in the circumstances described in those subsections.

### **3.3 Rights of citizens by birth**

Zimbabwean citizens by birth do not lose their citizenship by acquiring the citizenship of another country.

### **3.4 Citizens by registration**

(1) anyone who has been married to a Zimbabwean citizen for at least ten years, whether before or after the effective date, and who satisfies the conditions prescribed by an act of parliament, is entitled on application to be registered as a Zimbabwean citizen.

(2) Anyone who has been continuously and lawfully resident in Zimbabwe for at least ten years, whether before or after the effective date, and who satisfies the conditions prescribed by an Act of Parliament, is entitled, on application, to be registered as a Zimbabwean citizen.

(3) A child who is not a Zimbabwean citizen, but is adopted by a Zimbabwean citizen,

whether before or after the effective date, is entitled on application to be registered as a Zimbabwean citizen.

(4) An Act of Parliament must establish conditions on which citizenship may be granted to individuals who are citizens of other countries.

### **3.5 Revocation of citizenship**

(1) If a person acquired Zimbabwean citizenship by registration, the citizenship may be revoked if-

(a) the person acquired the citizenship by fraud, false representation or concealment of a material fact;

(b) during a war in which Zimbabwe was engaged, the person unlawfully traded or communicated with an enemy or was engaged in or associated with any business that was knowingly carried on so as to assist an enemy in that war; or

(c) within five years after becoming a Zimbabwean citizen, the person is convicted of a criminal offence specified in an Act of Parliament.

(2) if a person acquired Zimbabwean citizenship by birth, having been presumed to be such a citizen as provided in section 2.2(3), the citizenship may be revoked if-

(a) the citizenship was acquired by fraud, false representation or concealment of a material fact by any person; or

(b) the person's nationality or parentage becomes known, and reveals that the person was a citizen of another country.

### **3.6 Retention of citizenship despite marriage or dissolution of marriage**

Zimbabwean citizenship is not lost through marriage or the dissolution of marriage.

### **3.7 Continuation of previous citizenship**

Everyone who, immediately before the effective date, was a Zimbabwean citizen continues to be a citizen of Zimbabwe after that date.

3.8 Powers of Parliament in regard to citizenship

(1) An Act of Parliament must provide for the establishment of a Citizenship and Immigration Board consisting of a chairperson and at least two other members, appointed by the President, to be responsible for -

- (a) granting and revoking citizenship by registration,
- (b) permitting persons, other than citizens, to reside and work in Zimbabwe, and fixing the terms and conditions under which they may so reside and work,
- (c) exercising any other functions that may be conferred or imposed on the Board by or under an Act of Parliament.

(2) An Act of Parliament may make provision, consistent with this chapter, for -

- (a) procedures by which Zimbabwean citizenship may be acquired,
- (b) the voluntary renunciation of Zimbabwean citizenship,
- (c) procedures for the revocation of Zimbabwean citizenship, and
- (d) generally giving effect to this chapter.

## **CHAPTER 4 DECLARATION OF RIGHTS**

### **PART 1 FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

#### **4.1 Right to life**

- (1) Everyone has the right to life
- (2) An Act of Parliament must protect the lives of unborn children, and that Act must provide that pregnancy may be terminated only in accordance with that law

(3) No law may prescribe death as a penalty and from the effective date no executions may take place in Zimbabwe

#### **4.2 Right to personal liberty**

(1) No one may be deprived of his or her personal liberty except according to law.

(2) No one may be imprisoned on the ground of failure to fulfil a civil obligation, but this does not preclude imprisonment for contempt of court.

(3) No one may be arrested unless the arrest is reasonably necessary-

- (a) to safeguard their safety or health;
- (b) to prevent them escape or abscond; or
- (c) to ensure that they-

(i) do not commit an offence; or

(ii) do not interfere with the course of justice.

#### **4.3 Right to human dignity**

Everyone has inherent dignity in their private and public life, and the right to have that dignity respected and protected.

#### **4.4 freedom from torture or inhuman or degrading treatment and punishment**

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

#### **4.5 freedom from slavery, servitude and forced labour**

No one may be subjected to slavery or servitude or made to perform forced or compulsory labour.

#### **4.6 equality and non-discrimination**

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

(2) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

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

difference or condition or economic, social or other status.

(4) A person is treated in a discriminatory manner for the purpose of subsection (3) if-

(a) they are subjected directly or indirectly to a condition, restriction or disability to which other people are not subjected; or

(b) other people are accorded directly or indirectly a privilege or advantage which they are not accorded.

(5) discriminatory on any of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair, reasonable and justifiable in an open, just and democratic society based on human dignity, equality and freedom.

(6) To promote the achievement of quality, reasonable legislative and other measures may be taken to protect or advance people or classes of people who have been disadvantaged by unfair discrimination, and-

(a) such measures shall be taken to redress circumstances of genuine need;

(b) no such measure is to be regarded as unfair for the purpose of subsections(3)

#### **4.7 Right to privacy**

Everyone has the right to privacy, which includes the right not to have-

(a) their home entered without their permission;

(b) their person, home , premises or property searched;

(c) their possessions seized; or  
d) the privacy of their communications, including electronic and telephonic communications, infringed.

#### **4.8 Freedom of association**

(1) Everyone has the right to freedom of association and the right not to associate others.

(2) No one may be compelled to belong to an association or to attend a meeting or gathering.

#### **4.9 Freedom of assembly, demonstration, picketing and petitioning**

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions

#### **4.10 Freedom of conscience**

(1) Everyone has the right to freedom of conscience, which includes –

(a) freedom of thought, opinion, religion and belief

(b) freedom to practice and propagate and give expression to their thought, opinion, religion or belief, whether in public or in private and whether alone or together with others; and

(c) academic and artistic freedom

(2) No one may be compelled to take an oath that is contrary to their religion or belief to take an oath in a manner that is contrary to their religion and belief.

(3) Parents and Guardians of minor children have the right to determine, in accordance with their convictions, the moral and religious upbringing of their children

(4) Any religious community may establish institutions where religious instruction may be given, even if the institution receives a subsidy or other financial assistance from the State.

#### **4.11 Freedom of expression and freedom of the media**

(1) Everyone has the right to freedom of expression, which includes –

(a) Freedom to seek, receive and communicate ideas and other information regardless of frontiers;

(b) Freedom of artistic expression and scientific research and creativity; and

(c) Freedom of the press and other media of communication.

(2) Freedom of the press and other media of communication include protection of the confidentiality of journalists sources of information.

(3) The state shall not –

(a) exercise control over or interfere with anyone engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; or

b) penalize anyone for any opinion of view or the content of any broadcast publication or dissemination

(4) Broadcasting and other electronic media of communication have freedom of establishment, subject only to licensing procedures that-

(a) are necessary to regulate the airwaves and other forms of signal distribution ; and

b) are independent of control by government or by political or commercial interests.

(5) All State owned media of communication shall-

(a) be free to determine independently the editorial content of their broadcast or other communications;

b) be impartial; and

(c) Afford fair opportunity for the presentation of divergent views and dissenting opinions.

(6) Freedom of expression does not include –

(a) incitement to violence; or

(b) Advocacy of hatred which is based on nationality, race, colour, tribe, birth or place of birth, ethnic or social origins, language, class, religious belief, political or other opinion, custom, culture, sex, gender, marital status, age, disability or natural difference or condition and which amounts to incitement to discrimination or hostility.

#### **4.12 Access to information**

(1) Everyone, including the press and other media of communication has the right to access to –

(a) any information held by the state; and

(b) information held by anyone else in so far as that information is required for the exercise or protection of any person's rights under this Constitution or any other law

(2) Legislation must be enacted to give effect to this right but may provide for reasonable measures to alleviate the administrative and financial burden on the State.

#### **4.13 Language and Culture**

Everyone has the right to use the language and to participate in the cultural life, of their choice, but no one exercising this right can do so in any way that is inconsistent with this chapter.

#### **4.14 Freedom of profession or occupation**

Everyone has the right to choose and carry on any profession or occupation, but the practice of a profession or occupation may be regulated by law.

#### **4.15 Labour relations**

(1) Everyone has the right to fair and safe labour practices and standards and to be paid a fair and reasonable wage.

(2) Everyone has the right to form and join trade unions, employee or employer's associations of their choice.

(3) Every employee has the right to strike, sit in, withdraw their labour or to take other similar concerted action.

(4) Every employee, trade union, employee organization, employer or employer's organization has the right to engage in collective bargaining.

(5) Women and men have a right to equal remuneration for similar work

(6) Women employees have a right to fully paid maternity leave for a period of at least three months.

#### **4.16 Freedom of residence and movement**

(1) Everyone has the right to freedom of movement and the right to leave Zimbabwe.

(2) Every citizen of Zimbabwe has the right to enter, to remain in and to reside anywhere in Zimbabwe.

(3) Every citizen of Zimbabwe has the right to a passport.

#### 4.17 Political rights

(1) Every citizen of Zimbabwe has the right –

(a) to free, fair and regular elections for any elective public office established in times of this constitutions or any other law; and

(b) to make political choices freely.

(2) Except as provided in section Chapter 9, every citizen of Zimbabwe has the right –

(a) to form, to join, to participate in the activities of, to recruit members for, a political party or organization of their choice;

(b) to campaign for a political party or cause;

(c) to participate in a peaceful political activity intended to influence the composition and policies of the government; and

(d) to participate individually or through civic organizations, gatherings or groups or in whatever manner, in peaceful activities to influence, challenge or support the policies of the government or any political or whatever cause.

(3) Every citizen of Zimbabwe who is of or over the age of 18 years has the right –

(a) to vote in all elections and referendums to which this constitution applies, and to do so in secret; and

(b) to stand for election for public office and , if elected, to hold such office.

(4) For the purpose of promoting multi-party democracy, an Act of Parliament must provide for the funding of political parties, but such funding may be withheld from political parties which do not uphold the principles and values of this constitution or whose internal structures and procedures and not reasonably democratic.

#### 4.18 Administrative justice

(1) in this section –

“administrative action” means any decision or act of a public officer or of a person performing a governmental function of function of a public nature.

(2) Everyone has a right to administrative action that is lawful, rational, proportionate and procedurally fair.

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

(4) Any Act of Parliament must give effect to these rights and must –

(a) provide for administrative action to be reviewed by a court or, where appropriate, by an independent or by an impartial tribunal;

(b) impose a duty on the State to give effect to the rights in subsections (2) and (3); and

(c) Promote an efficient administration

#### 4.19 Property rights

(1) In this section – “land” includes –

(a) anything permanently attached to or growing on land; and

(b) any interest in or right over land;

“property” means property of any description and any interest in or right over property

“rural land” means land other than –

(c) land within the area of an urban local authority; or

(d) land within a township established or set aside under a law relating to town and country planning’ and includes Communal land.

(2) Subject to subsection (4), everyone has the right, in any part of Zimbabwe, to acquire, hold and dispose of all forms of property either individually or in association with others.

(3) Subject to subsection (4) no one may be compulsorily deprived of their property except where the following conditions are satisfied –



- (a) the deprivation must be in terms of a law of general application;
- (b) the deprivation is necessary for any of the following reasons-
  - (i) in the interest of defence public safety, public order, public morality, public health or town and country planning.
  - (ii) In order to develop or use that or other property for a purpose beneficial to the community; and
- (c) Provision is made by law-
  - (i) for the prompt payment of adequate compensation; and
  - (ii) for anyone affected by the deprivation to have the right of access to the High Court, either directly or on appeal from another tribunal or authority for determining –
    - A. the existence, nature and value of their interest in the property concerned.
    - B. the legality of the deprivation; and
    - C. the amount of any compensation to which they are entitled, and for obtaining prompt payment of that compensation
- (4) A law may make provision for the use and occupation of rural land and for the compulsory acquisition of rural land, and its provisions may be inconsistent with subsections (2) and (3), but the law must –
  - (a) be of general application, but may differentiate between different classes of rural, land and the occupiers of those different classes of land;
  - (b) provide occupiers of rural land with fair and reasonable security of tenure;
  - (c) to the extent that it provides for the settlement of persons of rural land, establish transparent and equitable procedures for the allocation of such land;
  - (d) Not permit anyone to be arbitrarily deprived of their right to use or occupy rural land;

- (e) Provide for compensation to be paid for the deprivation of a right to use or occupy rural land, which compensation must reflect a just and equitable balance between the public interest and the interest of those affected by the deprivation, having regard in particular to the following circumstances-
  - (i) the current use of the rural land;
  - (ii) the history of the acquisition and use of the rural land;
  - (iii) the value of the rural land;
  - (iv) the extent of any investment made in the acquisition and improvement of the rural land; and
  - (v) the purpose of the acquisition

#### **4.20 Environment**

Everyone has the right-

- (a) to an environment that is not harmful to their health or well-being ; and
- (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that –

- (i) prevent pollution and ecological degradation; p
- (ii) promote conversation; and
- (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

#### **4.21 Housing**

(1) Everyone has the right to have access to adequate and safe housing, and the State must take reasonable legislative and other measures , within its available resources, to archive the progressive realization of this right.

(2) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances.

#### **4.22 Education**

(1) Everyone has the right to State-funded education from pre-school to primary

level and the State must take reasonable legislative and other measures, within its available resources to achieve the progressive realization of this right.

(2) Everyone has the right to establish and maintain, at their own expense, independent educational institutions of reasonable standards, provided they do not discriminate on any ground prohibited by the constitution.

(3) A law may provide for the registration of schools referred to in subsection (2) and for the closing of any such schools that do not meet reasonable standards prescribed for education.

#### 4.23 Health care

(1) Everyone has the right to have access to basic health-care services provided or funded by the State.

(2) No one may be refused emergency medical treatment.

(3) The State must take reasonable legislative and other measures within its available resources, to achieve the progressive realization of their rights set out in this section.

#### 4.24 Food and Water

Everyone has the right to sufficient and safe food and potable water, and the State must take reasonable legislative and other measures, within its available resources to achieve the progressive realization of this right.

#### 4.25 Marriage

(1) Everyone who has attained the age of eighteen years has the right to marry and found a family, and no such person may be prevented from entering into a marriage.

(2) No one may be compelled to enter into marriage against their will.

#### 4.26 Right to a fair hearing before a court

(1) Everyone has the right of access to the courts for the resolution of any dispute that can be resolved by application of the law.

(2) Everyone accused of an offence has the right to a fair and public trial within a reasonable time before an independent and impartial court established by law.

(3) In the determination of civil rights and obligations everyone has the right to a fair,

speedy and public hearing within a reasonable time before an independent and impartial court or tribunal established by law.

## PART 2

### SPECIFIC APPLICATION OF CERTAIN RIGHTS

#### 4.27 Application of part 2

(1) this Part elaborates certain rights and freedoms to ensure greater certainty as to the application of those rights and freedoms to particular classes of people.

(2) This Part must not be construed as limiting any right or freedom set out in Part 1

#### 4.28 Rights of women

(1) Every woman has full and equal dignity of the person with men and this includes equal opportunities in political, economic and social activities.

(2) Women have the same rights as men regarding the guardianship of children

(3) All laws, customs, traditions and cultural practices that infringe the rights of women are void to the extent of the infringement.

#### 4.29 Rights of children

(1) Every child, that is to say every person under the age of eighteen years has the right –

(a) to equal treatment before the law, including the right to be heard;

(b) to be given a name and a family name;

(c) in the case of a child who is a citizen of Zimbabwe by birth to the prompt provision of a birth certificate;

d) to family or parental care or to appropriate alternative care when removed from the family environment;

e) to be protected from economic and sexual exploitation, from child labour and from mal-treatment, neglect, abuse and degradation;

(f) to education, health care services, basic nutrition and shelter; and

(g) not to be detained except as a measure of last resort, if detained,-

- (i) to be detained for the shortest appropriate period;
- (ii) to be kept separately from detained persons over the age of eighteen; and
- (iii) to be treated in a manner, and kept in conditions that take account of the child's age.

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

#### **4.30 Rights of older people**

People over the age of sixty years have the right-

- (a) to participate fully in the affairs of society; to live in dignity and be free from abuse; and
- (c) to receive reasonable care and assistance from their families and the State;

and the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.

#### **4.31 Rights of persons with disabilities**

The State must take appropriate measures to ensure that disabled persons realize their mental and physical potential including measures –

- (a) to enable them to become self-reliant;
- (b) to enable them to live with their families and participate in social, or creative or recreational activities;
- (c) to protect them from all forms of exploitation; and
- (d) to give them access to medical, psychological and functional treatment.

#### **4.32 Rights of arrested and detained persons**

(1) Anyone who is arrested or detained-

(a) must be informed at the time of arrest of the reason for the arrest or detention;

(b) must be permitted, without delay-

- (i) at the expense of the State, to contact their spouse or partner, or their next of the kin or a close relative, or anyone else of their close relative, or anyone else of their choice; and

(ii) at their own expense, so consult with a legal practitioner and a medical practitioner of their choice;

and must be informed of this right promptly;

(c) must be treated humanely and with respect for their inherent dignity; and

(d) must be permitted to challenge the lawfulness of the arrest or detention in person before a court and must be released promptly if the detention is unlawful.

(2) Anyone who is arrested or detained

(a) for the purpose of bringing him or her before a court; or

(b) for allegedly committing, having committed or being about to commit an offence; and who is not released must be brought before a court as soon as possible and in any event no later than forty-eight hours after the arrest took place or the detention began as the case may be.

(3) Anyone who is arrested or detained for allegedly committing, having committed or being about to commit an offence has the right-

(a) to remain silent;

(b) to be informed promptly-

(i) of their right to remain silent;

and

(ii) of the consequences of remaining silent and of not remaining silent;  
(c) not to be compelled to make any confession or admission; and  
(d) at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or be released  
(4) anyone who is detained, including a sentenced prisoner, has the right-

- (a) to be informed promptly of the reason for their being detained;
- (b) at their own expense, to consult with a legal practitioner of their choice, and to be informed of this right promptly;
- (c) to communicate with, and be visited by , their –

- (i) spouse or partner; next
- (ii) of kin;
- (iii) chosen religious counsellor; and
- (iv) chosen medical practitioner.

(d) to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at State expense, of adequate accommodation, nutrition, reading material and medical treatment; and  
(e) to challenge the lawfulness of their detention in person before a court and, if the detention is unlawful, to be released.

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

- (a) attend trial;
- (b) do not interfere with the evidence to be given at the trial; and
- (c) Do not commit any other offence before trial begins.

(6) If there are reasonable grounds to believe that a person is being detained illegally or if it is not possible to ascertain the whereabouts of a detained person, anyone may approach the High Court for an order-

(a) declaring the detention to be illegal and ordering the person's release;

(b) requiring the person responsible for the detention to bring the detained person before the court and to justify the detention or, as the case may be, to disclose the whereabouts of the detained person;

And the High Court make whatever order is appropriate in the circumstance.

(7) An arrest or detention which contravenes this section, or in which the conditions set out in this section are not met, is illegal.

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

(a) a judicial officer acting in a judicial capacity reasonably and in good faith;

(b) any other public officer acting reasonably and in good faith and without capable ignorance or negligence.

#### **4.33 Rights of accused persons**

(1) Anyone accused of an offence has the following rights-

(a) to be presumed innocent until proved guilty

(b) to be informed promptly of the charge, in sufficient detail to enable them to answer it;

(c) to be given adequate time and facilities to prepare a defence;

(d) to choose a legal practitioner and, at their own expense, to be represented by that legal practitioner;

(e) to be represented by a legal practitioner assigned by the State and at State expense, if substantial injustice would otherwise result;

(f) to be informed promptly of the rights conferred by paragraphs (d) and (e);

(g) to be present when being tried;

(h) to adduce and challenge evidence;

(i) to remain silent and not to testify or be compelled to give self-incriminating evidence;

(j) to have the proceedings of the trial interpreted into a language that they understand;

(k) not to be convicted of an act or omission that was not an offence when it took place;

(l) not to be convicted of an act or omission that is no longer an offence, either because the offence has been abrogated by disuse or, in the case of an offence under a statutory provision, because the provision has expired or been repealed and has not been substantially re-enacted;

(m) not to be tried for an offence in respect of an act or omission for which they have previously been pardoned or either acquitted or convicted on the merits;

(n) to be sentenced to the lesser of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and time of sentencing.

(2) where this section requires information to be given to a person –

(a) the information must be given in a language the person understands: and

(b) If the person cannot read or write, any document embodying the information must be explained in such a way that person understands it.

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

(4) Anyone who has been tried for an offence has the right to be given a copy of the record of the proceedings within a reasonable time after judgement is delivered in the trial

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

(a) have the case reviewed by a higher court, or

(b) appeal to a higher court against the conviction and nay sentence that may have been imposed

### **PART 3**

#### **APPLICATION, INTERPRETATION AND ENFORCEMENT OF CHAPTER 3**

##### **4.34 Application of Chapter 3**

(1) The fundamental human right and freedoms enshrined in this Chapter bind the executive, legislature and the judiciary by all institutions and agencies of government at every level and must be respected and upheld by them.

(2) Where applicable, the fundamental human rights and freedoms enshrined in this chapter bind all natural and juristic persons must be respected and upheld by them.

(3) Juristic persons are entitled to the rights and freedoms enshrines in this chapter to the extent that those rights and freedoms can be appropriately extended to them.

##### **4.35 Interpretation of Chapter 3**

(1) When interpreting this Chapter a courts, tribunal, forum or body-

(a) must give full effect to the rights and freedoms in this chapter;

(b) must promote the values that underline an open, just and democratic society based on human dignity, equality and freedom, and in

particular the principles and values set out in Section 1

(c) must take into account international law and all treaties and conventions to which Zimbabwe is a party; and

(d) may consider relevant foreign law;

in addition to considering all other relevant factors that are to be taken into account in the interpretation a constitution.

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

#### **4.36 Saving of other rights**

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

#### **4.37 Enforcement of rights**

(1) any of the following persons, namely-

(a) anyone acting in their own interests;

(b) anyone acting on behalf of another person who cannot act for themselves;

(c) anyone acting as a member, or in the interests, of a group or class of persons;

(d) anyone acting in the public interest;

(e) any association acting in the interests of its members;

is entitled to approach a court, alleging that a fundamental right or freedom enshrined in this Chapter has been, is being or is likely to be infringed and the court may grant appropriate relief, including a declaration of rights and an award of compensation.

(2) the fact that a person has contravened a law does not debar him or her from approaching a court for relief under subsection (1)

(3) the rules of every court must provide for the procedure to be followed in

cases where relief is sought under subsection (1) and those rules must ensure that –

(a) the right approach the court under subsection (1) is fully facilitated;

(b) formalities relating to the proceedings, including their commencement, are kept to the minimum;

(c) no fee may be charged for commencing the proceedings;

(d) the court, while observing the rules of natural justice, is not unreasonably restricted by procedural technicalities; and

(e) a person with particular expertise may, with the leave of the court, appear as a friend of the court.

(4) the absence of rules referred to in subsection (3) does not limit the right to commence proceedings under subsection (1) and to have the case heard and determined by a court.

## **PART 4**

### **LIMITATION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

#### **4.38 Limitation of rights and freedoms**

(1) The fundamental rights and freedoms set out in this Chapter may be limited only in terms of a law of general application and to the extent that the limitation is reasonable and is necessary and justifiable in an open, just and democratic society, taking into account all relevant factors, including-

(a) the nature of the right or freedom concerned;

(b) the purpose of the limitation;

(c) the nature and extent of the limitation;

(d) the need to ensure that the enjoyment of rights and freedoms by any person does not prejudice the rights and freedoms of others;

(e) the relationship between the limitation and its purpose ; and

(f) whether there are any less restrictive means of achieving the purpose of the limitation.

(2) No law may limit the following rights and freedoms, and no one may violate them-

(a) the right not to be tortured or subjected to inhuman or degrading punishment or treatment;

(b) the right not to be placed in slavery;

(c) the right a fair trial;

(d) the right to obtain an order requiring a detained person to be released, or to be brought before a court or requiring the whereabouts of a detained person to be disclosed.

(3) no law that provides for a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of such a declaration, may permit or authorise the granting of immunity, indemnity or amnesty in respect of unlawful acts committed during the state of emergency.

#### **4.39 Limitations during emergency**

In addition to the limitations permitted by section 4.38, the fundamental rights and freedoms set out in this Chapter may be further limited by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by the Second Schedule.

## **CHAPTER 5**

### **DEVOLUTION AND SPHERES OF GOVERNMENT**

#### **5.1 Devolution of functions and responsibilities**

Zimbabwe is a unitary State, but governmental functions and responsibilities must be devolved to the people at all appropriate levels.

#### **5.2 Spheres of government**

(1) Government in Zimbabwe is constituted into national, provincial and local spheres of government which are interrelated.

(2) All spheres of government must observe and adhere to the principles in this

Chapter and must conduct their activities accordingly.

#### **5.3 Objects of devolution**

The objects of the devolution of governmental functions and responsibilities are –

(a) to give powers of self governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them;

(b) to recognise the right of communities to manage their own affairs and to further their development;

(c) to promote democratic, effective, transparent, accountable and coherent government of Zimbabwe as a whole;

(d) to preserve and foster the peace, national unity and indivisibility of Zimbabwe;

(e) to ensure the equitable sharing of local and national resources throughout Zimbabwe;

(f) to facilitate the decentralisation of State institutions, their functions and services from the capital of Zimbabwe.

#### **5.4 Principles of devolution**

(1) all spheres of government and all institutions of State within each sphere must-

(a) ensure good governance by being effective, transparent, accountable and institutionally coherent;

(b) be loyal to Zimbabwe and its people;

(c) respect the constitutional status, institutions, powers and functions of government in the other spheres;

(d) not assume any function except those conferred on them in accordance with the Constitution;

(e) exercise perform their functions in a manner that does not encroach on the geographical

functional or institutional integrity of government in another sphere;

(f) co-operate with one another in mutual trust and good faith by-

- (i) assisting and supporting one another;
- (ii) informing one another of, and consulting one another on, matters of common interest;
- (iii) harmonising and coordinating their actions and legislation;
- (iv) adhering to agreed procedures; and
- (v) avoiding legal proceedings against one another.

(2) an act of parliament must-

(a) establish or provide for structures and institutions to promote and facilitate relations between the spheres of government;

(b) provide for appropriate mechanisms and procedures to facilitate settlement of disputes between spheres of government.

### **5.5 Devolution of legislative authority**

Subject to this Constitution, the legislative authority of-

(a) the national sphere of government is vested in parliament, as set out in sections 7.2 and 7.3,

(b) the provincial sphere of government is vested in provincial assemblies, as set out in section 15.x;

(c) the local sphere of government is vested in local authorities, as set out in section 15.y.

### **5.6 Conflict between national and provincial legislation**

(1) This section applies to conflicts between national and provincial legislation in respect of matters within the concurrent jurisdiction of both spheres of government.

(2) National legislation prevails over provincial legislation if –

(a) the national legislation applies uniformly throughout Zimbabwe and any of the conditions prescribed in subsection (3) is satisfied; or

(b) the national legislation is aimed at preventing unreasonable action by a provincial government which-

- i. is prejudicial to the economic health or security interests of Zimbabwe or of another provincial government; or
- ii. impedes the implementation of national economic policy.

(3) the conditions referred to in subsection (2)(a) are –

(a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual provincial governments;

(b) the national legislation provides for a matter which, to be dealt with effectively, require uniformity across Zimbabwe, and the national legislation provides that uniformity across Zimbabwe, and the national legislation provides that uniformity by establishing norms standards or national policies;

(c) the national legislation is necessary for-

- (i) the maintenance of national security;
- (ii) the maintenance of economic unity;
- (iii) the protection of the common market in respect of the mobility of goods, services, capital and labour;
- (iv) the promotion of economic activity across the boundaries of the provinces;
- (v) the promotion of equal opportunity of equal access to government services; or
- (vi) the protection of the environment.

(4) Provincial legislation prevails over national legislation if neither of the circumstances referred in section (2) apply.

(5) In considering an apparent conflict between legislation of different spheres of government, a court must prefer a reasonable interpretation of the legislation that avoids a conflict to an alternative interpretation that results in conflict.

(6) A decision by a court that a provision of legislation of one sphere of government prevails over a provision of legislation of another sphere of government does not invalidate the other provision, but the



other provision is inoperative to the extent of the inconsistency.

### **5.7 Power of Parliament to nullify provincial legislation**

(1) A joint sitting of the Senate and the house of Assembly may, by a resolution passed by the affirmative votes of at least two-thirds of all the members of Parliament, declare that any provincial legislation is void on the ground that the law-

(a) is prejudicial to the economic or security of interests of another province or Zimbabwe as a whole; or

(b) is grossly unreasonable; and upon the passing of the resolution the provincial law becomes void.

(2) A provincial assembly that is aggrieved by a resolution under subsection (1) may, through its presiding officer, apply to the Constitutional Court may give such ruling in the matter as the Court considers just.

## **CHAPTER 6 THE EXECUTIVE**

### **PART 1 EXECUTIVE AUTHORITY**

#### **6.1 Executive authority**

(1) Executive authority derives from the people of Zimbabwe and shall be exercised in accordance with this constitution.

(2) The national executive authority of Zimbabwe vests in the president and the Cabinet.

### **PART 2 THE PRESIDENT**

#### **6.2 The President**

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

#### **6.3 Duty of President to uphold Constitution**

The President must –

(a) uphold, defend and respect this constitution as the supreme law of the nation and must ensure that this

constitution and all the other laws are faithfully observed;

(b) promote unity and peace in the nation for the benefit and well-being of all the people of Zimbabwe.

#### **6.4 Qualifications for election as President**

(1) A person qualifies for election as President if he or she-

(a) is a citizen of Zimbabwe; and

(b) is qualified for election to the National Assembly.

(2) a person is disqualified for election as President if he or she has already held office as President for one or more periods, whether continuous or not, amounting to ten years.

#### **6.5 Election of President**

(1) The election of a President must take place not more than ninety days-

(a) before the expiry of a president's term of office; or

(b) after a President dies, resigns or is removed from office.

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

#### **6.6 Challenge to election of President**

(1) Any petition or application challenging the validity of a presidential election must be lodged with the Constitutional Court within seven days after the date of the declaration of the results of the election

(2) The Constitutional Court must hear and determine a petition or application challenging the validity of a presidential election within fourteen days after the petition or application was lodged, and the court's decision is final.

(3) If the Constitutional Court determines that a presidential election was invalid, a fresh election must be held within sixty days after the determination.

#### **6.7 Assumption of office by President**

Before assuming office, a person elected as President must take the Presidential oath in the form set out in the Second Schedule on the first Tuesday following –

(a) the fourteenth day after the date of the declaration of the result of the presidential election, if no petition has been filed under section 6.6 ; or

(b) the seventh day after the date on which the Constitutional Court renders a decision declaring the election to be valid, if any petition has been filed under section 6.6.

#### **6.8 Term of office of President**

The term of office of the President is a period of five years, and no one may hold office as President after holding that office for one or more periods, whether continuous or not, amounting to ten years.

#### **6.9 Resignation of President**

The president may resign his or her office by written notice to the Speaker of the National Assembly, who must give public notice of the resignation.

#### **6.10 Removal of President from office**

The National Assembly, with the approval of two-thirds of its membership, may remove the President from office only on the grounds of –

(a) a serious violation of the Constitution or the law;

(b) serious misconduct ; or

(c) inability to perform the functions of the office

#### **6.11 Presidential immunity**

(1) Except with the leave of the Constitutional Court, no civil or criminal proceedings may be instituted against the President in his or her personal capacity for things done or omitted to be done before he or she became President or while he or she is President.

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

#### **6.12 Acting President**

*(parked)*

#### **6.13 Remuneration of President and Acting President**

(1) The President and any acting President are entitled to the salary, allowances,

pension and other benefits that are prescribed under an Act of Parliament.

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

#### **6.14 President and former President not to hold other office or employment**

The President and any former President must not, directly or indirectly, hold any other public office or be employed by anyone else while he or she is in office or is receiving a pension from the State as former president.

### **PART 3**

#### **MINISTERS AND CABINET**

#### **6.15 Appointment of Ministers**

(1) The President nominates and, with the approval of the National Assembly, appoints Ministers and assigns functions to them including the administration of any Act of Parliament or of any Ministry department.

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

(3) Before taking office a person appointed as Minister must take before the President the Ministerial oath in the form set out in the Second Schedule.

#### **6.16 Cabinet**

(1) There is a Cabinet consisting of the President, as head of the Cabinet, [the Vice President(s)] and all Ministers.

(2) Cabinet meetings are presided over by the President.

(3) Members of the Cabinet are accountable collectively and individually to Parliament for the performance of their functions.

#### **6.17 Conduct of Ministers**

(1) Ministers must –

(a) act in accordance with the Constitution; and

(b) provide Parliament with full and regular reports concerning matters under their control.

(2) Ministers may not during their tenure of office –

(a) directly or indirectly hold any other office or undertake any other paid work;

(b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or

(c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.

(3) An Act of Parliament may prescribe a code of conduct for Ministers.

#### **6.18 Tenure of office of Ministers**

(1) The office of a Minister become vacant –

(a) if the President removes him or her from office;

(b) if he or she resigns from office by notice in writing to the President;

(2) A Minister vacates his or her office as Minister upon ceasing to be a Member of Parliament, unless he or she ceased to be a Member of Parliament as a result of dissolution of Parliament, in which event he or she may continue to hold office as Minister until Parliament first meets after the dissolution.

#### **6.19 Vote of no confidence in Government**

(1) Parliament may, by resolution passed by at least two-thirds of all its members at a joint sitting, pass a vote of no confidence in the Government.

(2) A motion for the resolution for a vote of no confidence may be moved only if –

(a) at least seven days' notice of the motion has been given by to the Speaker; and

(b) the notice of motion has been signed by at least one-third of all the Members of the National Assembly.

(3) A motion for a vote of no confidence

–

(a) must be debated in a joint sitting of the two Houses of Parliament within twenty-one days after the speaker received the notice of the motion; and

(b) must be voted on within seven consecutive sittings after it was moved, otherwise it is regarded as lost.

(4) Where Parliament passes a vote of no confidence in the Government, the President must, within fourteen days, remove every Minister from office, unless they have already resigned as a result of the resolution, and appoint new Ministers.

(5) If the President does not act in accordance with subsection (4) within fourteen days after the passing of the vote of no confidence in the Government, the President ceases to hold office and is deemed to have resigned.

### **PART 4**

#### **EXECUTIVE FUNCTIONS**

#### **6.20 Executive functions of President and Cabinet**

(1) The President has the powers conferred by this Constitution and any Act of Parliament or other law/

(2) Subject to this Constitution, the Cabinet is responsible for-

(a) directing the operations of Government;

(b) conducting Government business in Parliament;

(c) preparing, initiating and implementing national legislation; and

(d) Developing and implementing national policy.

(3) Subject to this Constitution, the President is responsible for-

(a) signing Bills;

(b) referring a Bill to the Constitutional Court for a decision on the constitutionality;

(c) summoning the National Assembly, the Senate or Parliament to an extraordinary sitting to conduct special business;

- (d) making appointments which the Constitution or legislation requires the President to make;
  - (e) calling elections and referendums on any matter in accordance with the law;
  - (f) deploying the Defence Forces;
  - (g) conferring honours and awards;
  - (h) appointing ambassadors, plenipotentiaries, and diplomatic and consular representative; and
  - (i) receiving and recognizing foreign diplomatic and consular representatives.
- (4) Subject to this Constitution, the President may conclude or execute conventions, treaties and agreements with foreign states and governments and international organisations.
- (5) A decision by the President must be in writing if-
- (a) it is taken in terms of legislation; or
  - (b) it has legal consequences.
- (6) Where the President makes a written decision on a matter falling within the portfolio of another Cabinet member, the document embodying the President's decision must be counter-signed by that other Cabinet member.
- (7) Except as otherwise provided in this Constitution, the President must act on the advice of the Cabinet in the exercise of any function.

#### **6.21 Power of mercy**

- (1) The President may exercise the power of mercy, that is to say, may-
- (a) grant a pardon to anyone concerned in or convicted of an offence against any law;
  - (b) grant a respite from the execution of a sentence for any offence for an indefinite or specified period;
  - (c) substitute a less severe punishment for that imposed for any offence; or
  - (d) suspend for a specified period or remit the whole or part of a sentence for any offence or any forfeiture imposed in respect of any offence;

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

- (2) Where a person who is resident in Zimbabwe has been convicted in another country of an offence against a law in force in that country, the President may declare that the conviction is not to be regarded as a conviction for the purposes of this Constitution or any other law in force in Zimbabwe.
- (3) When exercising his powers under this section, the President must act on the advice of an Advisory Committee on the Power of Mercy consisting of-
- (a) the Minister responsible for justice; and
  - (b) five other members, none of whom may be in the full-time employment of the State, appointed by the National Assembly on the recommendation of the Parliamentary Public Appointments Committee in the manner set out in the Sixth Schedule.
- (4) The terms of office of members of the Advisory Committee on the Power of Mercy, other than the Minister responsible for justice, must be fixed on their appointment by the National but no such member may serve as a member of the Committee for one or more periods exceeding five years in aggregate.

#### **6.22 Public emergencies**

- (1) The President may by proclaiming in the Gazette declare that a state of public emergency exists in the whole or any part of Zimbabwe if-
- (a) the life of the nation is threatened by war, invasion, general insurrection, disorder or any public emergency; and
  - (b) the declaration is necessary to restore peace and order.
- (2) A state of public emergency ceases after seven days, beginning with the day of publication of the proclamation in the Gazette, unless the declaration is approved by at least two-thirds of all the members of Parliament at a joint sitting of the Senate and the National Assembly.

- (3) If Parliament is dissolved during the period of seven days after a state of public emergency has been declared, the declaration ceases to have effect after fourteen days, beginning with the day of publication of the proclamation in the Gazette, unless the declaration is approved by at least two-thirds of all the members of Parliament at a joint sitting of the Senate and the National Assembly.
- (4) If a declaration of a state of public emergency is not approved after consideration by Parliament, or if it is not considered by Parliament within the period specified in this section, the President must, within seven days, by proclamation in the Gazette revoke the declaration.
- (5) If the Senate and the National Assembly, sitting separately each resolve by a majority of their total membership that a declaration of a state of public emergency should be continued for a further period not exceeding three months, the President must, by proclamation in the Gazette, extend the declaration for that further period.
- (6) If the Senate and the National Assembly, sitting separately, each resolve that a declaration of a state of public emergency should be revoked or that it should apply within a smaller area, the President must, by proclamation in the Gazette, revoke the declaration or provide that the declaration shall relate to that smaller area.
- (7) The Constitutional Court may determine the validity of-
  - (a) A declaration of a state of public emergency;
  - (b) Any extension of a declaration of a state of public emergency.
- (8) Any court may determine the validity of any legislation enacted, or other action taken, in consequence of a declaration of a state of public emergency.

**PART 5  
LAW OFFICERS**

**6.23 Attorney-General**

- (1) There is an Attorney-General appointed by the President on the advice of the Judicial Service Commission and with the approval of the Parliamentary Public Appointments Committee.
- (2) The person who has been appointed as Attorney-General does not assume office until he or she has taken before the President, or a person designated by the President, the oaths of loyalty and office in the forms set out in the Second Schedule.
- (3) A person is qualified for appointment as Attorney-General if he or she is qualified for appointment as a judge of the Constitutional Court.
- (4) The functions of the Attorney-General are
  - (a) to act as the principal legal adviser to the Government;
  - (b) to represent the Government in civil and constitutional proceedings;
  - (c) to promote, protect and uphold the rule of law and to defend the public interest; and
  - (d) to exercise any other functions that may be assigned to the Attorney-General by an Act of Parliament; and the Attorney-General may exercise those functions in person or through subordinate officers acting the Attorney-General's general or specific instructions
- (5) The Attorney-General may-
  - (a) attend meetings of the Cabinet, if requested to do so by the President;
  - (b) sit and speak in either House of Parliament, if invited to do so by the Speaker or the President of the Senate, as the case may be; and
  - (c) with the leave of the court concerned, appear as a friend of the court in any civil proceedings to which the Government is not a party.

**6.24 Removal from office of Attorney-General**

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

General from exercising the functions of office.

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

#### **6.25 Prosecuting Authority / Prosecutor-General**

[Parked]

### **CHAPTER 7 PARLIAMENT**

#### **PART 1**

##### **NATIONAL LEGISLATIVE AUTHORITY**

###### **7.1 National legislative authority**

The national legislative authority of Zimbabwe is derived from the people and is vested in and exercised by Parliament.

###### **7.2 Extent of Parliament's legislative authority**

- (1) The legislative authority vested by section 7.1 confers on Parliament the power-
  - (a) to amend this Constitution in accordance with section 18.28;
  - (b) in accordance with this Constitution, to pass legislation on any matter, other than a matter listed in Part 2 of the Third Schedule; and
  - (c) to assign any of its legislative powers, except the power to amend this Constitution, to a legislative body in another sphere of government.
- (2) Parliament may pass legislation on a matter listed in Part 2 of the Third Schedule, when it is necessary of any one or more of the following reasons-
  - (a) to maintain national security;
  - (b) to maintain economic unity;
  - (c) to maintain essential national standards;
  - (d) to establish minimum standards required for the rendering of services;or
  - (e) to prevent unreasonable action on the part of a province which is prejudicial to the interests of another province or to Zimbabwe as a whole.

#### **PART 2**

##### **NATURE AND ROLE OF PARLIAMENT**

###### **7.3 Parliament**

Parliament consists of the Senate and the National Assembly.

###### **7.4 Role of Parliament**

- (1) In exercising its legislative authority, Parliament is bound by this Constitution.
- (2) Parliament must protect this Constitution and promote the democratic governance of Zimbabwe.
- (3) In addition to their legislative functions both Houses of Parliament have power to ensure that the provisions of this Constitution are upheld and that all institutions and agencies of the State and Government act constitutionally and in the national interest.
- (4) For the purposes of subsections (3), all institutions and agencies of the State and Government are accountable to both Houses of Parliament.

#### **PART 3**

##### **THE SENATE**

###### **7.5 Composition of Senate**

- (1) The Senate consists of ...Senators, of whom-
  - (a) ...are elected by secret ballot ,, from each of the ...provinces into which Zimbabwe is divided;
  - (b) ... are elected though a system of proportional representation based on the total number of votes casting a general election for the Senators referred to in paragraph (a);
  - (c) ...are elected in the manner prescribed in the Electoral Law, to ensure adequate representation of marginalised groups, namely women, youths and persons with disabilities; and
  - (d) ... are chiefs ... elected from each of the ... provinces into which Zimbabwe is divided.
- (2) The qualification for election as a Senator are set out in the Fourth Schedule.

(3) Elections of Senators must be conducted in accordance with the Electoral Law.

#### **7.6 President of the Senate**

(1) At its first sitting after a general election and before proceeding to any other business, the Senate.

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

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

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

(5) Before commencing his or her duties as such, the President of the Senate must take before a judge the oaths of loyalty and office in the forms set out in the Second Schedule.

(6) A Senator who is elected as President of the Senate ceases to be a Senator, and the vacant seat must be filled in accordance with the Electoral Law.

(7) The President of the Senate may resign by announcing his or her resignation in person to the Senate or, if the Senate is not sitting, by giving written notice to the Clerk of Parliament.

(8) The President of the Senate must vacate his or her office-

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

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

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

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

(e) if a resolution for his or her removal from office is passed by at least

two-thirds of the total membership of the Senate.

#### **7.7 Deputy President of Senate**

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

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

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

(4) Before commencing his or her duties as such, the Deputy President of the Senate must take before the President of the Senate the oaths of loyalty and office in the forms set out in the Second Schedule.

(5) The Deputy President of the Senate may resign his or her office by announcing his or her resignation in person to the Senate or, if the Senate is not sitting, by giving written notice to the President of the Senate or, in the absence of the President of the Senate, to the Clerk of Parliament.

(6) The Deputy President of the Senate must vacate his or her office-

(a) upon ceasing to be a Senator;

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

(c) upon becoming a Minister;

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

### **PART 3**

#### **THE NATIONAL ASSEMBLY**

#### **7.8 Composition of National Assembly**

(1) The National Assembly consists ... members, of whom-

(a) ... are elected by secret ballot from the ... constituencies into which Zimbabwe is divided; and

- (b) ... are elected through a system of proportional representation based on the votes cast at a general election for the members referred to in paragraph (a).
- (2) The qualifications for election as a member of the National Assembly are set out in the Fourth Schedule.
- (3) Elections of members of the National Assembly must be conducted in accordance with the Electoral Law.

### **7.9 Speaker**

- (1) At its first sitting after a general election and before proceeding to any other business, the National Assembly must elect a presiding officer to be known as the Speaker.
- (2) Whenever there is a vacancy in the office of Speaker, the National Assembly must without delay elect a person to fill the vacancy.
- (3) A person is qualified for election as Speaker if he or she is a member of the National Assembly or is qualified to be elected to the National Assembly.
- (4) Elections to the office of Speaker must be conducted in accordance with the Standing Orders.
- (5) Before commencing his or her duties as such, the Speaker must take before a judge the oaths of loyalty and office in the forms set out in the Second Schedule.
- (6) A member of the National Assembly who is elected as Speaker ceases to be a member of the National Assembly, and the vacant seat must be filled in accordance with the Electoral Law.
- (7) The Speaker may resign by announcing his or her resignation in person to the National Assembly or, if the National Assembly is not sitting, by giving written notice to the Clerk of Parliament.
- (8) The Speaker must vacate his or her office-
  - (a) at the beginning of the day on which the National Assembly first meets after a general election;

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

### **7.10 Deputy Speaker**

- (1) As soon as practicable after electing a Speaker following a general election, the National Assembly must elect one of its members to be the Deputy Speaker.
- (2) Whenever there is a vacancy in the office of Deputy Speaker, the National Assembly must without delay elect a person to fill the vacancy.
- (3) An election to the office of Deputy Speaker must be conducted in accordance with the Standing Orders.
- (4) Before commencing his or her duties as such, the Deputy Speaker must stake before the Speaker the oaths of loyalty and office in the forms set out in the Second Schedule.
- (5) The Deputy Speaker may resign by announcing his or her resignation in person to the National Assembly or, if the National Assembly is not sitting, by giving written notice to the Speaker or, in the absence of the Speaker, to the Clerk of Parliament.
- (6) The Deputy Speaker must vacate his or her office-
  - (a) upon ceasing to be a member of the National Assembly;
  - (b) upon becoming a Senator or President of the Senate;
  - (c) upon becoming a Minister; or
  - (d) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the National Assembly.



## PART 4

### TENURE ETC. OF MEMBERS OF PARLIAMENT

#### 7.11 Tenure of set of member of Parliament

- (1) The set of a member of Parliament becomes vacant
- (a) on the dissolution of Parliament;
  - (b) upon the member resigning his or her seat by notice in writing to the President of the Senate or to the Speaker, as the case may be;
  - (c) upon the member becoming President;
  - (d) upon the member becoming President of the Senate or Speaker or a member of the other House;
  - (e) if the member ceases to be qualified for registration as a voter;
  - (f) if, without leave from the Speaker or the President of the Senate, as the case may be, the member is absent from the House of which he or she is a member for nine consecutive days on which the House sits, and the House concerned resolves by a vote of at least two-thirds of all its members that the seat should become vacant;
  - (g) if the member accepts public office or office as a member of a statutory body, government-controlled entity, provincial council or local authority or employment within fourteen days after becoming a member of Parliament;
  - (h) if the member was a public officer or a member or employee of a statutory body, a government-controlled entity, a provincial council or a local authority when he or she became a member of Parliament, and he or she fails to relinquish that office, membership or employment within fourteen days of becoming a member of Parliament.
  - (i) if the member is convicted
    - (1) in Zimbabwe of an offence of which breach of trust, dishonesty or physical violence is an essential element; or
    - (2) outside Zimbabwe of conduct which, if committed in Zimbabwe, would be an offence of which breach of trust, dishonesty or physical violence is an essential element; and sentenced to imprisonment for six months or more without the option of fine or without the option of any other non-custodial punishment, unless on appeal the member's conviction is set aside or the sentence of imprisonment is reduced to less than six months or a punishment other than imprisonment is substituted;
  - (j) if the member has been declared insolvent under a law in force in Zimbabwe and has not been rehabilitated or discharged or if the member has made an assignment under such a law with his or her creditors which has not been rescinded or set aside;
  - (k) if the member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker or the President of the Senate, as the case may be, has declared that the member ceased to represent its interests in Parliament;
  - (l) if the member, not having been a member of a political party when he or she was elected to Parliament, becomes a member of a political party; or
  - (m) if the member is certified to be mentally disordered or intellectually handicapped under any law in force in Zimbabwe; or
  - (n) if the member has been convicted of an offence under the Electoral Law and has been declared by the High Court to be disqualified for registration as a voter or from voting at any election.
- (2) A member referred to in subsection (1)(i) who has noted an appeal against his or conviction cannot exercise his or her functions as a member or be entitled to any remuneration as a member until the final determination of the appeal.

### **7.12 Suspension or expulsion of member of Parliament**

- (1) If a petition or application seeking the setting aside of an election of a member of Parliament has been lodged in terms of the Electoral Law, and the petition or application has not been finally determined within three months from the date on which it was lodged, the member concerned shall stand suspended from the service of the House of which he or she is a member until the final determination of the petition or application.
- (2) If a member of Parliament, having been convicted of an offence of which breach of trust, dishonesty or physical violence is an essential element, is sentenced to imprisonment for less than six months and
  - (a) has not lodged an appeal, or the period within which an appeal might be lodged has lapsed, the House of which he or she is a member may resolve, by the affirmative vote of at least two-thirds of all its members, to suspend the member from the service of that House for a period not exceeding six months;
  - (b) has lodged an appeal, the House of which he or she is a member may resolve, by the affirmative vote of at least two-thirds of all its members, to suspend the member from the service of that House until the appeal has been finally determined or for a period of six months, whichever is the shorter; and upon the passing of the resolution the member is suspended accordingly.
- (3) A member who is suspended from the service of Parliament cannot exercise his or her functions as a member and is not entitled to any remuneration as a member for the period of the suspension.
- (4) If a member of Parliament, having been convicted of an offence of which breach of trust, dishonesty or physical violence is an essential element, is sentenced to imprisonment for less than six months and
  - (a) the sentence has been confirmed on a final appeal; or

(b) he or she has not lodged an appeal against the conviction or sentence; the House of which he or she is a member may resolve, by the affirmative votes of at least two-thirds of all its members, that the member is unfit to continue as a member of that House, and upon the passing of the resolution the member must immediately vacate his or her seat.

### **7.13 Oath of member of Parliament**

- (1) Before a member of Parliament takes part in any proceedings of Parliament, except proceedings necessary for the purpose of this section, the member must take the oath of a member of Parliament in the form set out in the Second Schedule.
- (2) The oath referred to in subsection (1) must be taken before the President of the Senate or the Speaker, as the case may be.

## **PART 5**

### **LEGISLATIVE AND OTHER POWERS**

#### **7.14 Powers and functions of Senate and National Assembly**

- (1) Except as provided in the Fifth Schedule, in the exercise of their legislative authority both the Senate and the National Assembly have power to initiate, prepare, consider or reject any legislation.
- (2) In addition to their legislative functions the Senate and the National Assembly may exercise any additional functions conferred or imposed on them by this Constitution or an Act of Parliament.

#### **7.15 Acts of Parliament and procedure for their enactment**

- (1) Parliament's legislative authority is exercised through the enactment of Acts of Parliament.
- (2) An Act of Parliament is a Bill which has been-
  - (a) presented in and passed by both Houses of Parliament; and
  - (b) signed by the President; in accordance with this Constitution.
- (3) The words of enactment in Acts of Parliament are 'enacted by the Parliament of Zimbabwe?', or words to that effect.

- (4) The procedure to be followed by the national Assembly and the Senate with regard to Bills is set out in the Fifth Schedule.
- (5) After a Bill has been passed by both Houses in accordance with the Fifth Schedule, the President of the Senate or the Speaker, as the case may be, must without delay-
  - (a) cause it to be presented to the President for signature, together with any certificate which is required by this Constitution to accompany the Bill; and
  - (b) give public notice on the date on which the Bill was sent to the President.
- (6) When a Bill is presented to the President for signature, he or she must, within twenty-one days, either-
  - (a) sign it and then cause it to be published in Gazette without delay; or
  - (b) if he or she considers it to be unconstitutional, refer the Bill back to Parliament through the Clerk of Parliament, together with detailed written reasons for those reservations and a request that the Bill be reconsidered at a joint sitting of the National Assembly and the Senate.
- (7) Where a Bill has been referred back to Parliament in terms of subsection (6)(b), the Speaker and the President of the Senate must without delay convene a joint sitting of the National Assembly and the Senate, which must-
  - (a) reconsider the Bill and fully accommodate the President's reservations; or
  - (b) pass the Bill, with or without amendments, by the affirmative votes of at least two-thirds of the combined membership of the National Assembly and the Senate;
 and in either case the Speaker must cause the Bill to be presented to the President without delay for signature and must give public notice of the date on which the Bill was sent to the President.
- (8) If a Bill that has been presented to the President in terms of subsection (7) fully

accommodates the President's reservations, the President must sign the Bill within twenty-one days and then cause it to be published in the Gazette without delay, but if not the President must within twenty-one days either-

- (a) sign the Bill; or
  - (b) refer the Bill to the Constitutional Court for a decision on its constitutionality.
- (9) If on reference under subsection (8) the Constitutional Court decides that a Bill is constitutional, the President must sign it immediately and cause it to be published in the Gazette without delay.
  - (10) If a Bill is presented to the President for signature and it is not accompanied by a certificate which is required by any provision of this Constitution, the President must not sign the Bill until the certificate is produced but must cause the Clerk of Parliament to be notified, immediately and in writing, that the certificate was not sent with the Bill.

#### **7.16 Commencement of Acts of Parliament**

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

#### **7.17 Enrolment of Acts of Parliament**

- (1) When an Act of Parliament has been signed by the President, the Clerk of Parliament must transmit a fair copy of it, authenticated by the President's signature and the public seal of Zimbabwe, to be enrolled in the office of the Registrar of the High Court, and that copy is conclusive evidence of the provisions of the Act unless the Act is revised under an Act of Parliament referred to in subsection (2).
- (2) An Act of Parliament may provide for the statute law, or any part of it, to be published in revised form and may further provide that
  - (a) upon being published, the revision is the sole authentic version of the statutes contained in it;

- (b) a copy of the revision must be deposited in the office of the Registrar of the High Court;
  - (c) the copy that is deposited in the office of the Registrar of the High Court is conclusive evidence of the provisions of the statutes contained in it.
- (3) The validity of an Act of Parliament or a revision of the statute law does not depend on its enrolment or deposit under this section.

#### **7.18 Subsidiary legislation**

- (1) Parliament may, in an Act of Parliament, delegate power to make statutory instruments within the scope and for the purposes laid out in that Act, but-
- (a) Parliament's primary law making power must not be delegated;
  - (b) statutory instruments must not infringe or limit any of the rights and freedoms set out in the Declaration of Rights;
  - (c) an Act of Parliament must require appropriate consultation with interested parties before statutory instruments are made;
  - (d) the Act must specify the limits of the power, the nature and scope of the statutory instrument that must be made, and the principles and standards applicable to the statutory instrument;
  - (e) statutory instruments must be laid before the National Assembly in accordance with its Standing Orders; and
  - (f) an Act of Parliament must make provision for statutory instruments to be repealed, revoked or cease to have effect if they are not approved by the National Assembly.
- (2) Ordinances, by-laws and regulations of provincial and local government institutions referred to in Chapter 14 do not have to be laid before or approved by the National Assembly in terms of subsection (1).

- (1) The person presiding at any sitting of the Senate must be-
- (a) the President of the Senate or, in his or her absence, the Deputy President of the Senate; or
  - (b) in the absence of the President or Deputy President of the Senate, a Senator elected for the purpose by the Senate, but that Senator must not be a Minister.
- (2) The person presiding at any sitting of the National Assembly must be-
- (a) the Speaker or, in his or her absence, the Deputy Speaker; or
  - (b) in the absence of the Speaker or Deputy Speaker, a member of the National Assembly elected for the purpose by the National Assembly, but that member must not be a Minister.
- (3) The President of the Senate, or in his or her absence, the Speaker, must preside at any joint sitting of the National Assembly and the Senate.

#### **7.20 Quorum in Parliament**

- (1) The Senate and the National Assembly must prescribe in Standing Orders the number of members who must be present for the conduct of business.
- (2) The quorum prescribed in the Standing Orders for the final reading of Bills must not be less than one-half of the membership of the House concerned.

#### **7.21 Voting in Parliament**

- (1) Except where this Constitution provides otherwise
- (a) all questions proposed for decision in either House of Parliament are decided by a majority of the votes of the members of that house present and voting;
  - (b) the person presiding in either House of Parliament does not have either a deliberative or a casting vote on any issue before the House;
  - (c) if the votes in either House of Parliament are equally divided on any motion, the motion is lost.

## **PART 6**

### **PROCEDURE IN PARLIAMENT**

#### **7.19 Persons presiding in Parliament**

- (2) Ministers are entitled to sit and speak in both Houses of Parliament but have no right to vote in a House of which they are not members.
- (3) Where a member of Parliament, other than a Minister, has introduced a Bill in the House of which he or she is a member, and the House has passed the Bill, that member or, in his or her absence, any other member of the House concerned is entitled to sit and speak in the other House for the purpose of conducting the Bill through that House.

### **7.22 Standing Orders**

- (1) The proceedings of the Senate and the National Assembly are regulated by rules known as Standing Orders, which may be made by the Houses individually or jointly and which may provide for-
  - (a) the passing of Bills;
  - (b) the appointment and functions of committees and the delegation of functions to them;
  - (c) the appointment of a committee to advise members of Parliament on the legal validity of Bills, draft Bills and statutory instruments;
  - (d) the way in which the powers, privileges and immunities of the Houses may be exercised and upheld; and
  - (e) generally, the regulation and orderly conduct of business and proceedings in and between the Houses.
- (2) Standing Orders must provide for-
  - (a) the questioning of the President and Ministers by members of Parliament;
  - (b) a code of conduct to be followed by members of Parliament; and
  - (c) the exercise of the right of the public to petition Parliament.
- (3) The procedures and processes of Parliament and its committees, as provided for in the Standing Orders, must promote openness, must encourage the involvement of members of minority parties and the public, and must be fair and just.
- (4) Any committee established by or under Standing Orders must reflect, as closely as possible, the composition of Parliament or

of the House to which the Standing Orders apply, as the case may be, and the members of the committee who represent minority political parties must be elected or appointed by those parties.

- (5) Standing Orders may not permit Parliament or its members of officers to impose any punishment in the nature of a criminal penalty, other than a fine.
- (6) The National Assembly and the Senate must establish a joint committee to recommend Standing Orders, but before those Orders apply to a House, they must be approved by resolution of the House concerned.

### **7.23 Presidential addresses to Parliament**

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

### **7.24 Public access to and involvement in Parliament**

Parliament must-

- (a) facilitate public involvement in its legislative and other processes and in the processes of its committees; and
- (b) ensure that interested parties are consulted about Bills being considered by Parliament, unless such consultation is inappropriate or impracticable;
- (c) conduct its business in an open manner and hold its sittings, and those of its committees, in public, though measures may be taken-
  - i) to preserve order in parliamentary proceedings;
  - ii) to regulate public access, including access of the media, to Parliament and its committees;
  - iii) to exclude the public, including the media, from sittings of committees; and
  - iv) to provide for the searching of any person and, where appropriate, the

refusal of entry to or the removal of any person;

but those measures must be reasonable and justifiable in an open and democratic society.

#### **7.25 Validity of proceedings in Parliament**

- (1) A vacancy in the membership of the Senate or the National Assembly, or the suspension of a member of Parliament, does not prevent the Senate or National Assembly from transacting its business.
- (2) The fact that a person who was not entitled to do so sat and voted in the Senate or the National Assembly or otherwise took part in the proceedings of the Senate or the National Assembly does not invalidate the proceedings.

### **PART 7**

#### **DURATION, DISSOLUTION AND SITTINGS OF PARLIAMENT**

##### **7.26 Duration and dissolution of Parliament**

- (1) Parliament is elected for a term of five years running from the date of the first sitting of the national Assembly, and Parliament stands dissolved at midnight on the day before the first polling day in the general election called in terms of section 7.28
- (2) The President must by proclamation dissolve Parliament if the National Assembly, by the affirmative votes of at least two-thirds of its total membership, has passed a resolution to dissolve.

##### **7.27 General election resulting from dissolution of Parliament**

- (1) Where the National Assembly has passed a resolution to dissolve in terms of section 7.26(2), the President must by proclamation call and set dates for a general election to be held not more than ninety days after the National Assembly passed the resolution.
- (2) Where the National Assembly has not earlier passed a resolution to dissolve in terms of section 7.26(2), the President must by proclamation call and set dates for a general election to be held not more than ninety days before the expiry of the five-year period specified in section 7.26(1) or

not more than ninety days after the expiry of that period.

- (3) The dates of a general election called in terms of this section must be fixed by the President on the advice of the Electoral Commission.

##### **7.28 First sitting of Parliament following general election**

- (1) The first sitting of either House of Parliament after a general election must take place at a time and date determined by the President, but the date must not be later than twenty-one days after the general election was held.
- (2) If for any reason a date has not been fixed for the first sitting of a House of Parliament in terms of subsection (1), the members of that House must meet on the twenty-first day after the general election in the chamber where that House usually meets, and the business of the House may proceed as if it were meeting on a date fixed in terms of subsection (1).
- (3) Until the election of a President of the Senate or a Speaker, as the case may be, the first sitting of a House of Parliament must be presided over by the person who last held office as President of the Senate or Speaker, or by a member of the House elected by a majority of the members who are present.

##### **7.29 Sittings and recess periods**

Each House of Parliament determines the time and duration of its sittings, other than its first sitting, and its periods of recess, but-

- (a) the President may summon Parliament at any time to conduct special business;
- (b) no more than one hundred and eighty days may elapse between the sittings of a House.

##### **7.30 Lapsing of Bills, etc., on dissolution of Parliament**

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

### **PART 8**

## **GENERAL MATTERS RELATING TO PARLIAMENT**

### **7.31 Privileges and immunities of Parliament**

- (1) The President of the Senate, the Speaker and members of Parliament have freedom of speech in the National Assembly and the Senate and in all parliamentary committees and, whilst they must obey the rules and orders of the House concerned, they are not liable to civil or criminal proceedings, arrest or imprisonment or damages for anything said in, produced before or submitted to Parliament or any of its committees.
- (2) An Act of Parliament may-
  - (a) provide for other privileges, immunities and powers of Parliament and its members and officers;
  - (b) define conduct which constitutes contempt of Parliament, whether committed by members of Parliament or other people; and
  - (c) provide for a right of reply, through the Speaker or the President of the Senate, as the case may be, for persons who are unjustly injured by what is said about them in Parliament;but no such Act may permit Parliament or its members or officers to impose any punishment in the nature of a criminal penalty, other than a fine, for breach of privilege or contempt of Parliament.
- (3) Any punishment imposed by Parliament for breach of privilege or contempt is subject to review by the High Court.

### **7.32 Right to petition Parliament**

- (1) Everyone has a right to petition Parliament to consider any matter within its authority, including the enactment, amendment or repeal of legislation.
- (2) The manner in which petitions are to be presented to Parliament, and the action that Parliament is to take on presentation of a petition, is to be prescribed in Standing Orders.

### **7.33 Venue of Parliament**

Parliament may sit at places other than the ordinary seat of parliament, but only on

grounds of public interest, security or convenience, and only if provided for in the Standing Orders.

### **7.34 Remuneration of President of Senate, Speaker and members of Parliament**

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

### **7.35 Clerk of Parliament and other staff**

- (1) The Parliamentary Service Commission referred to in section 7.36, with the approval of the National Assembly, must appoint an officer to be known as the Clerk of Parliament to be responsible, subject to Standing Orders and to the control of the Speaker, for the day-to-day administration of Parliament.
- (2) The Clerk of Parliament must vacate his or her office-
  - (a) if more than half of all the members of the National Assembly resolve that the Clerk should be removed;
  - (b) if the Clerk would be required to vacate his or her seat were he or she a member of Parliament; or
  - (c) in any event, after holding office as Clerk for ten years.
- (3) The Parliamentary Service Commission referred to in section 7.36 must appoint such other staff of Parliament as it considers necessary.
- (4) The Clerk of Parliament and the other staff of Parliament
  - (a) are appointed on terms of service approved from time to time by the Parliamentary Service Commission; and

- (b) are public officers but do not form part of the Public Service.

### **7.36 Parliamentary Service Commission**

An Act of Parliament must provide for the establishment and functions of a Parliamentary Service Commission to-

- (a) appoint the Clerk of Parliament and other members of the staff of Parliament;
- (b) fix and regulate the conditions of service of members of the staff of Parliament; and
- (c) exercise any other functions that may be specified in the Act.

### **7.37 Parliamentary Public Appointments Committee**

- (1) Parliament must appoint a Parliamentary Public Appointments Committee for the purpose of confirming or selecting persons for appointment to posts or offices in terms of this Constitution and exercising any other function that is conferred or imposed on the Committee by an Act of Parliament or Standing Orders.
- (2) The Parliamentary Public Appointments Committee must consist of twenty-three members of Parliament as follows-
  - (a) fifteen members of the national Assembly appointed by the National Assembly; and
  - (b) eight members of the Senate appointed by the Senate.
- (3) The membership of the Parliamentary Public Appointments Committee must so far as possible proportionally represent all groups and parties represented in Parliament.
- (4) A Minister is not eligible for membership of the Parliamentary Public Appointments Committee
- (5) The procedure for the appointment of members of the Parliamentary Public Appointments Committee and their terms of office must be prescribed in Standing Orders.
- (6) The Parliamentary Public Appointments Committee must elect from among its

members a chairperson and a deputy chairperson.

- (7) In the exercise of its functions the Parliamentary Public Appointments Committee must take whatever measures are appropriate to involve the public in all the processes of selecting appointees.

## **CHAPTER 8**

### **ELECTIONS AND DELIMITATION OF ELECTORAL BOUNDARIES**

#### **PART 1**

#### **ELECTORAL SYSTEM AND PROCESS**

##### **8.1 Principles of electoral system**

- (1) Elections and referendums to which this Constitution applies must be-
  - (a) free and fair;
  - (b) conducted by secret ballot; and
  - (c) based on universal adult suffrage and equality of votes.
- (2) The State must take all appropriate measures, including legislative measures, to ensure that effect is given to the principles set out in subsection (1) and, in particular, must-
  - (a) ensure that everyone who is eligible to vote in an election or referendum has opportunity to cast a vote, and in particular must facilitate voting by persons with disabilities or special needs;
  - (b) provide all political parties and candidates contesting an election or referendum with equal access to the electronic and print media controlled by the State; and
  - (c) ensure the timely resolution of electoral disputes.

##### **8.2 Conduct of elections and referendums**

At every election and referendum, the Electoral Commission must ensure that-

- (a) whatever voting method is used, the system is simple, accurate, verifiable, secure, accountable and transparent;
- (b) the votes cast are counted and tabulated, and the results are



- announced promptly, by the presiding officers at each polling station;
- (c) the results from each polling station are openly and accurately collated and the results of the collation announced promptly by a returning officer;
  - (d) the results of the election or referendum are announced as soon as possible after the close of the polls; and
  - (e) appropriate systems and mechanisms to eliminate electoral malpractice are put in place, including the safekeeping of electoral materials.

### **8.3 Electoral Law**

- (1) An Act of Parliament must provide for the conduct of elections and referendums to which this Constitution applies, and in particular for the following matters-
  - (a) the periodic delimitation of constituencies and wards;
  - (b) the registration of voters, and requirements for registration on particular voters' rolls;
  - (c) a code of conduct for political parties, candidates and other persons participating in elections or referendums;
  - (d) a system of proportional representation for the election of persons to the seats in the Senate referred to in section 7.5(1)(b) and the seats in the National Assembly referred to in section 7.8(1)(b), and the procedure for filling vacancies in those seats, which vacancies must be filled by persons belonging to the same political parties as those who previously held the seats;
  - (e) appeals against election results by political parties and candidates.
- (2) The Electoral Law must provide for the synchronisation of elections to different offices and bodies.
- (3) No amendments may be made to the Electoral Law, or to any subsidiary legislation made under that law, unless the Electoral Commission has been consulted and any recommendations made by the Commission have been duly considered.

## **PART 2**

### **TIMING OF ELECTIONS**

#### **8.4 Timing of elections**

- (1) Polling in elections to the office of President [and Vice-President? - parked] must take place within the ninety-day period specified in section 6.5
- (2) Polling in general elections to Parliament must take place within the ninety-day period specified in section 7.27(2).
- (3) Polling in general elections to provincial assemblies [i.e. the legislative bodies in provinces, assuming such bodies are to be established - parked issue] must take place within the period specified in an Act of Parliament.
- (4) Polling in elections to fill casual vacancies in Parliament and in provincial assemblies must take place within sixty days after the vacancies occurred.

#### **8.5 Filling of electoral vacancies**

Whenever a vacancy occurs in any elective public body established in terms of this Constitution, other than a body specified in section 8.4, the authority charged with organising elections to that body must cause an election to be held as soon as possible to fill the vacancy.

## **PART 3**

### **DELIMITATION OF ELECTORAL BOUNDARIES**

#### **8.6 Number of constituencies, wards and other electoral divisions**

- (1) The number of constituencies into which Zimbabwe is to be divided for the purpose of electing Senators and Members of the National Assembly are the numbers specified in sections 7.5 and 7.8 respectively.
- (2) The number of constituencies and wards into which provinces and local authority areas are to be divided for the purpose of elections to provincial assemblies [assuming such assemblies are to be established - parked issue] and local authorities must be determined according to the number of

elected members of those provincial assemblies and local authorities.

### **8.7 Delimitation of electoral boundaries**

- (1) Once every ten years, or on a date within a period fixed by the Electoral Commission so as to fall as soon as possible after a population census, there must be a delimitation of the electoral boundaries into which Zimbabwe is to be divided for the purpose of electing members of Parliament, provincial assemblies and local authorities.
- (2) If a delimitation of electoral boundaries is completed less than six months before the polling day in an election, the boundaries so delimited do not apply to that election, and instead the boundaries that existed immediately before the delimitation are applicable.
- (3) Electoral boundaries must be delimited in terms of this section by a Delimitation Commission appointed in terms of section 8.8
- (4) The boundaries of constituencies for elections of Senators must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each constituency within each province.
- (5) The boundaries of constituencies for elections of members of the National Assembly must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each constituency within Zimbabwe.
- (6) The boundaries of electoral divisions for elections to provincial assemblies [assuming such assemblies are to be established - parked issue] must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each such division within each province.
- (7) The boundaries of wards for elections of members of local authorities must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each ward of the local authority concerned.
- (8) In delimiting

- (a) the boundaries of wards, a Delimitation Commission must ensure that no ward is divided between two or more local authority areas;
  - (b) the boundaries of electoral divisions for the purposes of election to provincial assemblies [assuming they are to be established], a Delimitation Commission must ensure that no such division is divided between two or more provinces;
  - (c) the boundaries of constituencies, a Delimitation Commission must ensure that no ward is divided between two or more constituencies;
  - (d) the boundaries of constituencies for the purpose of election to the Senate, a Delimitation Commission must ensure that no constituency is divided between two or more provinces.
- (9) In dividing Zimbabwe into wards, constituencies and other electoral divisions, a Delimitation Commission must, in respect of any area, give due consideration to
- (a) its physical features;
  - (b) the means of communication within the area;
  - (c) the geographical distribution of registered voters;
  - (d) any community of interest as between registered voters; and
  - (e) in the case of any delimitation after the first delimitation, existing electoral boundaries
- and to give effect to these considerations, the Delimitation Commission may depart from the requirement that constituencies, wards and electoral divisions must have equal numbers of voters, but no constituency, ward or electoral division may have more than twenty per cent more or fewer registered voters than the other such constituencies, wards or electoral divisions
- (9) After delimiting wards and constituencies, a Delimitation Commission must submit to the President and the Electoral Commission a preliminary report containing

- (a) a list of the constituencies, wards and other electoral divisions, with the names assigned to each and a description of their boundaries;
- (c) a map or map showing the constituencies, wards and other electoral divisions; and
- (d) any further information or particulars which the Commission considers necessary.

and the President must cause the preliminary delimitation report to be laid before the Senate and the National Assembly within seven days.

- (10) If, within seven days after a preliminary delimitation report has been laid before the House concerned, the Senate or the National Assembly resolves that it should be referred back to the Delimitation Commission for further consideration, the President must refer the report back to the Commission.
- (11) After receiving a preliminary report back from the President under subsection (10), the Delimitation Commission may attend to any comments or concerns raised by Parliament and the Electoral Commission, and must immediately submit a final delimitation report to the President.
- (12) Within fourteen days after receiving a Delimitation Commission's final report, the President must publish a proclamation in the Gazette declaring the names and boundaries of the constituencies, wards and other electoral divisions as finally determined by the Commission.
- (13) If there is a discrepancy between the description of the boundaries of any constituency, ward or other electoral division and the map or maps prepared by a Delimitation Commission, the description must prevail.

### **8.8 Delimitation Commission**

- (1) Whenever it is necessary for the purposes of this Constitution, a Delimitation Commission must be appointed, consisting of-

- (a) a chairperson, who must be a judge or former judge of the Constitutional Court, the Supreme Court or the High Court, or a person qualified for appointment as such a judge; and
  - (b) four other members;
- appointed by the President with the approval of the National Assembly in accordance with the Sixth Schedule.
- (2) Members of a Delimitation Commission are appointed for as long as may be necessary to enable the Commission to complete its functions in terms of this Chapter.
- (3) The functions of a Delimitation Commission are-
- (a) to delimit constituencies, wards and electoral divisions in terms of this Chapter; and
  - (b) to exercise any other functions that are conferred or imposed on the Commission by this Constitution, the Electoral Law or any other enactment.

## **CHAPTER 9 THE JUDICIAL SYSTEM**

### **PART 1 THE JUDICIARY AND THE COURTS**

#### **9.1 Judicial authority and independence of the judiciary**

- (1) The judicial authority of Zimbabwe is derived from the people and is vested in the courts, which comprise-
- (a) the Constitutional Court;
  - (b) the Court of Appeal;
  - (c) the High Court;
  - (d) magistrates courts;
  - (e) traditional courts; and
  - (f) any other courts that may be established by an Act of Parliament
- (2) Subsection (1) is not to be construed as preventing an Act of Parliament from vesting functions other than adjudicating functions in a member of the judiciary, provided that the exercise of those functions does not compromise the independence of the judicial officer

concerned in the performance of his or her judicial functions.

- (3) In exercising judicial authority the courts must be guided by the following principles-
  - (a) justice must be done to all, irrespective of status;
  - (b) justice must not be delayed;
  - (c) the role of the courts is paramount in safeguarding human rights and freedoms and the rule of law.
- (4) The courts are independent and are subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.
- (5) The independence, impartiality and effectiveness of the courts is central to the maintenance of democratic governance, and therefore-
  - (a) no institution or agency of the State or Government at any level, and no other person, may interfere with the functioning of the courts;
  - (b) institutions of the State, through legislative and other measures, must assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness
- (6) An order or decision issued by a court binds all persons and institutions of the State and Government to which it applies, and must be obeyed by them.

### **9.2 The judiciary**

- (1) The judiciary of Zimbabwe consists of-
  - (a) the Chief Justice and the other judges of the Constitutional Court
  - (b) the Judge President of the Court of Appeal and the other judges of that court;
  - (c) the Principal Judge of the High Court and the other judges of that court; and
  - (d) persons presiding over other courts established by Act of Parliament.
- (2) The Chief Justice is head of the judiciary and also in charge of the Constitutional Court.
- (3) The Judge President of the Court of Appeals is in charge of that court.
- (4) The Principal Judge of the High Court is in charge of that court and, in addition,

supervises the chief magistrate in his or her administration of magistrates courts.

### **9.3 Constitutional Court**

- (1) The Constitutional Court is a superior court of record and consists of the Chief Justice and no fewer than seven other judges.
- (2) If the services of an additional judge are required on the Constitutional Court for a limited period, the Chief Justice may appoint a judge or former judge of the Court of Appeal to act as a judge of the Constitutional Court for that period.
- (3) Cases before the Constitutional Court concerning alleged infringements of a fundamental human right or freedom enshrined in Chapter 4 must be heard by the full bench of the Court, though an Act of Parliament or rules of the Court may provide for interlocutory matters to be heard by one or more judges of the Court.
- (4) Cases before the Constitutional Court other than cases referred to in subsection (3) must be heard by at least five judges.
- (5) The Constitutional Court-
  - (a) is the highest court in all constitutional matters, and its decisions on those matters bind all other courts;
  - (b) may decide only constitutional matters, and issues connected with decisions on constitutional matters; and
  - (c) makes the final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on a constitutional matter.
- (6) Only the Constitutional Court may-
  - (a) decide on the constitutionality of any amendment to this Constitution;
  - (b) decide on the constitutionality of any proposed legislation, but may do so only where the legislation concerned has been referred to it in terms of this Constitution;
  - (c) hear and determine disputes relating to elections to the office of President;
  - (d) decide disputes between institutions of the State and Government in the national, provincial or local sphere

concerning their constitutional status or functions; or

(e) determine whether Parliament or the President has failed to fulfil a constitutional obligation.

- (7) The Constitutional Court makes the final decision whether an Act of Parliament or conduct of the President is constitutional, and must confirm any order of invalidity made by another court before that order has any force.
- (8) The Constitutional Court must make rules allowing a person, when it is in the interests of justice and with the leave of the Constitutional Court-
- (a) to bring a constitutional matter directly to the Constitutional Court;
  - (b) to appeal directly to the Constitutional Court from any other court;
  - (c) to appear as a friend of the court.

#### **9.4 Court of Appeal**

- (1) The Court of Appeal is a superior court of record and, except in matters over which the Constitutional Court has jurisdiction, is the final court of appeal for Zimbabwe.
- (2) The Court of Appeal consists of-
- (a) the Judge President of the Court of Appeal;
  - (b) such other judges of the Court of Appeal, being not less than two, as may be appointed from time to time; and
  - (c) any additional judges appointed under subsection (3).
- (3) If the services of an additional judge are required on the Court of Appeal for a limited period, the Chief Justice may appoint a judge of the High Court, or a former judge of the Court of Appeal or the High Court, to act as a judge of the Court of Appeal for that period.
- (4) An Act of Parliament may confer additional jurisdiction and powers on the Court of Appeal.
- (5) Rules of court may confer on a registrar of the Court of Appeal any of the Court's jurisdiction and powers in civil cases-

- (a) to make orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
  - (b) to decide preliminary or interlocutory matters, including applications for directions, but not matters affecting the liberty of any person;
- but the rules must give anyone affected by the registrar's order or decision a right to have it reviewed by a judge of the Court of Appeal, who may confirm it, amend it or set it aside or give any other order or decision he or she thinks fit.

#### **9.3 High Court**

- (1) The High Court is a superior court of record and consists of-
- (a) the Principal Judge of the High Court; and
  - (b) such other judges of the High Court as may be appointed from time to time.
- (2) The High Court-
- (a) has original jurisdiction over all civil and criminal matters throughout Zimbabwe;
  - (b) has supervisory jurisdiction over magistrates courts and other subordinate courts;
  - (c) may decide constitutional matters except matters that only the Constitutional Court may decide; and
  - (d) has such appellate jurisdiction as may be conferred on it by an Act of Parliament.
- (3) An Act of Parliament-
- (a) must provide for the High Court to be divided into divisions specialising in labour matters, family matters, administrative matters, fiscal matters and electoral matters; and
  - (b) may provide for the High Court to be divided into any other divisions.
- (4) Rules of court may confer on a registrar of the High Court any of the Court's jurisdiction and powers in civil cases-
- (a) to make orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;
  - (b) to decide preliminary or interlocutory matters, including applications for

directions, but not matters affecting the liberty of any person;

but the rules must give anyone affected by the registrar's order or decision a right to have it reviewed by a judge of the High Court, who may confirm it, amend it or set it aside or give any other decision he or she thinks fit.

### **9.6 Magistrates courts**

An Act of Parliament must provide for-

- (a) the establishment, composition and jurisdiction of magistrates courts to adjudicate on civil and criminal cases; and
- (b) the appointment of a chief magistrate to exercise administrative control over magistrates courts, subject to any instructions given to him or her by the Principal Judge of the High Court.

### **9.7 Traditional courts**

An Act of Parliament must provide for-

- (a) the establishment, composition and jurisdiction of traditional courts to adjudicate on ...; and
- (b) the appointment of a person to exercise administrative control over traditional courts, subject to any instructions given to him or her by the Chief Magistrate.

### **9.8 Other courts**

An Act of Parliament may provide for the establishment, composition and jurisdiction of other courts subordinate to the High Court.

### **9.9 Powers of courts in constitutional matters**

- (1) Any court may make an order concerning the constitutional validity of any law or any conduct of the President, but such an order has no force unless it is confirmed by the Constitutional Court.
- (2) A court which makes an order of constitutional invalidity referred to in subsection (1) may grant a temporary interdict or other temporary relief to a party, or may adjourn the proceedings, pending a decision of the Constitutional Court on the validity of the law or conduct concerned.
- (3) Anyone with a sufficient interest may appeal, or apply directly to the

Constitutional Court to confirm or vary an order of constitutional invalidity by a court in terms of subsection (1).

- (4) An Act of Parliament or rules of court must provide for the referring to the Constitutional Court of an order of constitutional invalidity made in terms of subsection (1) by a court other than the Constitutional Court.
- (5) When deciding a constitutional matter within its jurisdiction a court-
  - a) must declare that any law or conduct that is inconsistent with the Constitution is invalid to the extent of the inconsistency; and
  - b) may make any order that is just and equitable, including an order limiting the retrospective effect of the declaration of invalidity and an order suspending the declaration of invalidity for any period and on any conditions to allow the competent authority to correct the defect.

### **9.10 Inherent powers of Constitutional Court, Court of Appeal and High Court**

The Constitutional Court, the Court of Appeal and the High Court have inherent power to protect and regulate their own process and to develop the common law or the customary law, taking into account the interests of justice and the provisions of this Constitution.

## **PART 2**

### **APPOINTMENT AND TENURE OF THE MEMBERS OF JUDICIARY**

#### **9.11 Qualifications of judges of the Constitutional Court**

(1) A person is qualified for appointment as a judge of the Constitutional Court if he or she is at least thirty-five years old and has a sound knowledge of constitutional law and, in addition, possesses one of the following qualifications –

- (a) for at least five years, he or she has been a judge of a court with unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-

Dutch or English, and English is an official language; or

(b) for at least twelve yearsm whether continuously or or notm he or she has been qualified to practise as a legal practitioner

–

(i) in Zimbabwe; or

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

(iii) if he or she is a citizen of Zimbabwe, in a country in which the common law is English and English is an official language; and is currently qualified to practise.

### **9.12 Qualifications of judges of Court of Appeal and High Court**

(1) A person is qualified for appointment as a judge of the Court of Appeal or the High Court if he or she is at least thirty-five years old and, in addition –

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

(b) for at least seven years whether continuously or not, he or she has been qualified to practise as a legal practitioner

–

(i) In Zimbabwe; or

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

(iii) If he or she is a citizen of Zimbabwe, in a country in which the common law is English and English is an official language;

and is currently qualified to practise.

(2) To be appointed as a judge of the Court of Appeal or the High Court a person must be a fit and proper person to hold office as a judge.

### **9.13 Appointment of Chief Justice, Judge President and Principal Judge**

(1) The Chief Justice, the Judge President of the Court of Appeal and the Principal Judge of the High Court are appointed by the President in accordance with this section.

(2) Whatever the office of Chief Justice, Judge President of the Court of Appeal or Principal Judge of the High Court is vacant, the Judicial Service Commission must –

(a) prepare a list of three qualified persons as nominees for the office; and

(b) submit the list to the President whereupon the President must select one of the nominees for appointment and refer the nominee to the Parliamentary Public Appointments Committee for its approval in accordance with the Sixth Schedule.

(3) If the Parliamentary Public Appointments Committee is of the opinion that the Presidents nominee is unsuitable for appointment to the office, the President must submit to it the other names on the list submitted to him or her by the Judicial Service Commission, and the Parliamentary Public Appointments Committee must, in accordance with the Sixth Schedule, select one of them for appointment to the office concerned.

(4) When the Presidents nominee has been approved or the Parliamentary Public Appointments Committee has made a selection in terms of subsection (3) the President must appoint the person as Chief Justice, Judge President or the Court of Appeal or Principal Judge of the High Court, as the case may be.

(5) The Minister responsible for justice must cause notice of the appointment under this section to be published in the Gazette.

### **9.14 Appointment of other judges**

(1) Judges other than the Chief Justice, the Judge President of the Court of Appeal and the Principal Judge of the High Court are appointed by the President on the advice of the Judicial Service Commission, following the procedure prescribed in the Sixth Schedule.

- (2) The Minister responsible for justice must cause notice of the appointment of a judge to be published in the Gazette.

#### **9.15 Acting Appointments**

- (1) If the office of Chief Justice is vacant or if the office-holder is unable to perform the functions of the office, the President acting on the advice of the Judicial Service Commission may appoint a judge of the Constitutional Court to act as Chief Justice.
- (2) If the official Judge President of the Court of Appeal is vacant or if the office-holder is unable to perform the functions of that office, the President, acting on the advice of the Judicial Service Commission, may appoint a judge of the Constitutional Court or the Court of Appeal to act as Judge President of the Court of Appeal.
- (3) If the office of Principal Judge of the High Court is vacant or if the office-holder is unable to perform the functions of that office, the President, acting on advice from the Judicial Service Commission, may appoint a judge of the Court of Appeal or the High Court to act as Principal Judge of the High Court.
- (4) If-
- (a) The office of a judge of the High Court is vacant or the office-holder is unable to perform the functions of the office; or
  - (b) The services of an additional judge of the High Court are required to for a limited period;
- the President acting on advice of the Judicial Service Commission, may appoint a former judge to act in the office for a non-renewable period of not more than six months.

- (5) A person appointed to act under subsection (4) may continue to sit as a judge after his or her appointment has expired, for the purpose of dealing with any proceedings commenced before him or her while he or she was so acting.

#### **9.16 Appointment of magistrates**

Magistrates are appointed by the Judicial Service Commission in terms of an Act of Parliament which must ensure that their appointment is made transparently and without favour or prejudice.

#### **9.17 Appointment of other members of judiciary**

Judicial officers other than judges and magistrates must be appointed in terms of an Act of Parliament which must ensure that

- (a) Their appointment is made transparently and without favour or prejudice; and
- (b) No such judicial officer is appointed without the approval of the Judicial Service Commission

#### **9.18 Judicial officers not to be appointed by more than one court**

A person may not be appointed as a judicial officer of two or more courts simultaneously.

**9.19 Judicial appointments to reflect society**  
Appointments to the judiciary must reflect broadly the ethnic diversity and gender composition of Zimbabwe.

#### **9.20 Oath of Office**

- (1) Before judges begin to perform their functions they must take the judicial oath in the form set out in the Second Schedule, but judges who are appointed to act as judges of the Constitutional Court or the Court of Appeal need not take the oath.
- (2) The Acts of Parliament under which magistrates and other members of the judiciary, other than judges, are appointed must prescribe the oath to be taken by those members of the judiciary.

#### **9.21 Tenure of office of judges**



- (1) Judges of the Constitutional Court are appointed to for a non-renewable term not exceeding twelve years, but –
  - (a) They must retire earlier of they reach the age of seventy-five years; and
  - (b) After their retirement, they may be appointed as judges of the Court of Appeal or the High Court, at their option, if they are eligible for such appointment
- (2) Judges of the Court of Appeal and the High Court, unless they have been appointed in accordance with subsection (3) hold office from the date of their assumption of office until they reach the age of seventy-five years, when they must retire.
- (3) A person may be appointed as a judge of the Court of Appeal or the High Court for a fixed term, but if a person is so appointed –
  - (a) He or she ceases to be a judge on reaching the age of seventy-five years even if the term of his or her appointment has not expired;
  - (b) He or she may not be re-appointed or again be appointed a judge of any court after the term of his or her appointment has expired.
- (4) Even though a judge has reached the age at which he or she is required to retire or, in the case of a judge of the Constitutional Court or a judge referred to in subsection (3), reached the end of his or her term of office, the judge may continue to sit as a judge for the purpose of dealing with any proceedings commenced before him or her while he or she was a judge.
- (5) A judge may resign from his or her office at any time by written notice to the President given through the Judicial Service Commission.

- (6) The office of a judge must not be abolished during his or her tenure of office.

#### **9.22 Removal of judges from office**

- (1) A judge may be removed from office only for –
  - (a) Inability to perform the functions of his or her office, whatever the reason for the inability;
  - (b) Gross incompetence; or
  - (c) Gross misconduct; including a violation of the judicial code of conduct prepared by the Judicial Service Commission which amounts to gross misconduct

and a judge cannot be removed from office except in accordance with this section.

- (2) If the President considers that the questions of removing any judge from office ought to be investigated, the President must appoint a tribunal to inquire into the matter.
- (3) If the Chief Justice advises the President that the question of removing any judge from office ought to be investigated, the President must appoint a tribunal to inquire into the matter.
- (4) A tribunal appointed under this section must consist of at least three members appointed by the President, of whom
  - (a) at least one must be a person who –
    - (i) has served as a judge of the Court of Appeal or High Court in Zimbabwe, or
    - (ii) holds or has held office as a judge of a court with unlimited jurisdiction in civil or criminal matters in a country whose common law is Roman-Dutch or English, and English is an official language;

- (b) at least one must be chosen from a panel of at least three legal practitioners of seven years standing or more who have been nominated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe.
- (5) The President must designate one of the members of a tribunal appointed under this section to be chairperson of the tribunal.
- (6) The association referred to in subsection (4)(b) must nominate the panel referred to in that subsection when so required by the President.
- (7) A tribunal appointed under subsection (2) or (3) must inquire into the question of removing the judge concerned from office and, having done so, must report its findings to the President and recommend whether or not the President should refer the question to the Judicial Service Commission.
- (8) The President must act in accordance with the tribunal's recommendations in terms of subsection (7) and if after the question has been referred to it the Commission advises that the judge concerned be removed from office, the President must, by order under the public seal, remove the judge from office.
- (9) A tribunal appointed under this section has the same rights and powers as commissioners under the Commissions of Inquiry Act [Chapter 10:07], or any law that replaces that Act.
- (10) If the question of removing a judge from office has been referred to a tribunal under this section, the judge is suspended from office until the President, on the recommendation of the Judicial Service Commission, revokes the suspension or the judge is removed from office.

- (11) An Act of Parliament may empower the Judicial Service Commission or a tribunal under this section to require any judge to submit to a medical examination in order to ascertain his physical or mental health.

#### **9.24 Remuneration of members of judiciary**

- (1) Members of the judiciary are entitled to the salaries, allowances and other benefits fixed from time to time by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission and with the approval of the Minister responsible for Finance.
- (2) Parliament must act on the advice of the Salaries and Remuneration Commission in prescribing and appropriating, under an Act of Parliament, the salaries, allowances and other benefits referred to in subsection (1).
- (3) The salaries, allowances and other benefits of members of the judiciary are a charge on the Consolidated Revenue Fund.
- (4) The salaries, allowances and other benefits of members of the judiciary must not be reduced during the period they hold the office concerned or they as holders of that office.

### **PART 3**

#### **JUDICIAL SERVICE COMMISSION**

##### **9.25 Judicial Service Commission**

- (1) There is a Judicial Service Commission which consists of –
  - (a) The Chief Justice, who presides at meetings of the Commission;
  - (b) The Judge President of the Court of Appeal;
  - (c) The Principal Judge of the High Court;
  - (d) The Attorney General;

- (e) Not fewer than two or more than three persons designated by the President accordance with subsection (2);
- (f) three practicing legal practitioners designated by the association, constituted under an Act of Parliament, which represents legal practitioners in Zimbabwe;
- (g) two teachers of law designated by an association representing the majority teachers of law at Zimbabwean universities; and
- (h) a person nominated by the Chiefs' Council referred to in Chapter 15.

(2) One of the members appointed under subsection (1)(e) must-

- (a) be or have been a judge of the Court of Appeal or the High Court; or
- (b) be qualified to practise as a legal practitioner in Zimbabwe, and have been qualified for at least five years; or
- (c) possess such legal qualifications and have had such legal experience as the President considers adequate for appointment to the Judicial Service Commission;

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

(3) the terms of office of members of the Judicial Service Commission referred to in paragraph (e), (f), (g) and (h) of subsection (1) must be fixed on their appointment by the person or body that designated them, but none of those members may serve on the Commission for one or more periods exceeding five years in aggregate.

#### **9.26 Functions of Judicial Service Commission**

(1) The Judicial Service Commission may tender advice to the Government on any

matter relating to the judiciary or the administration of justice, and the Government must pay due regard to any such advice.

(2) The Judiciary Service Commission may prepare one or more codes of conduct to be observed by judges and other members of the judiciary, and the Commission has all the powers needed to enforce those codes.

(3) The Judiciary Service Commission must promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice in Zimbabwe.

(4) An Act of Parliament may confer on the Judicial Service Commission functions in connection with the employment, discipline and conditions of service of persons employed in –

- (a) the Constitutional Court, the Court of Appeal, the High Court and other courts subordinate to the High Court; and
- (b) the office of the Public Protector.

### **PART 4 GENERAL**

#### **9.27 Law to be administered**

Subject to any law relating to the application of customary law, the law to be administered by the court of Zimbabwe is the law that was in force on the effective date, as subsequently modified.

#### **9.28 Criminal jurisdiction of courts**

Only the following courts may exercise or be given jurisdiction in criminal cases-

- (a) the Constitutional Court, the Court of Appeal, the High Court and magistrates courts;
- (b) a court or tribunal that deals with cases under a disciplinary law, to the extent that the jurisdiction is necessary for the enforcement of discipline in the disciplined force concerned; and
- (c) any other court, provided that the jurisdiction does not permit the

court to impose a sentence involving deprivation of liberty.

## **CHAPTER 10 PUBLIC SERVICE**

### **10.1 Public Service**

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

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

(a) members of the Defence Forces, the Police Service, the Prison Service and other Security Services;

(b) judges, magistrates and persons presiding over courts established by an Act of Parliament;

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

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

### **10.2 Conduct of members of the Public Service**

(1) Members of the Public Service must act in accordance with this Constitution and the law, including customary international law and international agreements binding on Zimbabwe.

(2) No member of a Public Service may obey an order that is manifestly illegal.

(3) No member of the Public Service may, in the exercise of their functions-

(a) for partisan purposes, prejudice or further the interests of a political party; or

(b) violate the fundamental rights and freedoms of any person.

(4) An Act of Parliament must make provision to ensure the political neutrality of the Public Service, and for that purpose may prohibit any member of the Public Service from being a member of a political party.

### **10.3 Establishment and functions of Public Service Commission**

(1) There is a Public Service Commission which has the following functions –

(a) to promote throughout the Public Service the values and principles set out in this

Constitution, in particular in Chapter 17;

(b) to appoint qualified and competent persons to hold posts in the Public Service;

(c) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Public Service.

(d) to exercise control and disciplinary powers of the Public Service;

(e) to investigate grievances and to remedy the grievances of members of the Public

Service concerning official acts or omissions;

(f) to implement measures to ensure effective and efficient performance within, and

the general well-being of, the Public Service;

(h) to exercise any other functions that is conferred or imposed on the Commission

by this Constitution or an Act of Parliament.

(2) The Public Service Commission may make regulations for any of the purposes set out in subsection (1).

(3) In fixing the salaries, allowances and other benefits of members of the Public Service, the Public Service Commission must act on the recommendation of the Salaries and Remuneration Commission with the approval of the Minister responsible for finance.

### **10.4 Membership of Public Service Commission**

(1) The Public Service Commission consists of –

(a) a Chairperson and Deputy Chairperson appointed by the President and subject to the approval of Parliament; and

(b) a minimum of two and a maximum of six other members, whose number must be prescribed in an Act of Parliament, appointed by the President

with the approval of the Parliament, following the procedures set out in the Sixth Schedule.

(2) The Chairperson and the Deputy Chairperson must be of different genders.

(3) Members of the Public Service Commission must be chosen for their knowledge of or experience in administration, management or the provision of public services.

### **10.5 Ambassadors and other principal representatives of Zimbabwe**

(1) The President may appoint persons to be ambassadors or other principal representatives of Zimbabwe in other countries or to be accredited to international organizations and may, at any time, remove those persons from their posts.

(2) an appointment in terms of section (1) is subject to confirmation by Parliament in accordance with the procedures set out in Sixth Schedule.

### **10.6 Permanent Secretaries**

(1) Permanent Secretaries of Ministries must be appointed by the President on the advice of the Public Services Commission.

(2) An appointed in terms of section (1) is subject to confirmation by Parliament in accordance with the procedures set out in Sixth Schedule.

## **CHAPTER 11 SECURITYSERVICES**

### **PART 1 GENERALPROVISIONS**

#### **11.1 National security**

(1) The national security objectives of Zimbabwe must reflect the resolve of Zimbabweans to lives as equals ion liberty, peace and harmony, free from fear and wanted to pursue a better life.

(2) The national security of Zimbabwe must be secured in compliance with this Constitution and the law, including international law.

#### **11.2 Security Services**

(1) The Security Services of Zimbabwe consist of-

- (a) the Defence Forces;
- (b) the Police services;
- (c) the Prison Services; and
- (d) any intelligence service

established by the State.

(2) The security services must be structured and regulated by Acts of Parliament.

(3) The Defence Forces are the only lawful military forces in Zimbabwe, and no one may form armed militias or paramilitary bodies outside the security services referred to in subsection (1).

(4) Other than the security services established in terms of the Constitution, armed organisations or services may be established only in terms of an Act of parliament.

(5) Membership of the security services must reflect the people of Zimbabwe.

#### **11.3 Conduct of members of Security Services**

(1) Members of the Security Services must act in accordance with this Constitution and the law, including customary international law and international law and international agreements binding on Zimbabwe.

(2) No member of a Security Services may obey an order that is manifestly illegal.

(3) Neither the Security Services nor any of their members may, in the existence of their functions-

- (a) for partisan purposes, prejudice or further the interests of a political party;
- or
- (b) violate the fundamental rights and freedoms of any person.

(4) An Act of Parliament must make provision to ensure the neutrality of members of the Security Services, and for that purpose may prohibit any member of the Security Services from being a member of a political party.

#### **11.4 National Security Council**

(1) There is a National Security council consisting of the President as chairperson and such other Ministers and members of the Security Services and other persons as may be determined in an Act of Parliament.

(2) The functions of the National Security Council are-

- (a) to inform and advise the president on matters relating to national security; and
- (b) any other function that may be prescribed in an Act of Parliament.

### **11.5 Oversight of Security Services**

(Parked)

### **11.6 Independent complaints mechanism**

An Act of parliament must provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on part of members of the Security Services, and for the remedying harm caused by such misconduct.

## **PART 2**

### **DEFENCE FORCES**

#### **11.7 Defence Forces**

(1) The Defence Forces of Zimbabwe consist of an Army, an Air Force and any other branches that may be established under an act of Parliament.

(2) The Defence Forces must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.

(3) The Defence Forces must be structured and managed as disciplined military forces.

#### **11.8 Function of Defence Forces**

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

#### **11.9 Deployment of Defence Forces**

(1) With the authority of the President, acting on the advice of the Cabinet and with the prior approval of the National Assembly, the Defence Forces may be deployed-

- (a) in Zimbabwe-
  - (i) in defence of Zimbabwe;
  - (ii) in support of the Police Service in the maintenance of public order;
  - (iii) in support of the police Service and civilian authorities in the event of an emergency or disaster;

or

- (b) outside Zimbabwe, in fulfilment of an international commitment or defence of the Zimbabwe's national interest.

(2) If it is not reasonably possible to obtain the prior approval of the National Assembly for a deployment of the Defence Forces without that approval the deployment must be rescinded unless it is approved by the National Assembly within fourteen days thereafter.

(3) Whenever the President seeks the approval of the National Assembly for having deployed the Defence Forces without its prior approval, he must inform the National Assembly and in appropriate detail, of-

- (a) the reasons for deployment;
- (b) the place where the Defence Forces are deployed;
- (c) the number of people involved; and
- (d) the period for which the Defence Forces are expected to be deployed.

(4) If Parliament does not sit during the seven days after the Defence Forces without the National assembly's approval, the President must provide the information required in subsection (3) to the appropriate oversight committee referred to in section 9.11.

#### **11.10 Command of Defence Forces**

(1) An Act of Parliament may provide that-

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

(2) Every Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, is appointed by the President on the advice of the Defence Forces Service Commission and subject to the approval of the National Assembly in accordance with the procedures set out in the Sixth Schedule.

(3) Commanders of the Defence Forces, and Commanders of branches of the Defence Forces are appointed for ... term ...

(4) A person who has served as Commander of a branch of the Defence Forces may be appointed as Commander of the Defence Forces, but a person who has served as-

(a) Commander of the Defence Forces may not be appointed as Commander of a branch of the Defence Forces or to the command of any other Security Service;

(b) Commander of a branch of the Defence Forces may not be appointed as Commander of a branch of the Defence Forces or to the command of any other Security Service.

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

#### **11.11 Establishment and functions of Defence Forces Service Commission**

(1) There is a Defence Forces Service Commission which has the following functions-

(a) to appoint qualified and competent persons to hold posts or ranks in the Defence Forces;

(b) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Defence Forces;

(c) to determine the nature of disciplinary powers to be exercised over members of the Defence Forces, and the manner and circumstances in which they are to be exercised;

(d) to ensure the general well-being and administration of the Defence Forces and their maintenance in a high state of efficiency;

(e) to ensure that members of the Defence Forces comply with section 9.9;

(f) to foster harmony and understanding between the Defence Forces and civilians;

(g) to advise the Government on the remuneration and other benefits of members of the Defence Forces; and  
(h) to exercise any other function conferred or imposed on the Commission by this Constitution or an Act of Parliament.

(2) The Defence Forces Commission may make regulations for any of the purposes set out in subsection (1).

(3) In fixing the salaries, allowances and other benefits of a member of the Defence Forces, the Defence Forces Commission must act on the recommendation of the Salaries and Remuneration Commission with the approval of the Minister responsible for finance.

#### **11.12 Membership of Defence Forces Service Commission**

(1) The Defence Forces Service Commission consists of a chairperson who must be the chairperson of the Public Service Commission, and a minimum of two and a maximum of seven other members, appointed by the President and subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) The number of members of the Defence Forces Service Commission must be prescribed in an Act of Parliament.

(3) Members of the Defence Forces Service Commission must be chosen for their knowledge or experience in administration, management, military affairs, their professional qualifications or their general suitability for appointment, and-

(a) at least one of them must have held senior rank in the Defence Forces for one or more periods amounting to at least five years; and

(b) at least half of them must be civilians.

### **PART 3**

#### **POLICE SERVICE**

#### **11.13 Police Service and its functions**

(1) There is a Police Service which is responsible for-

(a) detecting, preventing and investigating crime;

(b) protecting and securing the lives and property of the people;

(c) maintaining law and order; and

(d) upholding this Constitution and enforcing the law without fear or favour.

(2) The Police Service must exercise its functions in cooperation with-

(a) any intelligence service that may be established by law;

(b) any body that may be established by law for the purpose of detecting, preventing or investigating particular classes of offences; and

(c) regional and international bodies formed to combat crime.

#### **11.14 Commissioner of Police**

(1) The Police Service is under the command of a Commissioner of Police appointed by the President on the advice of the Police Service Commission and subject to the approval of the National Assembly in accordance with the procedures set out in the Sixth Schedule.

(2) The Commissioner is appointed for ...term...

(3) A person who has served as Commissioner of Police may not be appointed to the command of any other Security Service or branch of a Security Service.

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

(5) Policy directions referred to in subsection (4) cease to have effect thirty days after their issue unless they have been approved by the National Assembly.

#### **11.15 Establishment and functions of Police Service Commission**

(1) There is a Police Service Commission which has the following functions-

(a) to appoint qualified and competent persons to hold posts or ranks in the Police Service;

(b) to fix and regulate conditions of service, including salaries, allowances

and other benefits, of members of the Police Service

(c) to determine the nature of disciplinary powers to be exercised over members of the Police Service, and the manner and circumstances in which they are to be exercised;

(d) to ensure the general well-being and administration of the Police Service and its maintenance in a high state of efficiency;

(e) to ensure that members of the of the Police Service comply with section 9.8;

(f) to foster harmony and understanding between the Police Service and civilians;

(g) to advise the Government on the remuneration and other benefits of members of the Police Service; and

(h) to exercise any other function conferred or imposed on the Commission by this Constitution or Act of Parliament

(2) The Police Service Commission may make regulations for any of the purposes set out in subsection (1).

(3) In fixing the salaries, allowances and other benefits of a member of the Police Service, the Police Service Commission must act on the recommendation of the Salaries and Remuneration Commission with the approval of the Minister responsible for finance.

#### **11.16 Membership of Police Service Commission**

(1) The Police Service Commission consists of a chairperson, who must be the chairperson of the Public Service Commission, and a minimum of two and a maximum of seven other members, whose number must be prescribed in an Act of Parliament, appointed by the President with the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Security Services Commission must be chosen for their knowledge or experience in the maintenance of law and order, administration, or their



professional qualifications or their general suitability for appointment, and at least one of them must have held senior rank in the Police Service for one or more periods amounting to at least five years.

#### **PART 4**

#### **INTELLIGENCE SERVICES**

##### **11.17 Establishment of intelligence services**

Any intelligence service of the State, other than an intelligence division of the Defence Forces or the Police Service must be established in terms of an Act of Parliament which, subject to this Constitution, defines the structure, powers, functions and accountability of the intelligence service.

##### **11.18 Command and control of intelligence services**

- (1) A person in command or control of an intelligence service-
  - (a) must be appointed by the President on the advice of...
  - (b) must be appointed for one non-renewable four-year term, and no one may be appointed to serve or act in command or control of an intelligence service after he or she has served or acted in that capacity for one or more periods, whether continuous or not, amounting to four years;
  - (c) may not be appointed to the command of any other Security Service or branch of a Security Service; and
  - (d) must exercise his or her command in accordance with general directions of policy given by the Minister specified in the Act of Parliament by which the intelligence service concerned is established.

(2) Policy directions referred to in subsection (1)(d) cease to have effect thirty days after their issue unless they have been approved by the National Assembly.

##### **11.19 Intelligence Services Commission**

[Parked]

#### **CHAPTER 12 PRISON SERVICE**

##### **12.1 Prison Service Commission**

There is a Prison Service, which is responsible for -

- (a) the administration of prisons and other Prisons institutions; and
- (b) the protection of society from criminals through the incarceration and rehabilitation of convicted persons and others who are lawfully required to be detained, and their reintegration into society.

##### **12.2. Conduct of members of the Prison Service**

(1) Members of the Prison Service must act in accordance with this Constitution and the law.

(2) No member of a Prison Service may obey an order that is manifestly illegal.

(3) No member of Prison Service may, in the exercise of their functions, violate the fundamental rights and freedoms of any person.

(4) An Act of Parliament must make provision to ensure the political neutrality of the Prison Service, and for that purpose may prohibit any member of the Prison Service from being a member of a political party.

##### **12.3 Oversight of Prison Service**

[Parked]

##### **12.4 Independent complaints mechanism**

An Act of Parliament must provide an effective and independence mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services and for remedying harm caused by such misconduct.

##### **12.5 Commissioner of Prison Service**

(1) The Prison Service is under the command of the Commissioner of the Prison Service appointed by the President on the advice of the Police Service Commission and subject to the approval of the National Assembly in accordance with the procedures set out in the Sixth Schedule.

(2) The Commissioner of the Prison Service is appointed for... term ...

(3) A person who has served as Commissioner of the Prisoner Service may not

be appointed to the command of any other security service or branch of a Security service.

(4) The Commissioner of the Prison Service must exercise his or her command in accordance with the general directions of the Policy given by the Minister responsible for the Prison services.

(5) Policy directions referred to in subsection (4) cease to have effect thirty days after their issue unless they have been approved by the National Assembly.

#### 12.6 Establishment and functions of Prison Service Commission

(1) There is a Prison Service Commission which has the following functions-

- (a) to appoint qualified and competent persons to hold posts or ranks in the Prison Service;
- (b) to fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the Prison Service;
- (c) to determine the nature of disciplinary powers to be exercised over members of the Prison Service, and the manner and circumstances in which they are to be exercised;
- (d) to ensure the general well-being and administration of the Prison Service and their maintenance in high state of efficiency;
- (e) to ensure that members of the Prison Service comply with section 9.26;
- (f) to foster harmony and understanding between the Prison Service and civilians;
- (g) to advise the Government on the remuneration and other benefits of members of Prison Service; and
- (h) to exercise any other function conferred or imposed on the Commission by this Constitution or Act of Parliament.

(2) The Prison Service Commission may make regulations for any of the purposes set out in subsection (1).

(3) In fixing the salaries, allowances and other benefits of members of the Prison

Service, the Prison Service Commission must act on the recommendation of the Salaries and Remuneration Commission with the approval of the Minister responsible for finance.

#### 12.7 Membership of Prison Service Commission

(1) The Prison Service Commission consists of a chairperson, who must be the chairperson of the Public Service Commission, and a minimum of two and a maximum of seven other members, whose number must be prescribed in an Act of Parliament, appointed by the President, following the procedures set out in the Sixth Schedule.

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

### CHAPTER 13

#### INDEPENDENT INSTITUTIONS SUPPORTING CONSTITUTIONAL DEMOCRACY

##### PART 1 GENERAL

#### 13.1 General objectives of democracy-supporting institutions

The following State institutions, namely-

- (a) the Electoral Commission;
- (b) the Human Rights Commission;
- (c) the Gender Commission;
- (d) the Land Commission;
- (e) the Anti-Corruption Commission;
- (f) the Media Commission; and
- (g) the Public Protector.

have the following general objectives and functions in addition to those given to them individually-

- i) to support and entrench human rights and democracy;
- ii) to protect the sovereignty and interests of the people;
- iii) to promote constitutionalism;

- iv) to secure the observance by all State institutions of democratic values and principles; and
- v) to ensure that injustices are remedied.

### **13.2 Powers of democracy-supporting institutions**

(1) The institutions referred to in section 13.1 have all the powers necessary for the fulfil their objectives and functions, including the power-

- (a) to inspect relevant documents and records held by the Government and statutory bodies;
- (b) to conduct investigation on tier own initiative or on complaint made by any person;
- (c) to conduct proceedings for conciliation, mediation and negotiation.

(2) All institutions of the State, through legislative and other measures, must assist the institutions referred to in section 13.1 and protect their independence, impartiality, integrity and effectiveness.

(3) No one may interfere with the functioning of the institutions referred to in section 13.1

### **13.3 Staff of democracy-supporting institutions**

The institutions referred to this section 13.1 have power to employ staff and to regulate their conditions of service, and an Act of Parliament must make provision for the independence, impartiality, integrity and effectiveness of those staff members.

## **PART 2**

### **ELECTORAL COMMISSION**

#### **13.4 Establishment and functions of Electoral Commission**

(1) There is an Electoral Commissions which has the following functions -

- (a) to prepare for conduct and supervise-
  - (i) elections to the office of President and to Parliament;
  - (ii) elections to provincial assemblies and the governing bodies of local authorities;
- and

(iii) referendums;

- (b) to register voters, to compile and maintain voters' rolls and registers and to ensure their integrity;
- (c) to conduct voter education;
- (d) to accredit election observers; and
- (e) generally, to ensure the efficient, proper free and fair conduct of elections and referendums

(2) The Electoral Commission must submit a report to the National Assembly on the conduct of every election and every referendum.

(3) The Government must make adequate and suitable provisions, through legislation and other appropriate means, to ensure that-

- (a) the Electoral Commission is able to exercise its functions efficiently and independently; and
- (b) persons employed by the Electoral Commission carry out their duties conscientiously, fairly and impartially.

#### **13.5 Membership of Electoral Commission**

(1) The Electoral Commission consists of -

- (a) a chairperson appointed by the President on the advice of the Judicial Service Commission and subject to the approval of Parliament; and
- (b) eight other members appointed by the President, following the procedures set out in the Sixth Schedule.

(2) The chairperson of the Electoral Commission must be a judge on former judge of the Constitutional Court, the Supreme Court or the High Court or a person qualified for appointment as such a judge.

(3) Members of the Electoral Commission must be chosen for the integrity and experience and for their competence in the conduct of affairs in the public or private sector.

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

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

(6) Members of the Electoral Commission are appointed for a six-year term and may be re-appointed for one further term, but no one may be appointed to or serve on the Commission after he or she has been a member for one or more periods, whether continuous or not, that amount to twelve years.

### **PART 3**

#### **HUMAN RIGHTS COMMISSION**

##### **13.6 Establishment and functions of Human Rights Commission**

(1) There is a Human Rights Commission which has the following functions-

- (a) to promote the protection, development and attainment of human rights and freedoms;
- (b) to monitor, assess, investigate and ensure observance of human rights and freedoms and to report on the observance of human rights;
- (c) to protect the public against abuse of power and maladministration by State and public institutions of the State and by officers of the institutions;
- (d) to secure appropriate redress where human rights have been violated; and
- (e) to direct the Commissioner of Police to investigate cases of suspected violations of human rights and to report to the Commission on the results of any such investigation.

(2) The Commissioner of Police must comply with any directive given to him or her by the Human Rights Commission under subsection (1)(e).

##### **13.7 Membership of Human Rights Commission**

(1) The Human Rights Commission consists of a chairperson and five other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Human Rights Commission must be chosen for their integrity and knowledge and understanding of and experience in the promotion of human rights.

##### **3.8 Reports to Human Rights Commission**

Persons in charge of all State institutions, and any other persons that may be specified in an Act of Parliament must inform the Human Rights Commission annually of measures they have taken to give effect to the rights and freedoms set out in the Declaration of Rights.

### **PART 4**

#### **GENDER COMMISSION**

##### **13.9 Establishment and functions of Gender Commission**

There is a Gender Commission which has the following functions-

- (a) to monitor issues concerning gender equality to ensure gender equality as provided in this Constitution;
- (b) to investigate possible violations of rights relating to gender;
- (c) to conduct research into issues relating to gender and social justice, and to recommend changes to laws and practices which lead to discrimination based on gender.
- (d) to advise public and private institutions on steps to be taken to ensure gender equality;
- (e) to recommend affirmative action programmes achieve gender equality;
- (f) to do everything necessary to promote gender equality and to prevent gender discrimination.

##### **13.10 Membership of Gender Commission**

(1) The Gender Commission consists of a chairperson and five other members, appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Gender Commission must be chosen for their integrity and Knowledge and understanding of, gender issues in social, economic and political life, and the genders must be equally represented on the Commission.

**PART 5**  
**LAND COMMISSION**

**13.11 Establishment and functions of Land Commission**

(1) There is a Land Commission which has the following functions-

- (a) to supervise and regulate the administration of and that is vested in the State;
- (b) to make recommendations to government regarding-
  - (i) the acquisition of private land for public purposes; and
  - (ii) equitable access to, and the holding and occupation of, land and in particular, the elimination of gender discrimination;
- (c) to facilitate and simplify the acquisition and transfer of rights in land; and
- (d) to make recommendations to the Government regarding land tenure.

(2) In discharging its functions, the Land Commission must be guided by the following principles-

- (a) promoting the efficient and sustainable management of land resource;
- (b) developing agriculture and other sectors of the economy;
- (c) ensuring transparency and accountability in the use, administration and disposal of land vested in the State;
- (d) promoting fair completion to increase productivity and efficiency; and
- (e) protecting the environment and biodiversity and safeguarding interests of future generations.

**13.12 Membership of Land Commission**

(1) The Land Commission consists of a chairperson and five other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Land Commission must be chosen for their integrity and

competence in, and knowledge and understanding of, the best practices in land management and administration.

**PART 6**

**ANTI-CORRUPTION COMMISSION**

**13.13 Establishment and functions of Anti-Corruption Commission**

(1) There is an Anti-Corruption Commission which has the following functions-

- (a) to investigate cases of corruption in the public and private sectors;
- (b) to combat corruption and abuse of power;
- (c) to promote honesty, financial discipline and transparency in the public and private sectors; and
- (d) to direct the Commissioner of Police to investigate cases of suspected corruption and to report to the Commission on the results of any such investigation.

(2) The Commissioner of Police must comply with any directive given to him or her by the Anti-Corruption Commission under subsection (1) (d).

**13.14 Membership of Anti-Corruption Commission**

(1) The Anti-Corruption Commission consists of a chairperson and five other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Anti-Corruption Commission must be chosen for their integrity and their competence in, and knowledge and understanding of, the best practices in combating corruption.

**PART 7**

**MEDIA COMMISSION**

**13.15 Establishment and functions of Media Commission**

(1) There is a Media Commission which has the following functions-

- (a) to promote and develop freedom of the press and other media of communication;
- (b) to regulate broadcasting in the public interest and in particular, to

ensure fairness and diversity of views broadly representing Zimbabwean society;

(c) to encourage people working for the press and for other media of communication to develop codes of conduct; and

(d) to take disciplinary action against journalists and other persons employed in the press, news media or broadcasting who are found to have breached any law or any code of conduct applicable to them.

(2) The Media Commission must encourage self-regulation of the press and other media of communication, in preference to control by the State or an agency of the State.

### **13.16 Membership of Media Commission**

(1) The Media Commission consists of a chairperson and five other members appointed by the President, subject to the approval of Parliament, following the procedures set out in the Sixth Schedule.

(2) Members of the Media Commission must be for their integrity and competence in, and their knowledge and understanding of, the best practices in media matters.

## **PART 8**

### **OFFICE OF THE PUBLIC PROTECTOR**

#### **13.17 Establishment and functions of office of Public Protector**

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

(2) The Public Protector has power-

(a) to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;

(b) to report to Parliament if he or she finds that any conduct referred to in paragraph (a) is improper or has resulted in impropriety or prejudice;

(c) to take appropriate action to remedy any improper or prejudicial

conduct in State affairs or public administration and

(d) to exercise any other function conferred or imposed upon the Public Protector by this Constitution or any other enactment.

(3) The Public Protector may not investigate court decisions.

(4) The Public Protector must be accessible to all persons and communities.

(5) Any report issued by the Public Protector must be open to the public unless exceptional circumstances, to be determined in terms of an Act of Parliament, require that a report be kept confidential.

#### **13.18 Appointment and tenure of office of Public Protector**

(1) The Public Protector is appointed by the President on the advice of the Judicial Service Commission and subject to the approval of the National Assembly, following the procedures set out in the Sixth Schedule.

(2) The Public Protector must be a person qualified for appointment as a judge of High Court.

(3) The Public Protector is appointed a term of...

(4) The provisions relating to the removal of a judge from office apply to the removal of the Public Protector from office.

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

## **CHAPTER 14**

### **PROVINCIAL LOCAL GOVERNMENT**

[Parked]

## **CHAPTER 15**

### **TRADITIONAL LEADERS**

#### **15.1 Recognition of traditional leadership**

(1) The institution of traditional leadership is recognised.

(2) A traditional leader is responsible for performing the cultural, customary and

traditional functions of a Chief or headperson, as the case may be for his or her community.

### **15.2 Principles governing the institution of traditional leadership**

(1) Traditional leaders must act in accordance with this Constitution and the law.

(2) In the performance of his or her functions, a traditional leader is not subject to the control or direction of any person or authority, except to the extent prescribed by an Act of Parliament.

### **15.3 Obligations and functions of traditional leaders**

(1) A traditional leader must not be a member of any political party or in any way participate in partisan politics.

(2) Traditional leaders must -

- (a) observe the rules pertaining to traditional leadership and exercise their functions for the purposes for which the institution of traditional leadership is recognized by this Constitution;
- (b) promote and uphold cultural values of their communities, in particular, promote sound family values;
- (c) take measures to preserve the culture, traditions, history and heritage of their communities, including sacred shrines within their areas;
- (d) treat all persons under their jurisdiction equally and fairly;
- (e) resolve disputes amongst people in their communities in accordance with customary law; and
- (f) exercise any other functions conferred or imposed on them by an Act of Parliament.

### **15.4 Remuneration, privileges and benefits of traditional leaders**

(1) The President, in accordance with an Act of Parliament, must appoint Chiefs selected in accordance with the customs, traditions and practices of their communities.

(2) The appointment and removal of head persons must be in accordance with an Act of Parliament, which must reflect the culture, customs and traditions of the communities concerned.

### **15.5 Recognition and appointment of Chiefs**

(1) The President, in accordance with an Act of Parliament, must appoint Chiefs selected in accordance with the customs, traditions and practices of their communities.

(2) The appointment and removal of headpersons must be in accordance with an Act of Parliament, which must reflect the culture, customs and traditions of the communities concerned.

### **15.6 Council of Chiefs**

(1) There is a Council of Chiefs consisting of such Chiefs as may be prescribed in an Act of Parliament.

(2) The Act of Parliament referred to in subsection (1)-

- (a) must provide for the membership, functions and procedures of the Councils of Chiefs, and in particular for-
  - (i) the qualifications and election of members of the Council;
  - (ii) the tenure, remuneration and removal of members of the Council;
  - (iii) the oath of office to be taken by members of the Council; and
  - (iv) the establishment of a secretariat for the Council;
- (b) may provide for the establishment of provincial councils of chiefs.

## **CHAPTER 16 FINANCE**

### **16.1 Principles of public finance**

(1) The following principles must guide all aspects of public finance in the Zimbabwe -

- (a) there must be openness and accountability in financial matters;
- (b) the public finance system must be directed at prompting an equitable society, and in particular -
  - (i) the burden of taxation must be shared fairly,
  - (ii) revenue raised nationally must be shared equitably

between the central government and provincial and local governments; and  
(iii) expenditure must be directed towards the development of Zimbabwe, and special provision must be made for marginalized groups and areas;

(c) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations; and  
(d) Financial management must be responsible, and fiscal reporting must be clear.

(2) No taxes may be levied except under the specific authority of this Constitution or an Act of Parliament or a provincial ordinance.

### **16.2 Parliamentary control of State revenues and expenditure**

(1) It is a function of the National Assembly to monitor and control expenditure by the State and all institutions of Government, as well as statutory bodies and government-controlled entities in order to ensure that -

(a) their expenditure has been properly made and does not exceed the amount appropriated; and  
(b) any limits and conditions on appropriations have been observed.

(2) An Act of Parliament must provide mechanisms for the National Assembly to monitor and control expenditure referred to in subsection (1), including the submission of regular reports by public officers and by the institutions, bodies and entities referred to in that subsection.

### **16.3 Limits of State borrowings, public debt and State guarantees**

(1) An Act of Parliament must set limits on -

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

(2) The National Assembly must establish a standing committee to consider loans negotiated by or on behalf of the Government, and the responsible institutions of government must consult this committee before concluding such loans.

(3) All loans agreements negotiated by or on behalf of the State, including loan agreements with international financial institutions, must be approved by the National Assembly before they become binding on Zimbabwe, and their terms must be made public by the Speakers within ninety days after their approval.

(4) The Government may guarantee a loan only if there has been prior consultation with the committee established under subsection (2), and the guarantee will become binding only after it has been approved by the National Assembly.

(5) Within ninety days after a Government guarantee has been approved by the National Assembly under subsection (4), the Speaker must make its terms public.

(6) The Government must publish the criteria for issuing guarantees, and at least twice a year publish a report on any guarantees it has issued.

(7) The Minister responsible for finance must -

(a) at least twice a year, report to the National Assembly on the performance of -

(i) loans raised by the State; and  
(ii) loans guaranteed by the State;

(b) at the same time as the estimates of revenue and expenditure are laid before the National Assembly in terms of section 16.7, table in the National Assembly a comprehensive statement of the public debt and the assets of Zimbabwe.

### **16.4 Division of revenue between national and provincial governments and local authorities**

(1) An Act of Parliament must provide for-



- (a) the equitable division of national revenues between the national government, provincial governments and local authorities;
- (b) the determination of each provincial government's share of the revenue raised from within the province; and
- (c) any other allocations to provinces and local authorities from the national government's share of the national revenue, and any conditions on which those allocations may be made.

(2) The Act referred to in subsection (1) must be enacted after consultation with provincial government's, local authorities and the Fiscal Commission, and must take into account, amongst other factors-

- (a) the national interest;
- (b) any provision that must be made in respect of the national debts and other national obligations;
- (c) the needs and interest of the central government, determined by objective criteria
- (d) the need to ensure that provincial governments and local authorities are able to provide basic services and perform the functions allocated to them;
- (e) the fiscal capacity and efficiency of provincial governments and local authorities;
- (f) developmental and other needs of provincial governments and local authorities;
- (g) economic disparities within and between Provinces;
- (h) obligations of provincial governments and local authorities
- (i) the desirability of stable and predictable allocations of revenue;
- (j) the need for flexibility in responding to emerges and other temporary needs; and the act must not be enacted unless there has been consultation with the provincial governments and local authorities and with the Financial and Fiscal Commission, any

recommendations made by those bodies have been properly considered.

(3) A provincial government's share of national revenues is a charge on the Consolidated Revenue Fund.

#### **16.5 Funding for constitutional bodies and other institutions**

(1) The Government must ensure that adequate funds are provided-

- (a) to the Commissions and other institutions established by this Constitution, to enable them to perform their functions effectively;
- (b) to Parliament, to enable it its committees to meet whenever necessary; and
- (c) to all other institutions of the State, to enable them to perform their obligations under this Constitution.

(2) The Independent Commissions must be given a reasonable opportunity to make representations to a parliamentary committee as to the funds to be allocated to them in each financial year.

#### **16.6 Consolidated Revenue Fund**

(1) There is a Consolidated Revenue Fund into which must be paid all fees, taxes and revenues of the Government, whatever their sources, unless as Act of Parliament-

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

(2) No money may be withdrawn from the Consolidated Revenue Fund except to meet expenditure authorized by this Constitution by the Act of Parliament.

(3) Money withdrawn from the Consolidated Revenue Fund must be paid only to the person to whom the payment is due.

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

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

(6) An Act of Parliament must prescribe the way in which-

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

(7) For the purposes of subsection (4)- “debt charges” includes interest, sinking fund charges, the repayment or amortisation of debt and all expenditure related to the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created by those loans.

### **16.7 Appropriation of money from Consolidated Revenue Fund**

(1) Every year the Minister responsible for finance must present to the National Assembly a statement of the estimated receipts and expenditure of the Government in the next financial year.

(2) Separate estimates of revenue and expenditure must be given for each of the following-

- (a) the judiciary
- (b) each Commission established by this Constitution
- (c) the office of the Auditor-General
- [(d) the National Prosecuting Authority / office of the Independent Prosecutor-General- parked issue]

(3) Before estimates are debated in the National Assembly, the estimates must be referred to an appropriate committee of the National Assembly for the committee to review them and make appropriate recommendations to the National Assembly.

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

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

(5) if the money appropriated to a purpose under an Appropriation Act is insufficient or if expenditure is needed for a purpose for which no money has been appropriated, the Minister responsible for finance must cause an additional or supplementary estimate to be presented to the National Assembly, and if the National Assembly approves the estimate the Minister must cause an additional or supplementary appropriation Bill to be introduced into the Assembly providing for the necessary money to be issued from the Consolidated Revenue Fund.

### **16.8 Unauthorized expenditure**

(1) Money must not be paid or withdrawn from the Consolidated Revenue Fund unless it has been appropriated from or charged on the Fund in accordance with this Constitution.

(2) A payment or withdrawal made in contravention of subsection (1) is void unless it has been ratified or condoned by an Act of Parliament.

### **16.9 Auditor-General**

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

(2) The Auditor-General is appointed by the President on the advice of the institute or association representing the majority of public auditors in Zimbabwe, and with the approval of the National Assembly in accordance with the Sixth Schedule.

(3) Before entering the office, the Auditor-General must take the oaths of loyalty and office in the forms set out in the Second Schedule.

(4) If the National Assembly, by a vote of two-thirds of its membership resolves that

the Auditor-General should be removed from the office on the ground of-

- (a) inability to perform the functions of his or her office, whatever the reason for the inability; (b) gross incompetence; or
- (c) gross misconduct

the Auditor-General thereupon ceases to hold office

(5) The functions of the Auditor General are-

- (a) to audit the accounts, financial systems and financial management of all departments and institutions of Government, all provincial governments and all local authorities;
- (b) to order the taking of measures to rectify any defects in the management and the safeguarding of public funds; and
- (c) to exercise any other function that may be conferred or imposed on him or her by an Act of Parliament.

(6) in the exercise of his or her functions the Auditor General is independent and subject only to the law.

(7) Public officers must comply with orders given to them by the Auditor-General in terms of subsection (5)(b).

(8) Each year, before the Minister responsible for finance presents the estimates of revenue and expenditure to the National Assembly, the Auditor-General must present to the National Assembly an audit report for that year.

#### **16.10 Financial and Fiscal Commission**

(1) There is a Financial and Fiscal Commission consisting of-

- (a) a chairperson and four other members appointed by the President with the approval of the National Assembly in accordance with the Sixth Schedule;
- (b) members to represent provincial governments, each provincial executive appointing one such member; and
- (c) one member to represent local authorities, the member being appointed by an association recognized

under an Act of Parliament as representing local authorities.

(2) The functions of the Financial and Fiscal Commission are-

- (a) to supervise the division of revenues between the national government, provincial governments and local authorities;
- (b) to make the recommendations provided for in this Constitution and any Act of Parliament; and
- (c) to exercise any other functions that are conferred or imposed on the Commission by an Act of Parliament.

#### **16.11 Salaries and Remuneration Commission**

(1) There is Salaries and Remuneration Commission consisting of-

- (a) a Chairperson appointed by the President, acting on the advice of the Judicial Services Commission;
- (b) one member designated by the National Assembly from a list of nominees prepared by the Parliamentary Public Appointments Committee;
- (c) one member designated by the Judicial Services Commission
- (d) one member designated by the Public Service Commission
- (e) one member designated by the Security Services Commission
- (f) one member designated by an association that is recognized under an Act of Parliament as representing trade unions;
- (g) one member designated by an association that is recognized under an Act of Parliament representing employers' organizations; and
- (h) Two members designated by the Minister responsible for finance.

(2) The functions of the Salaries Remuneration Commission are to make recommendations as to the remuneration, allowances and benefits of-

- (a) all public officers, including -
  - (i) The President and Ministers
  - (ii) Members of Parliament

- (iii) Members of the judiciary
  - (iv) Members of the Public Service and all security services and;
  - (v) Members of Commission established by this Constitution
- (b) members of Provincial Assemblies and employees of provincial governments; and
- (c) members and employees of local authorities; are to exercise any other function that may be conferred on the Commission by an Act of Parliament.
- (3) In exercising its functions, the Salary and Remuneration Commission must take into account the following-
- (a) the need to ensure that the costs of remunerating public officers, members of Provincial Assemblies and local authorities, and employees of provincial governments and local authorities, are financially sustainable;
  - (b) the need to ensure that the State, Provincial governments and local authorities are able to attract persons with necessary skills to enable those bodies to carry out their functions;
  - (c) the need to recognize productivity and performance; and
  - (d) transparency and fairness.
- (4) Neither the state nor a provincial government nor a local authority may increase, directly or indirectly, the remuneration, allowances or benefits of a person referred to in subsection (2) unless the Salaries and Remuneration Commission has been consulted about the increase.
- (5) If, contrary to a recommendation made by the Salaries and Remuneration Commission, the State or a provincial government or local authority increases, directly or indirectly, the remuneration, allowances or benefits of a person referred to in subsection (3) the Commission must report the matter to the Minister responsible for finance and the Minister must lay the Commission's report before the National Assembly on one of

the five days that the Assembly next sits after the Minister received it .

#### **16.12 Procurement**

An Act of Parliament must prescribe procedures for the procurement of goods and services by all government departments and public institutions in a manner that is transparent, fair, honest, economical and competitive.

#### **16.13 Reserve Bank of Zimbabwe**

(1) There is a central bank to be known as the Reserve Bank of Zimbabwe, whose objects are-

- (a) to regulate Zimbabwe's monetary system; and
- (b) to protect the currency of Zimbabwe in the interest of balanced and sustainable economic growth.

(2) An Act of Parliament must provide for the functions of the Reserve Bank of Zimbabwe.

(3) An Act of Parliament must provide for the structure and organization of the Reserve Bank of Zimbabwe, and in particular must provide for the responsibilities and functions of-

- (a) a Governor, to be appointed by the President with the approval of the National Assembly in accordance with the Sixth Schedule; and
- (b) a Board of Directors whose members are to be appointed in the manner prescribed in the Act.

### **CHAPTER 17**

#### **PRINCIPLES OF PUBLIC ADMINISTRATION AND LEADERSHIP**

##### **17.1 Basic values and principles in governing public administration**

Public administration in the national, provincial and local spheres of government must be governed by the democratic values and principles enshrined in this Constitution, including the following principles-

- (a) a high standard of professional ethics must be promoted and maintained;

- (b) efficient, economical and effective use of resources must be promoted;
- (c) public administration must be development oriented;
- (d) services must be provided impartially, fairly, equitably and without bias;
- (e) people's needs must be responded to within a reasonable time, and the public must be encouraged in the policy-making.
- (f) public administration must be accountable to Parliament and the people;
- (g) Openness must be fostered by providing the public with timely, accessible accurate information;
- (h) good human resource management and career, development practices, to maximise human potential, must be cultivated;
- (i) public administration must be broadly representative of the Zimbabwean people, with employment and personnel management practices based on ability, objectivity, fairness;

and legislative bodies in all spheres of government must enact legislation promoting these values and principles.

### **17.2 Responsibilities of public officers and principles of leadership**

- (1) Authority assigned to a public trust which must be exercised in a manner which-
  - (a) is consistent with the purposes and objects of this Constitution;
  - (b) demonstrates respect for the people and a willingness to serve them rather than rule them; and
  - (c) promotes public confidence in the office held by the public officer.
- (2) Public officers must conduct themselves, in public and private life, so as to avoid any conflict between their personal interests and their public or official duties, and to abstain from any conduct that demeans their office.

(3) Public officers in leadership positions must abide by the following principles of leadership-

- (a) objectivity and impartiality in decision making;
- (b) honesty in the execution of public duties;
- (c) accountability to the public for decisions and actions; and
- (d) disciplined in the service of the people

### **17.3 Legislation to enforce this Chapter**

Parliament must enact measures to enforce the provisions of this Chapter, including measures-

- (a) requiring public officers to make regular disclosures of their assets;
- (b) establishing codes of conduct to be observed by public officers; and
- (c) providing for punishment of public officers who contravene the provisions of this Chapter or of any code of conduct referred to in paragraph (b).

## **CHAPTER 18**

### **GENERAL AND SUPPLEMENTARY PROVISIONS**

#### **PART 1**

#### **GENERAL PROVISIONS AS TO COMMISSIONS**

##### **18.1 Application of Part 1**

This part applies to every Commission established by this Constitution, and to the members of every such Commission.

##### **18.2 Commissions to be bodies corporate**

The Commissions are bodies corporate with perpetual succession and are capable of suing and being sued in their own names.

##### **18.3 Commissions to be independent**

Subject to this Constitution, the commissions -

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

##### **18.4 Membership of Commissions**

(1) Unless otherwise stated in this Constitution, the appointment of a member of a Commission must follow the procedures set out

in the Sixth Schedule and any additional procedures, consistent with those set out in the schedule, that may be prescribed in Act of Parliament.

(2) Every member of a Commission, other than the Judicial Service Commission and Electoral Commission, is appointed for a term of five years which is renewable for one additional term only, and no one may be appointed or serve or act as a member of a Commission after he or she has been a member for one or more periods, whether continuous or not, amounting to ten years.

(3) Subsection (2) does not apply to members appointed by virtue of their office, who remain members of the Commission concerned for so long as they hold that office.

(4) Members of Parliament and members of provincial assemblies, provincial executives and local authorities are not eligible to be appointed as members of a Commission.

(5) Subject to this Constitution, an Act of Parliament may provide for-

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

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

### **18.5 Removal from office of members of Commissions**

A member of a Commission may be removed from office only upon a finding by the Parliamentary Public Appointments Committee that the member concerned -

- (a) is unable to perform the functions of his or her office, whatever the reason for the inability;
- (b) is or was grossly incompetent; or
- (c) was guilty of gross misconduct.

### **18.6 Functions and procedure of Commissions**

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

Commission's independence or effectiveness are not compromised.

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

(3) Subject to this Constitution, any decision of a Commission requires the occurrence of a majority of the Commissions members who are present when the decision is taken, and in the event of an equality of votes the person presiding at the meeting has a casting vote in addition to a deliberative vote.

(4) An Act of Parliament may provide for the procedures to be adopted by a Commission, and in any respect that is not so provided for the Commission may determine its own procedures, but any such procedures must be fair and promote transparency in the performance of the Commission's function.

### **18.7 Funding of Commissions**

Parliament must ensure that sufficient funds are appropriated to the Commissions to enable them to exercise their functions effectively.

### **18.8 Commissions to report annually to Parliament**

(1) Every Commission must submit to the Senate and the National Assembly an annual report on its operations and activities, the report being submitted not later than the end of January in the year following the year to which the reports relates.

(2) An Act of Parliament may require a Commission to submit further reports in addition to the annual report specified in subsection (1).

## **PART 2**

### **INTERPRETATION**

#### **18.9 Application of Part 2**

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

#### **18.10 Definitions In this Constitution**

"Act of Parliament" includes -

- (a) any law included in the revised edition of the statute law of Zimbabwe

prepared in 1996 under the authority of the Statute Law Compilation and Revision Act [Chapter 1:03]; and  
 (b) any other Act;

which was in force immediately before the appointed day;

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

"Chief" means a Chief referred to in section 15.6;

"Communal Land" means land set aside under an Act of Parliament and held in accordance with customary law by members of a community under the leadership of a Chief;

"Constitutional Bill" means the Constitutional court established by section 9.1 (1) (a);

"Constitutional matter" includes any issue involving the interpretation, protection or enforcement of this Constitution;

"customary law" means the customary law of any section or community of Zimbabwe's people;

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

"disciplined force" means -

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

"effective date" means the date appointed for the commencement of this Constitution;

"Electoral Commission" means the Commission of that name established by section 13.4;

"Electoral Law" means the Act of Parliament that regulates the election of the President and members of Parliament;

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

"function" includes power and duty;

"Gazette" means the official Gazette of the Government and includes any supplement to that Gazette;

"general election" means general election of members of Parliament;

"Government" means the Government of Zimbabwe;

"government- controlled entity" means a body corporate whose operations or activities are substantially controlled by the State or by a person on behalf of the State, whether through ownership of a majority of shares in the body corporate or otherwise;

"House", unless qualified means the Senate or the National Assembly;

"Human Rights Commission" means the commission of that name established by the section 13.6;

"Independent Commission" means a commission established by Chapter 13;

"Judge" means a judge of the Constitutional Court, the Court of Appeal or High court;

"Judicial Service Commission" means the commission of that name established by section 9.25;

"law" means -

- (a) any provision of this Constitution or of an Act of Parliament;
- (b) any provision of a statutory instrument; or
- (c) any unwritten law in force in Zimbabwe, including customary law;

and "lawful", "lawfully", "legal" and "legally" are to be construed accordingly;

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

"local authority" means a council referred to in Chapter 14;

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

- (a) is a statutory body, provincial council or local authority; or

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

"member of Parliament" means a Senator or a member of the National Assembly;

"Minister" includes a person exercising the functions of a minister, whatever their title;

"national legislation" means an Act of Parliament or a statutory instrument made under an Act of Parliament;

"oath" includes affirmation;

"offence" means a criminal offence;

"Parliamentary Public Appointments Committee" means the committee of that name established by section 7.37;

"period of public emergency" means a period when a declaration of a state emergency under section 6.22 is effect;

"person" means an individual or a body of persons, whether corporate or unincorporated;

"President" means president of Zimbabwe;

"President of the Senate" means the President of the Senate elected in terms of section 7.6;

"provincial council" means a provincial council established in terms of chapter 14;

"provincial legislation" means an ordinance enacted by a provincial council, or subordinate legislation made under such law;

"public office" means a paid office in the service of the State;

"public officer" means a person holding or acting in a public office;

"Public Service" has the meaning given to it by section 10.1;

"Salaries and Remuneration Commission" means the commission of that name established by section 16.11;

"Security Service" means a security specified or referred to in section 11.2;

"sitting" means a period during which the Senate or the National Assembly is sitting continuously, including any period during which the senate or the National Assembly, as the case may be, is in committee;

"sitting day" means any weekday which is prescribed in the Standing Orders of the National Assembly or the Senate as the case

may be, to be a sitting day, whether or not the House concerned meets on that day;

"Speaker" means the Speaker of the National Assembly elected in terms of section 7.9;

"Standing Orders", in relation to anything to be done by -

(a) the Senate means Standing orders of the Senate;

(b) the National Assembly means Standing Orders of the National Assembly;

(c) the Senate and the National Assembly jointly, means joint Standing Orders; made in terms of section 7.22;

"statutory body" means -

(a) a Commission established by this constitution; or

(b) a body corporate established directly by or under an Act of Parliament for special purposes specified in that Act, whose membership consists wholly or mainly of persons appointed by the President, a Minister, another statutory body or by a Commission established by this constitution;

"statutory instrument" means any instrument that has the force of the law and that is made by the President, a Minister or any other person or authority under the constitution or an Act of Parliament;

"tax" includes a duty, rate, levy or due;

"traditional leader" means a Chief or headperson.

#### **18.11 References to Chapters, sections, etc.**

Any references in this Constitution, without qualification, to-

(a) a Chapter, section or schedule, is to be construed as a reference to a chapter or section of or schedule to this Constitution;

(b) a subsection, is to be construed as reference to a subsection of the section in which the reference is made;

(c) a paragraph, is to be construed as a reference to a paragraph of the schedule, section, subsection or definition in which the reference is



made; a subparagraph, is to be construed as a reference to a subparagraph of the paragraph or subparagraph in which the reference is made.

#### **18.12 Words in singular to include plural, and vice versa**

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

#### **18.13 Tables and headings**

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

#### **18.14 references to time**

(1) In this constitution, whenever a period of time is expressed -

(a) to begin on or to be reckoned from a particular day, that day is not to be included in the period;

(b) to end on or to be reckoned from a particular day, that day is not to be included in period;

(2) Whenever the time for doing anything in terms of this Constitution ends or fails on a Saturday, Sunday or public holiday, the time extends to and the thing may be done on the next day that is not a Saturday, Sunday or public holiday.

(3) A reference in this Constitution without qualification to a month is to be construed as a reference to a calendar month.

(4) A reference in this constitution without qualification to a year is to be construed as reference to a period of twelve months.

#### **18.15 Calculations of person's age**

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

#### **18.16 References to holders of office**

Whenever this constitution refers to the holder of an office by a term designating the office, the reference includes a reference to

anyone who is lawfully acting in or exercising the functions of that office.

#### **18.17 Appointments**

(1) Except as otherwise provided in this Constitution, a power under this Constitution to appoint a person to an office includes a similar power-

(a) to reappoint the person to that office;

(b) to appoint a person on promotions or transfer to that office;

(c) to appoint a person to act in that office;

(d) to appoint a person to that office while it is held by someone else who is on leave of absence pending relinquishment of the office;

(e) to fix and vary the person's condition of service in that office, including the person's remuneration and period of appointment and any benefits on termination of service; and  
(f) subject to this Constitution, to suspend or remove the person from office.

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

(3) An Act of Parliament may provide for the appointment of one or more deputies to anyone holding an office under this constitution and may provide for their functions and conditions of service.

(4) Where provision is made in an Act of Parliament for the appointment of a deputy to a person holding office under this constitution, the deputy must possess the same as those for the appointment for the substantive holder.

(5) Where a deputy is appointed to a person holding an office under this constitution, the deputy may exercise any of the functions of the office whenever the office holder is for any reason unable to perform them.

(6) Subject to any provision of this Constitution that may limit the period or

number of terms that anyone may serve in a particular office, a person who has vacated an office established by this constitution may if qualified be re-appointed or re-elected to the office.

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

#### **18.18 Resignation**

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

- (a) the President, the notice must be addressed to the President of the Senate;
- (b) the President of the Senate or his deputy, the notice must be addressed to the Senate or to the Clerk of Parliament;
- (c) the Speaker or Deputy Speaker of the National Assembly, the notice must be addressed to the National Assembly or to the Clerk of parliament;
- (d) a Senator, the notice must be addressed to the president of the Senate
- (e) a member of the National Assembly, the notice must be addressed to the Speaker.

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

#### **18.19 Exercise of functions, etc.**

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

(2) Where a power, jurisdiction or right is conferred by this Constitution, any other

powers or rights that are reasonably necessary or incidental to its exercise area impliedly conferred as well.

#### **18.20 When person not regarded as holding public office**

For the purposes of this Constitution, persons are not to be regarded as holding public office solely on the grounds that they receive a pension, half-pay, retired pay or some other similar allowance in respect of previous service in a public office.

#### **18.21 Quorum and provisions regarding membership of constitutional bodies**

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

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

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

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

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

#### **18.22 Interpretation of regulations, etc. made under Constitution**

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

extent of the power to make such a statutory instrument.

### **18.23 Power to make Acts of Parliament for matters dealt with under Constitution**

Where this Constitution requires or permits an Act of Parliament to provide for anything-

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

### **18.24 Inconsistencies between different texts of the Constitution**

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

## **PART 3 GENERAL**

### **18.25 Diligent performance of constitutional obligations**

All constitutional obligations must be performed diligently and without delay.

### **18.26 Customary international law**

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

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

### **18.27 International conventions, treaties and agreements**

(1) An international convention, treaty or agreement which-

- (a) is of a technical, administrative or executive nature; or
- (b) by its terms does not require either ratification or accession;

binds Zimbabwe after it is signed by the President or a Minister, even if it has not been approved by Parliament, but any other international convention, treaty or agreement

binds Zimbabwe only after it has been approved by resolution in the National Assembly.

(2) An international convention, treaty or agreement becomes law in Zimbabwe when it is enacted into law through an Act of Parliament, but a self-executing provision of an international convention, treaty or agreement that has been signed by the President or a Minister and approved by resolution in the National Assembly is law in Zimbabwe unless it is inconsistent with this Constitution or an Act of Parliament.

(3) When interpreting legislation, every court and tribunal must adopt any reasonable interpretation of the legislation that is consistent with any international convention, treaty or agreement which is binding on Zimbabwe, in preference to an alternative interpretation inconsistent with that convention, treaty or agreement.

### **18.28 Amendment of Constitution**

(1) In this section-  
“Constitutional Bill” means a Bill that seeks to amend this Constitution;  
“term-limit provision” means a provision of this Constitution which limits the length of time that a person may hold or occupy a public office.

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

(3) A Constitutional Bill that seeks to amend any provision in Chapter 4 must not be presented in the National Assembly unless it has been approved by a majority of the voters voting at a national referendum.

(4) Where a Constitutional Bill referred to in subsection (3) has been approved at a national referendum as provided in that subsection, the Bill may be presented in the National Assembly and thereafter passed by the National Assembly and the Senate and assented to by the President in the same way as an ordinary Bill.

(5) A constitutional Bill that seeks to amend any provision of this Constitution, other than a provision referred to in subsection (3)

(a) may not be presented in the National Assembly unless the Speaker has given the public at least ninety days

notice of the precise provisions of the Bill.

(b) must be passed, at its last reading in the National Assembly and the Senate, by the affirmative votes of two-thirds of the membership of each House.

(6) Immediately after the Speaker has given public notice of Constitutional Bill in terms of Subsection (5), the Human Rights Commission must invite members of the public to express their views on the proposed Bill in public meetings and through written submissions, and must convene meetings and provide facilities to enable the public to do so.

(7) When a Constitutional Bill referred to in subsection (5) is presented in the National Assembly and the Senate, the Human Rights Commission must cause the National Assembly and the Senate to be advised on any views expressed by the public in response to an invitation in terms of subsection (6).

(8) Notwithstanding any other provision of this section -

(a) an amendment to a term-limit provision, the effect of which is to extend the length of time that a person may hold or occupy any public office, does not apply in relation to who held or occupied that office, or an equivalent office, at any time before the amendment;

(b) this subsection cannot be amended.

### **18.29 Commencement of Constitution, transitional provisions and savings**

The Eighth Schedule applies to the commencement of this Constitution, the repeal of the former Constitution and the transition to the new constitutional order established by this Constitution.

**FIRST SCHEDULE (SECTION 4.39)  
LIMITATION ON RIGHTS DURING  
EMERGENCIES**

**PART 1  
PRELIMINARY**

**Interpretation in Second Schedule**

1. In this Schedule-

“detainee” means a person who is detained under an emergency law that provides for preventive detention;

“emergency law” means a written law that provides for action to be taken to deal with any situation arising during a period of public emergency;

“fundamental human right or freedom” means a right or freedom set out in Part 1 of Chapter 4;

“review tribunal” means the tribunal referred to in paragraph 4(1).

**PART 2  
LIMITATIONS ON FUNDAMENTAL HUMAN  
RIGHTS AND FREEDOMS DURING  
EMERGENCIES**

**Rights that may not be limited**

2. An emergency law may limit any of the fundamental human rights or freedoms except the following-

- (a) the right to life set out in section 4.1;
- (b) the right, set out in section 4.3, to be treated with humanity and respect for inherent human dignity;
- (c) to challenge the lawfulness of an arrest or detention, set out in section 4.32;
- (d) the right not to be held in slavery or servitude, set out in section 4.5;
- (e) the right to a fair trial, set out in sections 4.26 and 4.33.

**Extent of limitations permitted**

3. (1) Any limitation on a fundamental human right or freedom under this Schedule-

- (a) must be no greater than is strictly required by the emergency; and
- (b) must be consistent with Zimbabwe’s obligations under international law.

(2) If a state of public emergency is declared under section 6.21 in relation to only a part of Zimbabwe, an emergency law may not limit fundamental human rights or freedoms under this Schedule in any other part of Zimbabwe.

**PART 3  
PREVENTIVE DETENTION**

**Detainees Review Tribunal**

4. (1) An emergency law that permits preventive detention must provide for the establishment of a tribunal to review the cases of detainees.

(2) The review tribunal must consist of-

- (a) a chairman, who is or has been a judge or is qualified to be appointed as such; and
- (b) two other members, one of whom-
  - (i) is or has been a judge or is qualified to be appointed as such;
  - (ii) has been a magistrate in Zimbabwe for at least seven years; or
  - (iii) has been qualified for at least seven years to practise as a legal practitioner.

**Basic rights of detainees**

5. (1) All detainees-

- (a) must be informed as soon as reasonably practicable, and in any case within seven days, of the reasons for their detention;
  - (b) must be permitted without delay
    - (i) at their own expense, to choose and consult with a legal practitioner; or
    - (ii) if they wish, to consult with a legal practitioner assigned to them by the State at State expense;
- and must be informed as soon as reasonably practicable of their rights under this paragraph; and
- (c) must be treated with humanity and with respect for their inherent dignity as human beings.

(2) Where this paragraph requires information to be given to a detainee

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

#### **Review of detainees' cases**

- 6. (1) Every detainee's case must be submitted to the review tribunal within thirty days after his or her initial detention.
- (2) Every detainee's case must be resubmitted to the review tribunal at intervals of ninety days from the date on which the case was last reviewed, or at shorter intervals if the tribunal so orders.

(3) The review tribunal must proceed without delay to review all cases submitted to it.

(4) At all hearings by the review tribunal, the detainees whose cases are being reviewed must be allowed to present their cases in person or, if they wish

- (a) through legal practitioners assigned to them by the State at State expense; or
- (b) at their own expense, through legal practitioners of their choice.

(5) The reference in subparagraph (1) to a thirty-day period includes a reference to lesser periods of detention that amount to thirty days, in the case of a detainee who is released within thirty days after being initially detained and is then re-detained within thirty days of that release.

#### **Recommendations of review tribunal**

- 7. After reviewing a detainee's case, the review tribunal may make recommendations to the authority that ordered the detention as to whether or not the detainee should continue to be detained, and the authority must act in accordance with the tribunal's recommendation.

#### **Released detainees not to be re-detained on same grounds**

- 8. (1) A detainee who has been released from detention as a result of a report of the review tribunal that there is insufficient cause for the detention must not be detained again on the same grounds as those on which he or

she was originally detained.

(2) For the purposes of this paragraph, a person is deemed to have been detained on the same grounds as those on which he or she was originally detained unless the review tribunal has reported that, in its opinion, there appear to be new and reasonable grounds for the detention.

#### **Preservation of detainees' access to courts**

9. This Schedule shall not be construed as limiting a detainee's right to challenge the lawfulness of his or her detention in court.

### **SECOND SCHEDULE (SECTIONS 6.7, 6.14, 7.6, 7.9, 7.13, 9.19, 15.9, ) OATHS AND AFFIRMATIONS**

#### **Notes:**

1. A person who is required to take any of the following oaths may, if he or she wishes, make an affirmation instead, using the indicated wording.
2. If a person taking any of the following oaths, or making any of the following affirmations, varies the wording of the oath or affirmation to a non-material extent, the variation does not affect the validity or binding nature of the oath or affirmation.

#### **OATH OR AFFIRMATION OF LOYALTY**

I, ... swear [or solemnly affirm] that I will be faithful and bear true allegiance to Zimbabwe and observe the laws of Zimbabwe.

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before the person specified in the appropriate legislation.

#### **OATH OR AFFIRMATION OF OFFICE**

I, ... swear [or solemnly affirm] that I will serve Zimbabwe well and truly in the office of ...

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

This oath or affirmation is to be taken before the person specified in the appropriate legislation.

#### **OATH OR AFFIRMATION OF PRESIDENT**

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

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

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

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

#### **OATH OR AFFIRMATION OF MINISTER**

I, ... swear [or solemnly affirm] that I will be faithful to Zimbabwe and, in the office of Minister, will

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

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before the President or, in his or her absence, before the Chief Justice or the next most senior judge available.

**OATH OR AFFIRMATION OF MEMBER OF PARLIAMENT**

I, ... swear [or solemnly affirm] that I will be faithful to Zimbabwe, that I will uphold the Constitution and all other laws of Zimbabwe, and that I will perform my duties as Senator / Member of the National Assembly [whichever is appropriate] faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before the President of the Senate or the Speaker, as the case may be.

**JUDICIAL OATH OR AFFIRMATION**

I, ... swear [or solemnly affirm] that I will be faithful to Zimbabwe and that in the office of ... I will uphold and protect the Constitution and will administer justice to all persons alike without fear, favour or prejudice in accordance with the Constitution and the law.

So help me God. [To be omitted in affirmation]  
Where the person taking this oath or affirmation is a judge, it is to be taken before the Chief Justice or the next most senior judge available. In all other cases, it is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF OFFICE (MEMBER OF PROVINCIAL GOVERNMENT)**

I, ... swear [or solemnly affirm] that I will serve the Province of ... [name of province] well and truly in the office of ...

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before

the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF PROVINCIAL GOVERNOR AND DEPUTY PROVINCIAL GOVERNOR**

I, ... swear [or solemnly affirm] that as Governor [or Deputy Governor] of the Province of ... [state name of province] I will be faithful to Zimbabwe and will obey, uphold and defend the Constitution and all other law of Zimbabwe and-

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

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before the person specified in the appropriate legislation.

**OATH OR AFFIRMATION OF MEMBER OF PROVINCIAL EXECUTIVE COMMITTEE**

I, ... swear [or solemnly affirm] that I will be faithful to Zimbabwe and, in the office of member of the provincial executive committee of the Province of ... [state name of province], will uphold the Constitution and all other laws of Zimbabwe; that I will give my advice to the Governor of ... [state name of province] freely and to the best of my judgment whenever I am required to do so, for the good management of the public affairs of the Province; that I will not disclose, directly or indirectly, any secret that is



debated in the provincial executive committee or any secret that is entrusted to me in the course of my duties as member of that committee; and that in all respects I will perform the duties of my office faithfully and to the best of my ability.

So help me God. [To be omitted in affirmation]  
This oath or affirmation is to be taken before the person specified in the appropriate legislation.

### **THIRD SCHEDULE (SECTIONS 7.2, 13.XX)**

#### **LEGISLATIVE POWERS OF PROVINCIAL ASSEMBLIES AND LOCAL AUTHORITIES**

[Parked]

### **FOURTH SCHEDULE (SECTIONS 7.5, 7.8 AND 8.X)**

#### **QUALIFICATIONS FOR VOTERS AND MEMBERS OF PARLIAMENT**

##### **PART 2**

#### **QUALIFICATIONS AND DISQUALIFICATIONS OF VOTERS**

##### **Qualifications for registration as voter**

1. (1) Subject to subparagraph (2) and to paragraph 2, a person is qualified to be registered as a voter on the voters roll of a constituency if he or she-

(a) is of or over the age of eighteen years; and

(b) is a Zimbabwean citizen.

(2) The Electoral Law may prescribe additional requirements to ensure that voters are registered on the most appropriate voters roll, but any such requirements must be consistent with this Constitution, in particular with section 4.17.

##### **Disqualifications for registration as a voter-**

2. A person is disqualified to be registered as a voter-

(a) while he or she is detained as

mentally disordered or intellectually handicapped under an Act of Parliament relating to mental health;

(b) if he or she has been declared by order of a court to be incapable of managing his or her affairs, so long as the order remains in force; or

(c) if he or she has been convicted of an offence under the Electoral Law and declared by the High Court to be disqualified for registration as a voter or from voting, for the period he has been declared disqualified.

##### **PART 2**

#### **QUALIFICATIONS FOR MEMBERS OF PARLIAMENT**

##### **Qualifications for election as Senator**

3.(1) A person is qualified for election as a Senator referred to in section 7.5(1)(a), (b) and (c) if he or she

(a) is registered as a voter; and

(b) is over the age of forty years unless he or she is disqualified under paragraph 2.

(2) a person is qualified for election as a Senator Chief referred to in section 7.5(1)(d) if he or she-

(a) holds the office of Chief; and

(b) is registered as a voter; unless he or she is disqualified under paragraph 5.

##### **Qualifications for election as member of National Assembly**

4. A person is qualified for election as a member of the National Assembly if he or she-

(a) is registered as a voter; and

(b) is of or over the age of twenty-one years;

unless he or she is disqualified under paragraph 5.

#### **Disqualification for election to Parliament**

5. (1) A person is disqualified for election as a member of Parliament if he or she is disqualified under paragraph 2 for registration as a voter.

(2) A person who has vacated his or her seat in the Senate or the National Assembly in terms of section 7.11(1)(l) or 7.12 through having been convicted of an offence is disqualified for election as a member of Parliament for five years from the date on which the seat became vacant.

(3) a person is disqualified for election at an election for filling a casual vacancy in the Senate or the National Assembly if he or she is already a member of Parliament.

### **FIFTH SCHEDULE (SECTIONS 7.14 AND 7.15) PROCEDURE AS TO BILLS AND OTHER MATTERS IN PARLIAMENT**

#### **PART 1**

#### **INTRODUCTION OF BILLS, MOTIONS AND PETITIONS**

##### **Interpretation in Fifth Schedule**

1. In this Schedule-

“Money Bill” means a bill that makes a provision for-

- (a) imposing, increasing or reducing a tax for the benefit of the State;
- (b) appropriating money from, or imposing, increasing or reducing any charge on, the Consolidated Revenue Fund or

any other fund vested in or controlled by the Government;

- (c) compounding or remitting a debt due to the State;
- (d) condoning a failure to collect a tax due to the State; or
- (e) condoning unauthorised expenditure by the Government.

#### **House of origin of Bills**

- 2. (1) Any Bill may originate in the National Assembly.
- (2) Any Bill, other than a Money Bill, may originate in the Senate.

#### **Members who may move Bills and motions**

- 3. Subject to this Constitution and Standing Orders-
  - (a) any Senator may introduce any Bill into the Senate or move any motion for debate in the Senate or present any petition to the Senate;
  - (b) any member of the National Assembly may introduce ANY Bill into the Assembly or move any motion for debate in the Assembly or present any petition to the Assembly;
  - (c) any Minister may introduce any Bill into move any motion for debate in or present any petition to either the Senate or the National Assembly;
  - (d) any member of the House of Parliament which has passed introduced by a member who was not a Minister may introduce who was not a Minister may introduce the Bill introduced by a member who was not a Minister may introduce the Bill into other House,

and may sit and speak there, for the purpose of conducting the Bill through that other House.

Parliament not to deal with money bills or fiscal motions or petitions except on recommendation of Minister

4. (1) Except on the recommendation of a Minister, neither House of Parliament may-

- (a) Proceed upon any Bill, including an amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, is a Money Bill;
- (b) Proceed upon any motion, including an amendment to a motion, whose effect, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the following matters.-

- (i) imposing, increasing or reducing a tax for the benefit of the State;
- (ii) Appropriating money from, or imposing or increasing any charge on, the Consolidated Revenue Fund or any other fund vested in or controlled by the Government;
- (iii) Compounding or remitting a debt due to the State;
- (iv) Condoning a failure to collect tax due to the

State; or;  
(v) Condoning unauthorized expenditure by the Government;  
or

(c) Receive petition which, in the opinion of the President of the Senate or the Speaker; as the case may be, requests that provision be made for anything that is specified in subparagraph (b)

(2) Subparagraph (1) does not apply to a Bill introduced, motion or amendment moved or petition presented by a Minister.

## **PART 2**

### **PROCEDURE REGARDING BILLS**

#### **Transmission of Bills between Houses**

4. (1) A Bill which originated in one house of Parliament and has been passed by that House must be transmitted to the other House without delay, and the date of its transmission must be recorded in the journal of the House from which it is transmitted.
- (2) A Bill that has been transmitted to a house of Parliament must be introduced into that House without delay and the House may reject the Bill or pass it with or without amendment.
- (3) A Bill which, having been transmitted to a House of Parliament in accordance with amendments must be returned to the House where it originated with the amendments duly certified by the Clerk of Parliament, and the House to which it is returned may

reject, agree to or amend any of those amendments.

(4) If, after a Bill has been returned to its originating House in terms of subparagraph (3), any amendment made to it by the other House is rejected or amended by the originated House, the other House may, by message to the originating House pursuant to a resolution, withdraw the amendment or a grace to tie being amended.

### **Disagreement between Houses**

6. (1) If one House passes a Bill and the other House rejects the Bill or fails to introduce it within the time specified in Standing Orders or passes it with amendment to which the House where it originated does not agree, the Bill must be referred without delay a joint committee of both Houses established by Standing Orders for the purpose of resolving such disagreements between the Houses.

(2) The joint committee referred to in subparagraph (1) must without delay consider every Bill that has been referred to it and attempt to resolve the disagreement concerning the Bill, and -

(a) if the committee is able to resolve the disagreement, the Bill must be introduced in one or other of the House or both Houses, as the case may be, for it be passed with whatever amended are needed to give effect to the committee's resolution;

(b) if the committee is unable to resolve the disagreement, the Bill must be referred to joint sitting of both Houses.

(3) Before the joint sitting of the both Houses, the Clerk of Parliament must prepare and distribute to all Members of Parliament a copy of any amendments which one House has made to the Bill concerned and to which the other House does not agree.

(4) When a Bill is referred to it under this paragraph, a joint sitting of both Houses may pass the Bill by the affirmative voted of it least half of the total combined membership of the two Houses.

(5) A Bill that has been passed at a joint sitting of both Houses in terms of this paragraph-

(a) is regarding having been passed by Parliament in the form in which it was passed by the joint sitting; and

(b) When it is presented to the President for signature, must be accompanied by a certified from the President of the Senate stating that the Bill was passed in the terms of this paragraph.

(6) This paragraph does apply to Constitutional Bills.

### **Money Bills**

7. (1) The Senate does not have power to amend a Money Bill may recommend that the National Assembly make amendments to it;

(2) The Clerk of Parliament must certify

every amendment, which the Senate has recommended, should be made to a Money Bill and must transmit the certified amendment to the National Assembly.

(3) The National Assembly must consider any amendments transmitted to it under this paragraph and may incorporate them into the Money Bill concerned.

(4) If the Senate does not pass a Money Bill within eight sitting days counted from the day the Bill was introduced into the Senate, the National Assembly may resolve that the Bill should be presented to the President in the form in which it was passed by the National Assembly.

(5) A Money Bill that has been presented to the President pursuant to a resolution under subparagraph (4)-

- (a) is regarded as having been passed by Parliament in the form in which it was passed by the National Assembly; and-
- (b) when it is presented to the President for signature, must be accompanied by a certificate from the Speaker stating that the Bill was passed in terms of this paragraph.

**SIXTH SCHEDULE (SECTIONS 6.21, 8.8, 9.13, 9.14, 10.4, 10.5, 10.6, 11.10, 11.12, 11.14, 11.16, 12.5, 12.7, 13.5, 13.7, 13.10, 13.12, 13.14, 13.16, 13.18, 16.9, 16.10, 16.13, and 18.4)**

**PROCEDURE FOR CERTAIN APPOINTMENTS**

### **Approval of appointments**

1. (1) Where the National Assembly or the Parliamentary Public Appointments Committee is required to approve the appointment of any person in terms of this Constitution, the appointee does not assume office until his or her appointment has been so approved.

(2) As soon as practicable after selecting an appointee for an appointment which is required to be approved by the National Assembly or the Parliamentary Public Appointments Committee, the appointing authority must notify the Speaker or the chairperson of the Committee of the appointee's name and must provide the Speaker or the chairperson with all other relevant particulars of the appointee which are known to the appointing authority.

(3) Upon receiving notification in terms of subparagraph (2), the Speaker or the chairperson of the Parliamentary Public Appointments Committee must cause the appointee to be interviewed without delay in order to assess his or her suitability for the office or post concerned.

(4) An interview under this paragraph must be held in public, but no one other than members of the Parliamentary Public Appointments Committee may put questions to the appointee or otherwise take part in the interview.

(5) If, after interviewing an appointee whose appointment is to be approved by the National Assembly, the Parliamentary Public Appointments Committee-

- (a) considers the appointee suitable for the office or post he or she is to

- occupy, the chairperson of the Committee must cause a motion to be introduced in the National Assembly recommending that the appropriate be appointed to the office or post;
- (b) has any reservations or objection to the appointment-
- (i) the Committee must inform the appointing authority and the appointee of them, and must give the appointing authority and the appointee an adequate opportunity to respond to them; and
- (ii) if, after considering any response by the appointing authority and the appointee, the Committee still has reservations or objections to the appointment, the chairperson of the Committee must introduce a motion into the National Assembly recommending that the appointee should not be appointed to the office or post concerned, and must inform the Assembly of any response received by the Committee from the appointing authority or the appointee.
- (6) If, after interviewing an appointee whose appointment is to be approved by the Parliamentary Public Appointments Committee, the Committee-
- (a) considers the appointee suitable for the office or post he or she is to occupy, the Committee must

without delay approve the appointment and notify the appointing authority and the appointee accordingly;

- (a) has any reservations or objections to the appointment, the Committee must inform the appointing authority and the appointee of them, and must not refuse to approve the appointment without having given the appointing authority and the appointee an adequate opportunity to respond to them.

(7) If the National Assembly or the Parliamentary Public Appointments Committee refuses to approve an appointment, the Speaker or the chairperson of the Committee, as the case may be, must inform the appointing authority and the appointee, in writing, of the refusal and of the reasons for it.

### **Appointment of members of Independent Commissions**

2.(1) Whenever there is a vacancy of an Independent Commission, the senior administrative officer of the Commission must inform-

- (a) the Speaker; and  
 (b) the President

and the Speaker must cause the chairperson of the Parliamentary Public Appointments Committee to be informed of the vacancy without delay.

- (2) As soon as possible after the chairperson of the Parliamentary Public Appointments Committee has become aware of a vacancy of an Independent Commission, he or she

must cause the Committee to invite the public and Members of Parliament to submit nominations of suitable persons for appointment to the Commission concerned.

- (3) After receiving nominations in response to an invitation under subparagraph (2), the Parliamentary Public Appointments Committee must assess the nominees and draw up a short-list of suitable appointees, which short-list must contain at least fifty percent more names than the number of vacancies to be filled, and must then submit the short-list to the National Assembly.
- (4) The National Assembly, by the affirmative votes of at least two-thirds of its membership, must select the required number of appointees from the short-list drawn up by the Parliamentary Public Appointments Committee, and the Speaker must cause the names of the selected appointees to be submitted to the President.
- (5) When drawing up a short-list of suitable appointees, and when selecting appointees from a short-list, the Parliamentary Public Appointments Committee and the National Assembly must try to ensure that, on every Independent Commission-
- (a) the genders are appropriately represented; and
  - (b) the members fairly represent all the different sections of the community whose interests are likely to be affected by the exercise of the Commission's functions.
- (6) The President must fill every vacancy on the Independent Commissions with a person selected by the National Assembly in terms of subparagraph (4), unless the President

considers that the person is unsuitable for appointment, in which event the President must either-

- (a) appoint the person notwithstanding his or her reservations about the person's suitability; or
- (b) advise the Speaker of his or her reservations and the reasons for them, and request the National Assembly to reconsider the person taking into account those reasons.

(7) If the President has advised the Speaker to reconsider a selected appointee in the terms of subparagraph (6), the National Assembly must either –

- (a) through the Speaker, submit to the President the name of another person on the original short-list to be prepared on that new list; or
- (b) through the Speaker, resubmit the name of the appointee originally selected, in which case the President must appoint that person to the Independent Commission concerned.

#### **SEVENTH SCHEDULE (Section 14.x) PROVINCES AND THEIR BOUNDARIES**

**[Set out the surveyed boundaries of the Provinces]**

#### **EIGHTH SCHEDULE (Section 18.29) COMMENCEMENT OF THIS CONSTITUTION TRANSITIONAL PROVISIONS AND SAVINGS**

##### **PART 1 PRELIMINARY**

##### **Interpretation**

1. In this Schedule, unless inconsistency with the context-
- “Commencement day” means the day on which this Constitution comes into operation in terms of paragraph 3;

“ Existing enactment” means a written law that was in force in Zimbabwe immediately before the commencements day, whether as an Act of Parliament or a statutory instrument;

“existing law” means an existing enactment or any other law, whatever its nature, that was in force in Zimbabwe immediately before the commencement day;

“ first elections” means-

- (a) the first election for the office of President; and
- (b) the first general election; held after the publication day;

“former Constitution” means the Constitution of Zimbabwe that came into operation on the 18<sup>th</sup> April, 1980, as subsequently amended;

“publication day” means the day on which this Constitution, or the statute by which it is enacted, is published in the Gazette in accordance with section 51 of the former Constitution.

#### **Effect of this Schedule**

2. This Schedule prevails, to the extent of any inconsistency, over all other provisions of this Constitution.

### **PART 2**

#### **COMMENCEMENT OF THIS CONSTITUTION AND REPEAL OF FORMER CONSTITUTION**

##### **Commencement of this Constitution**

**3. This Schedule comes into operation on the publication day and, except as otherwise provided in this Schedule, the rest of this Constitution comes into operation on the day on which the President elected in the first election assumes office.**

##### **Repeal of former Constitution**

4. Subject to this Schedule, the former

Constitution is repealed with effect from the commencement day.

### **PART 3**

#### **FIRST ELECTIONS, FIRST EXECUTIVE AND SUMMONING OF FIRST PARLIAMENT**

##### **First delimitation of electoral boundaries**

5.(1) To enable the first elections to be held by the date specified in paragraph 6-

- (a) Chapter 8 of this Constitution, and the provisions of Chapter 13 that relate to the Electoral Commission, come into operation on the publication day;
- (b) anyone who, immediately before the publication day, was a member or employee of the Zimbabwe Electoral Commission established under the former Constitution is deemed, on and after the publication day, to be a member or employee, as the case may be, of the Electoral Commission;
- (c) a Delimitation Commission must be appointed in terms of section 8.8 and must commence the first delimitation of wards, constituencies and electoral boundaries under this Constitution as soon as possible after the publication day.

##### **Date by which first elections must be held**

6. The day fixed for polling in the first elections must be held not later than ... [the date will need to be inserted after it has been worked out by political negotiation].

##### **Electoral Law**

7. The first elections shall be conducted in terms of an Electoral Law in conformity with this Constitution enacted after the publication day.



**First Executive and summoning of first Parliament**

8. The person elected as President in the first election must assume office in accordance with section 6.7 of this Constitution.

**PART 4**

**PROVINCIAL ASSEMBLIES**

**First elections to Provincial Assemblies**

9. Parked

**PART 5**

**SAVINGS AND TRANSITIONAL PROVISIONS**

**Government succession**

**10. The Government constituted under this Constitution is in all respects the successor to the former Government of Zimbabwe.**

**Continuation of existing laws**

11. Subject to this Schedule, all existing laws continue in force but must be construed in conformity with this Constitution.

**Interpretation of existing enactments**

12. (1) Unless inconsistent within the context, a reference in any existing enactment to-

- (a) the President must be construed as a reference to the President acting in accordance with this Constitution;
- (b) Parliament must be construed as a reference to-
  - (i) the Senate, where the reference relates to a function that is to be exercised by the Senate alone under this Constitution
  - (ii) the National Assembly, where the reference relates to any function other than one referred to in subparagraph (i)

or the enactment of legislation;

- (c) the House of Assembly must be construed as a reference to the National Assembly;
- (d) the Comptroller and Auditor-General must be construed as a reference to the Auditor-General;
- (e) the Director of Public Prosecutions must be construed as a reference to .... Parked.

(2) Where this Constitution vests power in a particular person or authority to enact legislation on any matter, and that matter is provided for in an existing enactment made by some other person or authority, the existing enactment has effect as if it had been made by the person or authority with the power to make it under this Constitution.

**Standing Orders of Parliament**

13. The Standing Orders that were in force immediately before the commencement day continue in force as standing orders of the Senate and National Assembly until they are replaced or amended in accordance with this Constitution.

**Existing officers**

14. Parked

**Transfer of funds in old Consolidated Revenue Fund**

15. The funds which, immediately before the commencement day, stood to the credit of the Consolidated Revenue Fund established by the former Constitution become the Consolidated Revenue Fund established by this Constitution.

**Courts and legal proceedings**

16.(1) In this paragraph-

- “pending constitutional case” means-
  - a) an appeal, application or reference

- in which an alleged contravention of the Declaration of Rights contained in the former Constitution is an issue; or
- a) any case in which a constitutional matter, as defined in section 18.10 of this Constitution, is in issue; and which, immediately before the Constitutional Court is constituted in accordance with this Constitution, is pending before the Supreme Court.
- (2) The Supreme Court of Zimbabwe and the High Court of Zimbabwe, as established immediately before the commencement day, are constituted as the Court of Appeal and the High Court respectively under this Constitution, and any decision of those courts given before the commencement day has effect accordingly.
- (3) The Administrative Court, Fiscal Appeal Court, the Special Court for Income Tax and the Labour Court which were in existence immediately before the commencement day are constituted as Divisions of the High Court under this Constitution, and any decision of those courts given before the commencement day has effect accordingly.
- (4) The Constitutional Court must be constituted as soon as possible after the first elections in accordance with section ... of this Constitution.
- (5) Until the Constitutional Court is constituted, its jurisdiction is exercisable by the Court of Appeal
- (6) As soon as the Constitutional Court is constituted, any pending constitutional case-
- (a) in which the argument from the parties has not been heard must be transferred to the Constitutional Court;
- (b) in which the argument from the parties has been heard must be completed by the Court of Appeal unless all the parties to the case agree to it being referred to the Constitutional Court, in which event the Court of Appeal must refer the case to that Court.
- (7) Where the Constitutional Court hears a case in which an alleged contravention of the Declaration of Rights contained in the former Constitution is an issue, whether or not the case is a pending constitutional case, the Court must determine the case as if it concerned an alleged infringement of a right or freedom set out in the corresponding provision of this Constitution.
- (8) All cases, other than pending constitutional cases, pending before any court before the commencement day must be continued before the appropriate court or division as if commenced by a court or division constituted in terms of this Constitution.
- Rights to pension benefits**
17. A vested or contingent right in regard to a pension benefit which existed immediately before the commencement day and was protected by the former Constitution continues to exist and enjoy the same protection under this Constitution.