CONSTITUTION OF ZIMBABWE

ARRANGEMENT OF SECTIONS

CHAPTER I

THE REPUBLIC AND THE CONSTITUTION

Section
1. The Republic.
2. Public seal.
3. Supreme law.

CHAPTER II

CITIZENSHIP

4. Citizens of Zimbabwe on Independence.
5. Citizenship by birth.
6. Citizenship by descent.
7. Citizenship by registration.
8. [Repealed.]
9. Powers of Parliament in relation to citizenship.
10. Interpretation.

CHAPTER III
THE DECLARATION OF RIGHTS

11. Preamble.
12. Protection of right to life.
13. Protection of right to personal liberty.
14. Protection from slavery and forced labour.
15. Protection from inhuman treatment.
16. Protection from deprivation of property.
16A. Agricultural land acquired for resettlement.
16B. Agricultural land acquired for resettlement and other purposes.
17. Protection from arbitrary search or entry.
18. Provisions to secure protection of law.
19. Protection of freedom of conscience.
20. Protection of freedom of expression.
21. Protection of freedom of assembly and association.
22. Protection of freedom of movement.
23. Protection from discrimination on the grounds of race, etc.
24. Enforcement of protective provisions.
25. Savings in the event of public emergencies.
26. Interpretation and other savings.

CHAPTER IV
THE EXECUTIVE

PART 1
The President

27. The President.
28. Qualifications and election of President.
29. Tenure of office of President.
30. Presidential immunity.
31. Acting President.
31A. Remuneration of President.
31B. President and former Presidents not to hold other offices.

PART 2
Vice-Presidents, Ministers and Cabinet
31C. Vice-Presidents.
31D. Ministers and Deputy Ministers.
31E. Tenure of office of Vice-Presidents, Ministers and Deputy Ministers.
31F. Vote of no confidence in Government.
31G. Cabinet.

PART 3
Executive Functions
31H. Executive functions of President.
31I. Prerogative of mercy.
31J. Public emergencies.
31K. Extent to which exercise of President's functions justiciable.

CHAPTER V
PARLIAMENT

PART 1
Legislative Authority
32. Legislative authority.
33. Parliament.

PART 2
The Senate
34. Composition of Senate.
35. Election of President of Senate.
36. Tenure of office of President and Deputy President of Senate.
37. [*Repealed*]

PART 3
Composition of Parliament, Speaker and Deputy Speaker and Parliamentary Legal Committee
38. Composition of House of Assembly.
39. Election of Speaker and Deputy Speaker.
40. Tenure of office of Speaker and Deputy Speaker.
40A. Parliamentary Legal Committee.
40B. Functions of Parliamentary Legal Committee.

PART 4
General Matters Relating to Parliament
41. Tenure of seats of members.
42. Members sentenced to death or to imprisonment.
43. Expulsion or suspension of members convicted of certain offences.
44. Oath of loyalty.
45. Remuneration of President of Senate and Speaker.
46. President's power to address and attend Parliament.
47. Vice-Presidents, Ministers, Deputy Ministers, Provincial Governors and Attorney-General in Parliament.
48. Clerk of Parliament and other staff thereof.
49. Privileges of Parliament and members and officers thereof.

PART 5
Powers and Procedure of Parliament
50. Legislative powers.

51. Mode of exercising legislative powers.
52. Alteration of the Constitution.
53. Enrolment of Acts.
54. Quorum.
55. Validity of proceedings.
56. Voting.
57. Standing Orders.

PART 6
Elections and Sessions

58. Elections.
59. Delimitation Commission.
60. Delimitation of constituencies.
61. Zimbabwe Electoral Commission.
62. Sessions.
63. Prorogation or dissolution.

CHAPTER VI
[*Repealed*][2]

CHAPTER VII
THE PUBLIC SERVICE

73. Public Service.
74. Public Service Commission.
75. Functions of Public Service Commission.
76. Attorney-General.
77. Secretaries of Ministries, etc.
78. Principal representatives of Zimbabwe abroad.

CHAPTER VIII

THE JUDICIARY

79. Judicial authority.
79A. Judiciary.
79B. Independence of judiciary.
80. Supreme Court.
81. High Court and criminal jurisdiction of other courts.
82. Qualifications of judges.
83. Oath of office.
84. Appointment of judges.
85. Acting judges.
86. Tenure of office of judges.
87. Removal of judges from office.
88. Remuneration of judges.
89. Law to be administered.
90. Judicial Service Commission.
91. Functions of Judicial Service Commission.
92. Persons presiding over special courts.

CHAPTER IX

THE POLICE FORCE

93. Police Force and Commissioner of Police.

[2] In the original Constitution(1980). Chapter VI, containing sections 64 to 72, provided for "The Executive" and Chapter IV provided for "The President". With the introduction of the Executive Presidency by Amendment No. 7 (Act No. 23 of 1987), the original Chapter VI fell away and Chapter IV, now providing for "The Executive", assumed its present shape; the counterparts of the former sections 64 to 72 are now to be found in Chapter IV.

94. Police Service Commission.
95. Functions of Police Service Commission.

CHAPTER X

THE DEFENCE FORCES

96. Defence Forces and command thereof.
97. Defence Forces Service Commission.
99. Functions of Defence Forces Service Commission.

CHAPTER XA

THE PRISON SERVICE

99. Prison Service and Commissioner of Prisons.
100. Prison Service Commission.
100A. Functions of Prison Service Commission.

CHAPTER XI

FINANCE

101. Consolidated Revenue Fund.
102. Withdrawals from Consolidated Revenue Fund or other public fund.
103. Authorization of expenditure from Consolidated Revenue Fund.
104. Public debt.
105. Comptroller and Auditor-General.
106. Functions of Comptroller and Auditor-General.

CHAPTER XII

MISCELLANEOUS PROVISIONS

PART 1
General

107. Ombudsman and Deputy Ombudsman.
108. Functions of Ombudsman.
108A. Anti-Corruption Commission.
109. General provisions as to Commissions, etc.
110. Tenure of office of certain persons.
111. Chiefs and Councils of Chiefs.
111A. Provincial, district or regional governors.
111B. Effect of international conventions, etc.
112. Pensions.

PART 2

Interpretation

113. Interpretation.
114. Supplementary provisions.

SCHEDULE 1: Oaths and Affirmations.
SCHEDULE 2: Savings in the event of Public Emergencies.
SCHEDULE 3: Qualifications for Members of Parliament and Voters.
SCHEDULE 4: Procedure with regard to Bills and other matters in Parliament.
SCHEDULE 5. [*Repealed*.]
SCHEDULE 6: Pensions.
SCHEDULE 7: Agricultural Land Gazetted on or before 8th July 2005

CONSTITUTION OF ZIMBABWE

CHAPTER I
THE REPUBLIC AND THE CONSTITUTION

1 The Republic

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

[Section as amended by section 2 of Act 30 of 1990 - Amendment No. 11]

2 Public seal

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

[Section as amended by section 3 of Act 30 of 1990 - Amendment No. 11]

3 Supreme law

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

CHAPTER II
CITIZENSHIP

4 Citizens of Zimbabwe on Independence

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

5 Citizenship by birth

(1) A person born in Zimbabwe on or after the appointed day but before the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, shall be a citizen of Zimbabwe by birth, unless—

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

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

(ii) is not a citizen of Zimbabwe;

or

(*b*) at the time of his birth—

(i) his father is an enemy alien; and

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

or

(*c*) at the time of his birth, his father or, in the case of a child born out of wedlock, his mother is residing in Zimbabwe in contravention of the provisions of any law:

Provided that, if subsequent to his birth his father or mother, as the case may be, is accepted for permanent residence in Zimbabwe under any law in force in Zimbabwe, he shall be a citizen of Zimbabwe by birth; or

(*d*) at the time of his birth, his father or, in the case of a child born out of wedlock, his mother is—

(i) not a citizen of Zimbabwe; and

(ii) not ordinarily resident in Zimbabwe.

[Subsection as amended by section 2 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

(2) A person born outside Zimbabwe on or after the appointed day but before the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, shall be a citizen of Zimbabwe by birth if—

(*a*) his father or, in the case of a child born out of wedlock, his mother is at the time of his birth—

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

(ii) lawfully ordinarily resident in Zimbabwe;

and

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

[Subsection as amended by section 2 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

(3) A person born in Zimbabwe on or after the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, shall be a citizen of Zimbabwe by birth if at the time of his birth his father or his mother is a citizen of Zimbabwe.

[Subsection inserted by section 2 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

(4) A person born outside Zimbabwe on or after the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, shall be a citizen of Zimbabwe by birth if—

(*a*) at the time of his birth his mother or his father is a citizen of Zimbabwe and lawfully ordinarily resident in Zimbabwe or resident outside Zimbabwe by reason of his or her service under the Government; and

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

[Subsection inserted by section 2 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

6 Citizenship by descent

Save as is otherwise provided by section 5(2) or (4), a person born outside Zimbabwe on or after the appointed day shall be a citizen of Zimbabwe by descent if—

(*a*) his father or his mother is at the time of his birth a citizen of Zimbabwe otherwise than by descent; and

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

[Section as amended by sections 3 and 15 of Act No. 14 of 1996 - Amendment No. 14]

7 Citizenship by registration

(1) ….. [Subsection repealed by section 4 of Act No. 14 of 1996 - Amendment No. 14]

(2) Any woman who—

(*a*) is, on the appointed day, married to a person who—

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

(ii) after the appointed day but before the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, becomes a citizen of Zimbabwe while the marriage still subsists;

[Subparagraph as amended by section 4 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

or

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

(i) is, on the appointed day, a citizen of Zimbabwe by virtue of the provisions of section 4; or

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

or

(*c*) on or after the appointed day but before the date of commencement of the Constitution of Zimbabwe Amendment (No. 14) Act, 1996, marries a person who is a citizen of Zimbabwe or who becomes a citizen of Zimbabwe while the marriage still subsists;

[Paragraph as amended by section 4 of Act No. 14 of 1996 - Amendment No. 14; date of commencement - 6 December 1996]

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

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

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

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

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

[Subsection as amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

(6) ...

[Subsection repealed by section 4 of Act No. 14 of 1996 - Amendment No. 14]

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

(*a*) if the father is dead or the mother has been given custody of the child by order of a court or has custody of the child by virtue of the provisions of a law relating to the guardianship of children or the child is born out of wedlock, the mother of the child;

[Paragraph as amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

(*b*) in any other case, the father of the child.

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

(*a*) of full age if he has attained the age of majority or if, being under that age, he is or has been married; and

(*b*) of full capacity if he is not of unsound mind.

8 Dual citizenship

[Section repealed by section 2 of Act 1 of 1983 - Amendment No. 3]

9 Powers of Parliament in relation to citizenship

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

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

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

[Section as substituted by section 3 of Act 1 of 1983 - Amendment No. 3]

10 Interpretation

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

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

(3) For the purposes of this Chapter, a person shall be regarded as—

(*a*) born out of wedlock if—
  (i) his parents were not married to each other at the time of his conception or birth and have not subsequently married each other; and
  (ii) he has not been adopted by order made under any law relating to the adoption of children in terms of which his status becomes that of a lawful child of the person adopting him;

(*b*) born in wedlock if—
  (i) his parents were married to each other at the time of his conception or birth, or have subsequently married each other; or
  (ii) his parents were not married to each other or have not married each other as provided in subparagraph (i), but he has been adopted by order made under any law relating to the adoption of children in terms of which his status becomes that of a lawful child of the person adopting him;

and, for the purpose of determining whether or not such a person's parents were or have been married to each other, a putative or voidable marriage shall be regarded as a valid marriage.

[Subsection inserted by section 5 of Act No. 14 of 1996 - Amendment No. 14]

CHAPTER III
THE DECLARATION OF RIGHTS

11 Preamble

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

[Section as substituted by section 6 of Act No. 14 of 1996 - Amendment No. 14]

12 Protection of right to life

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

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

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or

(*d*) in order to prevent the commission by that person of a criminal offence;

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

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

13 Protection of right to personal liberty

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

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

(*a*) in consequence of his unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether in Zimbabwe or elsewhere, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of the order of a court punishing him for contempt of that court or of another court or tribunal or in execution of the order of the Senate or the House of Assembly punishing him for a contempt;

[Paragraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Paragraph as amended by section 4 of Act 30 of 1990 - Amendment No. 11]

(*d*) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court or before the Senate or the House of Assembly in execution of the order of the Senate or the House of Assembly;

[Paragraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9, by section 9 of Act 15 of 1990 - Amendment No. 10, and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;

(*f*) in execution of the order of a court or with the consent of his parent or guardian, for the purposes of his education or welfare during a period beginning before he attains the age of twenty-one years and ending not later than the date when he attains the age of twenty-three years;

(*g*) for the purpose of preventing the spread of an infectious or contagious disease;

(*h*) if he is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care, treatment or rehabilitation or the protection of the community; or

(*i*) for the purpose of preventing his unlawful entry into Zimbabwe or for the purpose of effecting his expulsion, extradition or other lawful removal from Zimbabwe or the taking of proceedings relating thereto.

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

(4) Any person who is arrested or detained—

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

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence;

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

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

Provided that—

(*a*) any judicial officer acting in his judicial capacity reasonably and in good faith; or

(*b*) any other public officer, or person assisting such public officer, acting reasonably and in good faith and without culpable ignorance or negligence;

may be protected by law from liability for such compensation.

14 Protection from slavery and forced labour

(1) No person shall be held in slavery or servitude or required to perform forced labour.

(2) For the purposes of subsection (1), **"forced labour"** does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court—

(i) is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained; or

(ii) is reasonably required for the purposes referred to in section 13(2)(*f*) or (*h*);

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or any labour required of any person by virtue of a written law in place of service as a member of such force;

(*d*) any labour required by way of parental discipline; or

(*e*) any labour required by virtue of a written law during a period of public emergency or in the event of any other emergency or disaster that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of

that other emergency or disaster, for the purpose of dealing with that situation.

15 Protection from inhuman treatment

(1) No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

(2) No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of subsection (1) on the ground that it is degrading.

(3) No moderate corporal punishment inflicted—

(*a*) in appropriate circumstances upon a person under the age of eighteen years by his parent or guardian or by someone *in loco parentis* or in whom are vested any of the powers of his parent or guardian; or

(*b*) in execution of the judgment or order of a court, upon a male person under the age of eighteen years as a penalty for breach of any law;

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

[Subsection as inserted by section 5 of Act 30 of 1990 - Amendment No. 11]

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

[Subsection as inserted by section 5 of Act 30 of 1990 - Amendment No. 11. As at the 1st October, 1990, section 315(2) of the Criminal Procedure and Evidence Act [*Chapter 59 of 1974*] provided that "where sentence of death is carried out, the person sentenced shall be hanged by the neck until he is dead".]

(5) Delay in the execution of a sentence of death, imposed upon a person in respect of a criminal offence of which he has been convicted, shall not be held to be a contravention of subsection (1).

[Subsection as inserted by section 2 of Act 9 of 1993 - Amendment No. 13]

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

[Subsection as inserted by section 2 of Act 9 of 1993 - Amendment No. 13]

16 Protection from deprivation of property

(1) Subject to section *sixteen* A, no property of any description or interest or right therein shall be compulsorily acquired except under the authority of a law that—

[Introductory words amended by section 2 of Act 5 of 2000 - Amendment No. 16.]

(*a*) requires—

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

A. for settlement for agricultural or other purposes; or

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

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

or

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

and

[Paragraph as substituted by section 6 of Act 30 of 1990 - Amendment No. 11]

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

[Paragraph as substituted by section 6 of Act 30 of 1990 - Amendment No. 11]

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

[Paragraph as substituted by section 6 of Act 30 of 1990 - Amendment No. 11]

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as substituted by section 3 of Act 9 of 1993 - Amendment No. 13]

(*f*) enables any claimant for compensation to apply to the High Court or some other court for the determination of any question relating to compensation and to appeal to the Supreme Court:

Provided that the law need not make such provision where—

(i) the property concerned is land or any interest or right therein; and

(ii) the land is substantially unused or is used wholly or mainly for agricultural purposes or for environmental conservation or the utilization of wild life or other natural resources; and

(iii) the land or interest or right therein, as the case may be, is acquired for a purpose referred to in paragraph (*a*)(i).

[Paragraph as inserted by section 3 of Act 9 of 1993 - Amendment No. 13
and amended by section 7 of Act No. 14 of 1996 - Amendment No. 14]

(2) …

[Subsection repealed by section 2 of Act 5 of 2000 - Amendment No. 16.
Original subsection substituted by section 6 of Act 30 of 1990 - Amendment No. 11
and amended by section 7 of Act No. 14 of 1996 - Amendment No. 14]

(2a) …

[Subsection repealed by section 2 of Act 5 of 2000 - Amendment No. 16.
Originally inserted by section 7 of Act No. 14 of 1996 - Amendment No. 14]

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

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

(*a*) requires the acquiring authority promptly to give reasonable notice of the taking of possession to any person owning or possessing the property;

(*b*) enables any such person to notify the acquiring authority in writing that he objects to the taking of possession;

(*c*) requires the acquiring authority to apply within thirty days of such notification to the High Court or some other court for a determination of its entitlement to take possession;

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

(*e*) requires—

(i) when possession is no longer reasonably justifiable as referred to in paragraph (*d*), wherever possible, the prompt return of the property in the condition in which it was at the time of the taking of possession; and

(ii) the payment within a reasonable time of fair compensation for the taking of possession and, where appropriate, for the failure to return the property in accordance with subparagraph (i) or for any damage to the property;

[Subparagraph as amended by section 6 of Act 30 of 1990 - Amendment No. 11]

and

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

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as inserted by section 3 of Act 9 of 1993 - Amendment No. 13]

(6) ….. [Subsection repealed by section 6 of Act 30 of 1990 - Amendment No. 11]

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

(*a*) in satisfaction of any tax or rate;

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

[Paragraph as amended by section 6 of Act 30 of 1990 - Amendment No. 11]

(*c*) upon the removal or attempted removal of the property in question out of or into Zimbabwe in contravention of any law;

(*d*) as an incident of a contract, including a lease or mortgage, which has been agreed between the parties to the contract, or of a title deed to land fixed at the time of the grant or transfer thereof or at any other time with the consent of the owner of the land;

(*e*) in execution of the judgment or order of a court in proceedings for the determination of civil rights or obligations;

(*f*) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human, animal or vegetable life or having been constructed or grown on any land in contravention of any law relating to the occupation or use of that land;

(*g*) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;

(*h*) as a condition in connection with the granting of permission for the utilization of that or other property in any particular manner;

(*i*) by way of the taking of a sample for the purposes of a law;

(*j*) where the property consists of an animal, upon its being found trespassing or straying;

(*k*) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry;

(*l*) in the case of land, for so long only as may be necessary for the purpose of the carrying out thereon of—

(i) work for the purpose of the conservation of natural resources of any description; or

(ii) agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable or lawful excuse refused or failed, to carry out;

(*m*) in consequence of any law requiring copies of any book or other publication published in Zimbabwe to be lodged with the National Archives or a public library;

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

(*o*) for the purposes of, or in connection with, the exploitation of underground water or public water which is vested in the President on terms which provide for the respective interests of the persons affected;

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

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

(*a*) for the purpose of the administration, care or custody of any property of a deceased person or a person who is unable, by reason of any incapacity, to administer it himself, on behalf and for the benefit of the person entitled to the beneficial interest therein;

(*b*) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or any organization which is, in the interests of defence, public safety or public order, proscribed or declared by a written law to be an unlawful organisation;

(*c*) by way of the administration of moneys payable or owing to a person outside Zimbabwe or to the government of some other country where restrictions have been placed by law on the transfer of such moneys outside Zimbabwe;

(*d*) as an incident of—

(i) a composition in insolvency accepted or agreed to by a majority in number of creditors who have proved claims and by a number of creditors whose proved claims represent in value more that fifty *per centum* of the total value of proved claims; or

(ii) a deed of assignment entered into by a debtor with his creditors;

(*e*) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class thereof.

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

(*a*) the orderly marketing of any agricultural produce or mineral or any article or thing prepared for market or manufactured therefor in the common interests of the various persons otherwise entitled to dispose of that property or for the reasonable restriction of the use of any property in the interests of safeguarding the interests of others or the protection of lessees or other persons having rights in or over such property; or

(*b*) the taking of possession or acquisition in the public interest of any property or any interest or right therein where that property, interest or right is held by a body corporate established directly by law for a public purpose in which no moneys have been invested other than moneys provided from public funds.

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

[Subsection as inserted by section 6 of Act 30 of 1990 - Amendment No. 11]

(9b) Nothing in this section shall affect or derogate from—

(*a*) any obligation assumed by the State; or

(*b*) any right or interest conferred upon any person;

in relation to the protection of property and the payment and determination of compensation in respect of the acquisition of property, in terms of any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organizations.

[Subsection inserted by section 7 of Act No. 14 of 1996 - Amendment No. 14]

(10) In this section—

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

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

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

[Definition as inserted by section 6 of Act 30 of 1990 - Amendment No. 11]

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

(*a*) which is payable from the Consolidated Revenue Fund to any person;

(*b*) for any person in respect of his service with an employer or for any spouse, child or dependant of such person in respect of such service;

(*c*) for any person in respect of his ill-health or injury arising out of and in the course of his employment or for any spouse, child or dependant of such person upon the death of such person from such ill-health or injury; or

(*d*) for any person upon his retirement on account of age or ill-health or other termination of service;

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

16A Agricultural land acquired for resettlement

(1) In regard to the compulsory acquisition of agricultural land for the resettlement of people in accordance with a programme of land reform, the following factors shall be regarded as of ultimate and overriding importance—

(a) under colonial domination the people of Zimbabwe were unjustifiably dispossessed of their land and other resources without compensation;

(b) the people consequently took up arms in order to regain their land and political sovereignty, and this ultimately resulted in the Independence of Zimbabwe in 1980;

(c) the people of Zimbabwe must be enabled to reassert their rights and regain ownership of their land;

and accordingly—

(i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through an adequate fund established for the purpose; and

(ii) if the former colonial power fails to pay compensation through such a fund, the Government of Zimbabwe has no obligation to pay compensation for agricultural land compulsorily acquired for resettlement.

(2) In view of the overriding considerations set out in subsection (1), where agricultural land is acquired compulsorily for the resettlement of people in accordance with a programme of land reform, the following factors shall be taken into account in the assessment of any compensation that may be payable—

(a) the history of the ownership, use and occupation of the land;

(b) the price paid for the land when it was last acquired;

(c) the cost or value of improvements on the land;

(d) the current use to which the land and any improvements on it are being put;

(e) any investment which the State or the acquiring authority may have made which improved or enhanced the value of the land and any improvements on it;

(f) the resources available to the acquiring authority in implementing the programme of land reform;

(g) any financial constraints that necessitate the payment of compensation in instalments over a period of time; and

(h) any other relevant factor that may be specified in an Act of Parliament.

[Section inserted by section 3 of Act 5 of 2000 - Amendment No. 16.]

16B Agricultural land acquired for resettlement and other purposes

(1) In this section—

"acquiring authority" means the Minister responsible for lands or any other Minister whom the President may appoint as an acquiring authority for the purposes of this section;

"appointed day" means the date of commencement of the Constitution of Zimbabwe Amendment (No. 17) Act, 2005.

[Compiler's note: the 14th September, 2005, the date on which the Constitution of Zimbabwe Amendment (No. 17) Act, 2005 (No. 5 of 2005) was published in the *Gazette*.]

(2) Notwithstanding anything contained in this Chapter—

(a) all agricultural land—

(i) that was identified on or before the 8th July, 2005, in the *Gazette* or the *Gazette Extraordinary* under the proviso to section 5(1) of the Land Acquisition Act [*Chapter 20:10*], and which is

itemised in Schedule 7, being agricultural land required for resettlement purposes; or

(ii) that is identified after the 8th July, 2005, but before the appointed day, in the *Gazette* or the *Gazette Extraordinary* under section 5(1) of the Land Acquisition Act [*Chapter 20:10*], being agricultural land required for resettlement purposes; or

(iii) that is identified in terms of this section by the acquiring authority after the appointed day in the *Gazette* or the *Gazette Extraordinary* for whatever purpose, including, but not limited to—

A. settlement for agricultural or other purposes; or

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

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

is acquired by and vested in the State with full title therein with effect from the appointed day or, in the case of land referred to in subparagraph (iii), with effect from the date it is identified in the manner specified in that paragraph; and

(b) no compensation shall be payable for land referred to paragraph (a) except for any improvements effected on such land before it was acquired.

(3) The provisions of any law referred to in section 16(1) regulating the compulsory acquisition of land that is in force on the appointed day, and the provisions of section 18(9), shall not apply in relation to land referred to in subsection (2)(a) except for the purpose of determining any question related to the payment of compensation referred to in subsection (2)(b), that is to say, a person having any right or interest in the land—

(a) shall not apply to a court to challenge the acquisition of the land by the State, and no court shall entertain any such challenge;

(b) may, in accordance with the provisions of any law referred to in section 16(1) regulating the compulsory acquisition of land that is in force on the appointed day, challenge the amount of compensation payable for any improvements effected on the land before it was acquired.

(4) As soon as practicable after the appointed day, or after the date when the land is identified in the manner specified in subsection (2)(a)(iii), as the case may be, the person responsible under any law providing for the registration of title over land shall, without further notice, effect the necessary endorsements upon any title deed and entries in any register kept in terms of that law for the purpose of formally cancelling the title deed and registering in the State title over the land.

(5) Any inconsistency between anything contained in—

(a) a noticed itemised in Schedule 7; or

(b) a notice relating to land referred to in subsection (2)(a)(ii) or (iii);

and the title deed to which it refers or is intended to refer, and any error whatsoever contained in such notice, shall not affect the operation of subsection (2)(a) or invalidate the vesting of title in the State in terms of that provision.

(6) An Act of Parliament may make it a criminal offence for any person, without lawful authority, to possess or occupy land referred to in this section or other State land.

(7) This section applies without prejudice to the obligation of the former colonial power to pay compensation for land referred to in this section that was acquired for resettlement purposes.

[Section inserted by s. 2 of Act 5 of 2005 with effect from the 14th September, 2005.]

17 Protection from arbitrary search or entry

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

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

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

(*b*) without derogation from the generality of the provisions of paragraph (*a*), for the enforcement of the law in circumstances where there are reasonable grounds for believing that the search or entry is necessary for the prevention, investigation or detection of a criminal offence, for the seizure of any property which is the subject-matter of a criminal offence or evidence relating to a criminal offence, for the lawful arrest of a person or for the enforcement of any tax or rate;

(*c*) for the purposes of a law which provides for the taking of possession or acquisition of any property or interest or right therein and which is not in contravention of section 16;

(*d*) for the purpose of protecting the rights and freedoms of other persons;

(*e*) that authorizes any local authority or any body corporate established directly by or under an Act of Parliament for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax or rate or in order to carry out work connected with any property of that authority or body which is lawfully on those premises; or

(*f*) that authorizes, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order;

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

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

18 Provisions to secure protection of law

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

[Subsection as amended by section 3 of Act 4 of 1993 - Amendment No. 12]

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

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

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself in person or, save in proceedings before a local court, at his own expense by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or, save in proceedings before a local court, by his legal representative the witnesses called by the prosecution before the court and to obtain the atten

dance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge;

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

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

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

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

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as amended by section 3 of Act 4 of 1993 - Amendment No. 12]

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

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

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

[Subsection as amended by section 3 of Act 4 of 1993 - Amendment No. 12]

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

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

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

(i) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would

prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings; or

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

or

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

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

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

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

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

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

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

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

(14) In the case of a person who is held in lawful detention, the provisions of subsection (2) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention, save that the case of such person shall be afforded a fair hearing within a reasonable time, and the person or authority conducting the trial shall be regarded as a court for the purposes of this section.

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

(*a*) the fact that a member of the court has an interest in the proceedings because of his position in the tribal society; or

(*b*) the traditional or customary tribal practices and procedures.

19 Protection of freedom of conscience

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

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

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

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

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

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

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited intervention of persons professing any other religion or belief; or

(*c*) with respect to standards or qualifications to be required in relation to places of education, including any instruction, not being religious instruction, given at such places;

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

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

20 Protection of freedom of expression

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

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

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

(*b*) for the purpose of—

(i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;

(ii) preventing the disclosure of information received in confidence;

(iii) maintaining the authority and independence of the courts or tribunals or the Senate or the House of Assembly;

[Subparagraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(iv) regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields;

(v) in the case of correspondence, preventing the unlawful dispatch therewith of other matter;

or

(*c*) that imposes restrictions upon public officers;

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

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

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

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

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

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

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

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

21 Protection of freedom of assembly and association

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

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

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

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

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

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

(*d*) that imposes restrictions upon public officers;

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

(4) The provisions of subsection (1) shall not be held to confer on any person a right to exercise his freedom of assembly or association in or on any

road, street, lane, path, pavement, side-walk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

22 Protection of freedom of movement

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

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

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

(*a*) for the imposition of restrictions on the freedom of movement of persons generally or any class of persons that are required in the national interest, or in the interests of defence, public safety, public order, public morality, public health, the public interest or the economic interests of the State;

[Paragraph amended by s. 3 of Act 5 of 2005 with effect from the 14th September, 2005.]

(*b*) for the imposition of restrictions on the acquisition or use of land or other property in Zimbabwe;

(*c*) for the imposition of restrictions by order of a court on the movement or residence within Zimbabwe of any person or on any person's right to leave Zimbabwe—

(i) in consequence of his having been found guilty of a criminal offence under the law of Zimbabwe or for the purpose of ensuring that he appears before a court for trial for such a criminal offence or for proceedings preliminary to trial;

(ii) for proceedings relating to his extradition or lawful removal from Zimbabwe; or

(iii) for the purpose of ensuring that he appears before a court as a witness for the purposes of any criminal proceedings;

(*d*) for—

(i) the imposition of restrictions on the movement or residence within Zimbabwe of any person who is neither a citizen of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe; or

(ii) excluding or expelling from Zimbabwe any person who is not a citizen of Zimbabwe;

whether or not he is married or related to another person who is a citizen of or permanently resident in Zimbabwe;

[Paragraph as substituted by section 8(1) of Act No. 14 of 1996 - Amendment No. 14. Section 8(2) of Act No. 14 of 1996 provides that nothing in section 8(1) "shall affect any right to reside or remain in Zimbabwe that accrued to any person before the date of commencement of the Act."]

(*e*) for the imposition of restrictions by order of a court on the right of any person to leave Zimbabwe that are required for the purpose of ensuring that he appears before a court or other adjudicating authority as a party or a witness or to secure the jurisdiction of the court or other adjudicating authority for the purposes of any civil proceedings; or

(*f*) for the imposition of restrictions on the residence within Communal Land of persons who are not tribespeople to the extent that such restrictions are reasonably required for the protection of the interests of tribespeople or their well-being;

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

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

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

[Subsection amended by s. 3 of Act 5 of 2005 with effect from the 14th September, 2005.]

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

(1) Subject to the provisions of this section—

(*a*) no law shall make any provision that is discriminatory either of itself or in its effect; and

(*b*) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) For the purposes of subsection (1), a law shall be regarded as making a provision that is discriminatory and a person shall be regarded as having been treated in a discriminatory manner if, as a result of that law or treatment, persons of a particular description by race, tribe, place of origin, political opinions, colour, creed, sex, gender, marital status or physical disability are prejudiced—

(*a*) by being subjected to a condition, restriction or disability to which other persons of another such description are not made subject; or

(*b*) by the according to persons of another such description of a privilege or advantage which is not accorded to persons of the first-mentioned description;

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

[Subsection as amended by s. 9 of Act No. 14 of 1996 - Amendment No. 14, and by s. 4 of Act No. 5 of 2005 with effect from the 14th September, 2005.]

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

(*a*) matters of personal law;

[Paragraph amended by s. 3 of Act 5 of 2005 with effect from the 14th September, 2005.]

(*b*) the application of African customary law in any case involving Africans or an African and one or more persons who are not Africans where such persons have consented to the application of African customary law in that case;

(*c*) restrictions on entry into or employment in Zimbabwe or on the enjoyment of services provided out of public funds in the case of persons who are neither citizens of Zimbabwe nor regarded by virtue of a written law as permanently resident in Zimbabwe;

(*d*) qualifications, not being qualifications specifically relating to race, tribe, place of origin, political opinions, colour, creed, sex, gender, marital status or physical disability, for service as a public officer or as a member of a disciplined force or for service with any public authority or any body corporate established directly by or under an Act of Parliament for a public purpose;

[Paragraph as amended by section 9 of Act No. 14 of 1996 - Amendment No. 14, and by s. 4 of Act No. 5 of 2005 with effect from the 14th September, 2005.]

(*e*) the appropriation of public revenues or other public funds; or

(*f*) the according to tribespeople to the exclusion of other persons of rights or privileges relating to Communal Land; or

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

(*g*) the implementation of affirmative action programmes for the protection or advancement of persons or classes of persons who have been previously disadvantaged by unfair discrimination.

[Paragraph inserted by s. 4 of Act 5 of 2005 with effect from the 14th September, 2005.]

(3a) Notwithstanding subsection (3)(b), in implementing any programme of land reform the Government shall treat men and women on an equal basis with respect to the allocation or distribution of land or any right or interest therein under that programme.

[Subsection inserted by s. 4 of Act 5 of 2005 with effect from the 14th September, 2005.]

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

(*a*) anything that is expressly or by necessary implication authorized to be done by any provision of a law that is referred to in subsection (3); or

[Paragraph as amended by section 9 of Act No. 14 of 1996 - Amendment No. 14]

(*b*) the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court vested in any person by or under this Constitution or any other law.

(5) Nothing contained in or done under the authority of any law that discriminates between persons on the ground of their sex or gender shall be held to be in contravention of subsection (1)(*a*) or (*b*) to the extent that the law in question—

(*a*) gives effect to section 7(2) or any other provision of this Constitution; or

(*b*) takes due account of physiological differences between persons of different sex or gender; or

(*c*) makes provision in the interests of defence, public safety or public morality;

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

[Subsection inserted by section 9 of Act No. 14 of 1996 - Amendment No. 14, and amended by s. 4 of Act 5 of 2005 with effect from the 14th September, 2005.]

24 Enforcement of protective provisions

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

(4) The Supreme Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person pursuant to subsection (1) or to determine without a hearing any such application which, in its opinion, is merely frivolous or vexatious; and

(*b*) to determine any question arising in the case of any person which is referred to it pursuant to subsection (2);

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

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

[Subsection as amended by section 20 of Act 23 of 1987 and by section 9 of Act 15 of 1990 - Amendment No. 10]

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

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

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

(*a*) of the Supreme Court in relation to the jurisdiction and powers conferred upon it by or under this section; and

(*b*) of subordinate courts in relation to references to the Supreme Court under subsection (2);

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

25 Savings in the event of public emergencies

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

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

26 Interpretation and other savings

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

"child" includes a stepchild and a lawfully adopted child and **"parent"** and cognate expressions shall be construed accordingly;

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

[definition amended by s. 23 of Act 5 of 2005 with effect from the 14th September, 2005, by substitution of "local court" for original "tribal court".]

"legal representative" means a legal practitioner who is lawfully in Zimbabwe;

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

"parental discipline" includes school or other quasi-parental discipline.

(2) Nothing contained in or done under the authority of any written law shall be held to be in contravention of the Declaration of Rights to the extent that the law in question—

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

(*b*) …. [Paragraph repealed by section 20 of Act 23 of 1987]

(*c*) ….. [Paragraph repealed by section 20 of Act 23 of 1987]

(*d*) ….. [Paragraph repealed by section 20 of Act 23 of 1987]

[Subsection as amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

(3) ….. [Subsection repealed by section 20 of Act 23 of 1987]

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

(*a*) ….. [Paragraph repealed by section 20 of Act 23 of 1987]

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

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

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

(6) In relation to any person who is a member of a disciplined force that is not a disciplined force of Zimbabwe and who is present in Zimbabwe under arrangements made between the Government and the government of some other country or an international organization, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be in contravention of the Declaration of Rights.

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

CHAPTER IV[3]
THE EXECUTIVE

PART 1
The President

27 The President

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

(2) The President shall take precedence over all other persons in Zimbabwe.

28 Qualifications and election of President

(1) A person shall be qualified for election as President if—

(*a*) he is a citizen of Zimbabwe by birth or by descent; and

(*b*) he has attained the age of forty years; and

(*c*) he is ordinarily resident in Zimbabwe.

(2) The President shall be elected by voters.

[Subsection as amended by section 2 of Act 15 of 1990 - Amendment No. 10, and by s. 23 of Act 5 of 2005 with effect from the 14th September, 2005.]

(3) An election to the office of President shall take place within ninety days—

(*a*) before the term of office of the President expires in terms of section 29; or

(*b*) after the office of President becomes vacant by reason of his death or his resignation or removal from office in terms of this Constitution;

as the case may be.

(4) The procedure for the nomination of candidates for election in terms of subsection (2) and the election of the President shall be as prescribed in the Electoral Law.

[Subsection as amended by section 2 of Act 15 of 1990 - Amendment No. 10]

(5) A person elected as President shall assume office—

(*a*) where he has been elected in accordance with paragraph (*a*) of subsection (3), on the expiry of the term of office of the previous President;

(*b*) where he has been elected in accordance with paragraph (*b*) of subsection (3), on the day upon which he is declared to be elected.

[Subsection as amended by section 2 of Act 15 of 1990 - Amendment No. 10]

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

29 Tenure of office of President

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

Provided that—

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

(ii) …..

[Paragraph repealed by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

---

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

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

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

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

(*c*) of gross misconduct;

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

30 Presidential immunity

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

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

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

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

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

31 Acting President

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

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

(*b*) where there are two Vice-Presidents—

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

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

or

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

(i) by the President; or

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

[Subsection as substituted by section 3 of Act 15 of 1990 - Amendment No. 10]

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

(*a*) to declare war or to make peace; or

(*b*) to enter into any international convention, treaty or agreement; or

(*c*) subject to the provisions of section 51, to dissolve or prorogue Parliament; or

(*d*) to appoint or revoke the appointment of a Vice-President, Minister or Deputy Minister; or

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

31A Remuneration of President

(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President and any Acting President such salary, allowances, pension and other benefits as may from time to time be prescribed by or under an Act of Parliament.

(2) The salary, allowances and other benefits payable to the President or an Acting President shall not be reduced during the period he holds the office of President.

31B President and former Presidents not to hold other offices

(1) While he continues in office as President, the President shall not directly or indirectly hold any other public office or any paid office in the employment of any person.

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

PART 2
Vice-Presidents, Ministers and Cabinet

31C Vice-Presidents

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

[Subsection as substituted by section 4 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as substituted by section 4 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

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

31D Ministers and Deputy Ministers

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

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

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

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

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

(1) The office of a Vice-President, Minister or Deputy Minister shall become vacant—
(*a*) if the President removes him from office; or
(*b*) if he resigns his office by notice in writing addressed and delivered to the President; or
(*c*) upon the assumption of office of a new President.

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

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

[Subsection as substituted by section 2 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as substituted by section 2 of Act 31 of 1989 - Amendment No. 9]

31F Vote of no confidence in Government

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

[Subsection substituted by s. 5 of Act No. 5 of 2005 – Amendment No. 17]

(2) A motion for the resolution referred to in subsection (1) shall not be moved in the House of Assembly unless—
(*a*) not less than seven days' notice of the motion has been given to the Speaker; and
(*b*) the notice of the motion has been signed by not less than one-third of all the members of the House of Assembly;

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

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

(*a*) dissolve Parliament; or

(*b*) remove every Vice-President, Minister and Deputy Minister from his office unless he has earlier resigned in consequence of the resolution; or

(*c*) himself resign his office.

[Section as amended by sections 3 and 26 of Act 31 of 1989 - Amendment No. 9, subsection (2) as also amended by section 23 of Act No. 5 of 2005 – Amendment No. 17, and subsection (3) as also amended by section 9 of Act 15 of 1990 - Amendment No. 10]

31G Cabinet

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

[Subsection as amended by section 4 of Act 4 of 1989 - Amendment No. 8 and by section 9 of Act 15 of 1990 - Amendment No. 10]

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

Provided that—

(i) he shall cease to hold office as a member of the Cabinet if he ceases to be a Minister;

(ii) he may at any time, by notice in writing addressed and delivered to the President, resign his office as a member of the Cabinet.

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

[Subsection as amended by section 4 of Act 4 of 1989 - Amendment No. 8]

PART 3
Executive Functions

31H Executive functions of President

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

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

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

(*a*) to appoint, accredit, receive and recognize diplomatic agents and consular officers; and

(*b*) to enter into international conventions, treaties and agreements; and

(*c*) to proclaim and to terminate martial law; and

(*d*) to declare war and to make peace; and

(*e*) to confer honours and precedence.

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

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

(*a*) the dissolution or prorogation of Parliament; or

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

(*b*1) subject to the provisions of an Act of Parliament such as is referred to in section 111A, the appointment or removal of a Provincial Governor in terms of such Act; or

[Paragraph as inserted by section 5 of Act 4 of 1989 - Amendment No. 8 and as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as inserted by section 5 of Act 15 of 1990 - Amendment No. 10]

(*c*2) the appointment of members of Parliament in terms of section 38(1)(*d*); or

[Paragraph as inserted by section 5 of Act 15 of 1990 - Amendment No. 10]

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

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

31I Prerogative of mercy

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

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

(*b*) grant a respite, either indefinite or for a specified period, from the execution of any sentence for such an offence; or

(*c*) substitute a less severe punishment for that imposed by any sentence for such an offence; or

(*d*) suspend for a specified period or remit the whole or part of any sentence for such an offence or any penalty of forfeiture otherwise imposed on account of such an offence.

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

31J Public emergencies

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

(*a*) a state of public emergency exists; or

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

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

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

(*a*) is not approved by resolution under subsection (2), the President shall forthwith, after Parliament has considered the resolution and failed to approve it or, if Parliament has not considered the resolution, on the expiration of the appropriate period specified in subsection (2), by proclamation in the *Gazette*, revoke the declaration;

(*b*) is approved by resolution under subsection (2), the declaration shall, subject to the provisions of subsection (4), continue in effect for a period of six months beginning with the day of publication of the proclamation in the *Gazette*:

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

(*a*) resolve that a declaration under subsection (1) should be revoked; or

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

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

(*a*) if allowed to continue, may lead to a state of public emergency; and

(*b*) may require the preventive detention of persons in the interests of defence, public safety or public order.

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

(*a*) that a resolution under subsection (6) shall cease to have effect; or

(*b*) that a resolution under subsection (6) shall relate to such lesser area as Parliament may specify.

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9, and section 15 of Act 14 of 1996 - Amendment No. 14]

(13) …

[Subsection repealed by section 4 of Act 4 of 1993 - Amendment No. 12]

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

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

(*a*) whether any advice or recommendation was tendered to the President or acted on by him; or

(*b*) whether any consultation took place in connection with the performance of the act; or

(*c*) the nature of any advice or recommendation tendered to the President; or

(*d*) the manner in which the President has exercised his discretion.

(2) Where the President is required or permitted by this Constitution or any other law to act on the advice or recommendation of or after consultation with any person or authority, a court shall not, in any case, inquire into either of the following questions or matters—

(*a*) the nature of any advice or recommendation tendered to the President; or

(*b*) the manner in which the President has exercised his discretion.

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

CHAPTER V
PARLIAMENT

PART 1
Parliament

32 Legislative authority

(1) The legislative authority of Zimbabwe shall vest in the Legislature which shall consist of the President and Parliament.

(2) The provisions of subsection (1) shall not be construed as preventing the Legislature from conferring legislative functions on any person or authority.

[Section as substituted by section 4 of Act 31 of 1989 - Amendment No. 9, subsection (2) as inserted by section 5 of Act 4 of 1993 - Amendment No. 12]

33 Parliament

Parliament shall consist of two Houses, called the Senate and the House of Assembly.

[Section inserted by s. 6 of Act No. 5 of 2005 – Amendment No. 17]

PART 2

The Senate

[Part 2 inserted by s. 7 of Act No. 5 of 2005 – Amendment No. 17][4]

34 Composition of Senate

(1) The Senate shall consist of sixty-six Senators, of whom—

(a) five shall be elected in each of the ten provinces by voters registered in the fifty senatorial constituencies referred to in subsection (4); and

(b) two shall be the President and the Deputy President of the Council of Chiefs; and

(c) eight shall be Chiefs representing each of the provinces, other than the metropolitan provinces, elected in accordance with the Electoral Law; and

(d) six shall be appointed by the President.

(2) The qualifications for election or appointment as a Senator are set out in Schedule 3.

(3) The procedure for the nomination of candidates for election under subsection (1)(a), the election of Senators and the filling of vacancies among elected Senators shall be as prescribed in the Electoral Law.

(4) For the purpose of subsection (1)(a), each province shall be divided into five senatorial constituencies delimited in accordance with the Electoral Law.

35 Election of President of Senate

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

(2) The President of the Senate shall be elected in accordance with Standing Orders from among persons who are or have been members of the Senate or the House of Assembly and who are not members of the Cabinet, Ministers, Deputy Ministers or Provincial Governors:

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

(3) If a Senator is elected as President of the Senate, he shall cease to be a Senator.

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

(5) When the Senate first meets after it is elected it shall, as soon as practicable after the election of the President of the Senate, elect in accordance with Standing Orders a Senator, not being a Vice-President, Minister, Deputy Minister or Provincial Governor, to be the Deputy President of the Senate and to be chairman when the Senate is in committee; and whenever the office of the Deputy President of the Senate becomes vacant the Senate shall, as soon as convenient, elect another such Senator to that office.

[4] The new Part 2, as inserted by Act 5 of 2005, contains sections 34, 35 and 36 only. The original Part 2, before its repeal by Act 31 of 1989, contained a section 37 as well.

36 Tenure of office of President and Deputy President of Senate

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

(2) The President of the Senate shall vacate his office—

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

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

(c) if he becomes a Senator or a member of the House of Assembly or the Speaker;

(d) if any circumstance arises that, if he had been a Senator—

(i) the provisions of section 41(1)(j), (k), (n), (o), (p) or (q) would apply to him and his seat as a Senator would become vacant; or

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

(3) The office of the President of the Senate shall become vacant if the Senate has resolved by the affirmative votes of not less than one half of its total membership that the office of the President of the Senate shall become vacant.

(4) Any function of the President of the Senate, whether authorized by law or otherwise, which is required to be performed after a dissolution of Parliament and before the President of the Senate is elected under section 35(1) shall be performed by the person who was the President of the Senate immediately before such dissolution:

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

(5) The Deputy President of the Senate may at any time resign his office by notice in writing to the Clerk of Parliament and shall vacate his office if—

(a) he ceases to be a Senator;

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

(c) he becomes a Vice-President, Minister, Deputy Minister or Provincial Governor.

PART 3

Composition of House of Assembly, Speaker and Deputy Speaker and Parliamentary Legal Committee

38 Composition of House of Assembly

(1) There shall be a House of Assembly which, subject to the provisions of section 76(3b), shall consist of one hundred and fifty members qualified in accordance with Schedule 3 for election or appointment to the House of Assembly, of whom—

(*a*) one hundred and twenty shall be elected by voters in the one hundred and twenty constituencies delimited in accordance with section 60; and

(*b*) ten shall be Provincial Governors; and

(*c*) eight shall be Chiefs representing each of the provinces, other than the metropolitan provinces, elected in accordance with the Electoral Law; and

(*d*) twelve shall be appointed by the President.

[Subsection as amended by s. 8 of Act No. 5 of 2005 – Amendment No. 17]

(2) The qualifications for election under subsection (1)(a) as a member of the House of Assembly are set out in Schedule 3.

[Subsection as substituted by s. 8 of Act No. 5 of 2005 – Amendment No. 17]

(3) The procedure for the nomination of candidates for election under subsection (1)(a) and (c), the election of members of the House of Assembly and the filling of vacancies shall be as prescribed in the Electoral Law.

[Subsection as substituted by s. 8 of Act No. 5 of 2005 – Amendment No. 17]

[Section as substituted by section 6 of Act 31 of 1989 - Amendment No. 9]

39 Election of Speaker and Deputy Speaker

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

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

[Subsection as amended by section 20 of Act 23 of 1987,
by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as amended by section 20 of Act 23 of 1987,
section 26 of Act 31 of 1989 - Amendment No. 9,
section 9 of Act 15 of 1990 - Amendment No. 10
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

40 Tenure of office of Speaker and Deputy Speaker

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9,
section 15 of Act 14 of 1996 - Amendment No. 14
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(2) The Speaker shall vacate his office—

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

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

[Paragraph as amended by section 20 of Act 31 of 1989 - Amendment No. 9
and by section 9 of Act 15 of 1990 - Amendment No. 10]

(*c*) if he becomes a Senator or the President of Senate or a member of the House of Assembly;

[Paragraph as substituted by section 9 of of Act No. 5 of 2005 – Amendment No. 17,
having previously been substituted by section 7 of Act 31 of 1989 - Amendment No. 9]

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

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

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

or

[Paragraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as inserted by section 3 of Act 4 of 1985 - Amendment No. 5 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Paragraph as inserted by section 3 of Act 4 of 1985 - Amendment No. 5 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

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

(Subsection as amended by section 15 of Act 14 of 1996 - Amendment No. 14

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

(*a*) he ceases to be a member of the House of Assembly;

[Paragraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Paragraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Paragraph as amended by section 20 of Act 23 of 1987 and by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Paragraph as inserted by section 3 of Act 4 of 1985 - Amendment No. 5 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

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

[Paragraph as inserted by section 3 of Act 4 of 1985 - Amendment No. 5 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

[Subsection as amended by and section 15 of Act 14 of 1996 - Amendment No. 14]

40A Parliamentary Legal Committee

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

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

(*a*) has been a judge of the Supreme Court or the High Court; or

(*b*) is and has been for not less than five years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe; or

(*c*) has been a magistrate in Zimbabwe for not less than five years; or

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

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

[Section as inserted by section 8 of Act 31 of 1989 - Amendment No. 9]

40B Functions of Parliamentary Legal Committee

(1) The Parliamentary Legal Committee shall examine—

(*a*) every Bill, other than a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies, that has been introduced into the House of Assembly or the Senate, whichever is the House in which the Bill originates; and

(*b*) every Bill, other than a Constitutional Bill, or a Bill to which the proviso to paragraph 3(1) of Schedule 4 applies, which is amended after its examination by the Committee, before the Bill is given its final reading in the House in which it originated; and

(*c*) every draft Bill transmitted by a Minister to the Clerk of Parliament for reference to the Committee; and

(*d*) every statutory instrument published in the *Gazette*; and

(*e*) every draft statutory instrument transmitted by the authority empowered to make it to the Clerk of Parliament for reference to the Committee;

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

(2) Members of the Parliamentary Legal Committee who are not members of the House in which a Bill originates shall, if the Committee reports to the House that any provision of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of the Constitution, have the right to sit and speak in the House but shall not have the right to vote therein.

(3) The Parliamentary Legal Committee—

(a) may, in examining any statutory instrument or draft statutory instrument in terms of subsection (1), report to the House of Assembly, Senate or to the Minister or authority concerned, as the case may be, whether in its opinion any provision of the statutory instrument or draft statutory instrument would, if enacted, be or, as the case may be, is *ultra vires* the enabling Act;

(b) shall perform such other functions as may be prescribed by or under an Act of Parliament or in Standing Orders.

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

(5) The provisions of paragraphs 4 and 8 of Schedule 4 shall apply in respect of the reports of the Parliamentary Legal Committee on Bills and statutory instruments.

[Section as substituted by s. 10 of Act No. 5 of 2005 – Amendment No. 17]
having been previously inserted by section 8 of Act 31 of 1989 - Amendment No. 9]

PART 4

General Matters Relating to Parliament

41 Tenure of seats of members

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

(*a*) on his death;

(*b*) on the dissolution of Parliament next following his election or appointment;

(*c*) if he resigns his seat by notice, in writing, to the President of the Senate or the Speaker, as the case may be, or to the Clerk of Parliament;

[Paragraph as substituted by section 11 of Act No. 5 of 2005 – Amendment No. 17,
having been previously amended by section 15 of Act 14 of 1996 - Amendment No. 14]

(*d*) if he is absent from twenty-one consecutive sittings during any session without the leave of the Senate or the House of Assembly, as the case may be, and the Senate or the House of Assembly has resolved, by the affirmative votes of more than one half of its total membership, that the seat shall become vacant;

[Paragraph as substituted by section 11 of Act No. 5 of 2005 – Amendment No. 17]

(*e*) if, being a member referred to in section 38(1)(*a*) and having ceased to be a member of the political party of which he was a member at the date of his election to Parliament, the political party concerned, by written notice to the Speaker, declares that he has ceased to represent its interests in Parliament;

(*f*) if he becomes President;

(*g*) if he becomes Speaker;

(*h*) if, being a member referred to in section 38(1)(*a*), he accepts office as Provincial Governor;

(*i*) if, being a member referred to in section 38(1)(*b*), he ceases to hold office as Provincial Governor;

(*j*) if he accepts any public office or office as a member of a statutory body or local authority or employment as an employee of a statutory body or local authority;

(*k*) if, being a public officer or a member or employee of a statutory body or local authority at the time he became a member of Parliament, he fails to terminate his appointment or employment as such within fourteen days of the date he became a member of Parliament;

(*l*) in the circumstances set out in section 42;

(*m*) if he is required, by virtue of the provisions of section 43, to vacate his seat;

(*n*) if he is found or declared in accordance with any Act relating to mental health to be mentally disordered or defective as defined in that Act;

(*o*) if he is declared by order of the High Court to be incapable of managing his own affairs;

(*p*) if he has been convicted of an offence under the Electoral Law and has been declared by the High Court under the powers conferred by

the Electoral Law to be disqualified for registration as a voter or from voting at any election;

(*q*) if for a continuous period of six months or more he has been the subject of a preventive detention order under any law providing for the preventive detention of persons.

[Subsection as substituted by section 9 of Act 31 of 1989 - Amendment No. 9]

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

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

[Paragraph as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

(*b*) being a member of any of the Defence Forces whose services in peace-time are not wholly in the service of the State; or

(*c*) being a member of the reserve forces of the Police Force whose services are not wholly in the employment of the State; or

(*d*) holding office for which he is not entitled to be paid any remuneration, other than payment by way of travelling and subsistence allowances or out-of-pocket expenses; or

(*e*) being a member of the Council of Chiefs.

[Subsection as substituted by section 9 of Act 31 of 1989 - Amendment No. 9]

(3) For the purposes of this section—

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

(*b*) **"statutory body"** means—

(i) any Commission established by this Constitution;

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

[Subparagraph as amended by section 8 of Act 4 of 1989 - Amendment No. 8 and by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Subsection as inserted by section 8 of Act 4 of 1989 - Amendment No. 8]

42 Members sentenced to death or to imprisonment

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

(*a*) within Zimbabwe of a criminal offence; or

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

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

[Subsection as amended by section 9 of Act 4 of 1989 - Amendment No. 8 and by section 26 of Act 31 of 1989 - Amendment No. 9]

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

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

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

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

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

[Subsection as inserted by section 9 of Act 4 of 1989 - Amendment No. 8]

43 Expulsion or suspension of members convicted of certain offences

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

[Paragraph as amended by section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as substituted by section 10 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as inserted by section 10 of Act 4 of 1989 - Amendment No. 8]

44 Oath of loyalty

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

[Section as substituted by section 11 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

45 Remuneration of President of Senate and Speaker

(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President of the Senate and to the Speaker such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

(2) The salary payable to the President of the Senate or the Speaker shall not be reduced during the period he holds that office.

(3) A person who was the President of the Senate or the Speaker immediately before a dissolution of Parliament shall continue to receive the salary and allowances of that office until such time as the Senate or the House of Assembly, as the case may be, first meets after the dissolution or until he ceases sooner to perform the functions of—

(a) the President of the Senate in the circumstances referred to in section 36(4); or

(b) the Speaker in the circumstances referred to in section 40(4).

[Section as substituted by section 12 of Act No. 5 of 2005 – Amendment No. 17,
having previously been substituted by section 11 of Act 31 of 1989 - Amendment No. 9]

46 President's power to address and attend Parliament

(1) The President—

(a) may at any time—

(i) address the Senate or the House of Assembly; or

(ii) call a joint meeting of the Senate and the House of Assembly and attend and address such joint meeting;

(b) shall have the right to sit and speak in the Senate or the House of Assembly but shall not have the right to vote therein.

(2) The President may send messages to the Senate or the House of Assembly and any such message shall be read by the President of the Senate or the Speaker, as the case may be, or by a Vice-President or a Minister.

[Section as substituted by section 13 of Act No. 5 of 2005 – Amendment No. 17]
having previously been substituted by section 12 of Act 31 of 1989 - Amendment No. 9
and as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

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

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

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

[Section as substituted by section 13 of Act 31 of 1989 - Amendment No. 9]

48 Clerk of Parliament and other staff thereof

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

[Subsection as amended by section 15 of Act 14 of 1996 - Amendment No. 14]

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

[Subsection as amended by section 15 of Act 14 of 1996 - Amendment No. 14
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(3) Subject to any wishes which may be expressed from time to time by the House of Assembly, the Committee on Standing Rules and Orders shall

appoint such other staff of Parliament as it may from time to time consider necessary.

[Subsection as amended by section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Section as substituted by section 14 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

49 Privileges of Parliament and members and officers thereof

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

[Section as substituted by section 15 of Act 31 of 1989 - Amendment No. 9]

PART 5
Powers and Procedure of Parliament

50 Legislative powers

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

51 Mode of exercising legislative powers

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

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

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

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

[Subsection as inserted by section 4 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as inserted by section 4 of Act 23 of 1987
and as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as amended by section 16 of Act 31 of 1989 - Amendment No. 9]

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

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

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

52 Alteration of the Constitution

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

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

[Proviso as amended by section 7 of Act 30 of 1990 - Amendment No. 11]

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 15 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection inserted by section 15 of Act No. 5 of 2005 – Amendment No. 17;
original subsection repealed by section 6 of Act 15 of 1990 - Amendment No. 10]

(4) If in the case of a Constitutional Bill which has been passed by the House of Assembly in accordance with subsection (3) but has not been passed by the Senate in accordance with that subsection within a period of one hundred and eighty days beginning on the day on which the Bill was first introduced into the Senate, the House of Assembly resolves after the expiration of that period by the affirmative votes of not less than two-thirds of its members that the Bill be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, and with such amendments, if any, as the Senate and the House of Assembly may have agreed, the Bill shall be deemed to have been duly passed in the form in which it is presented to the President.

[Subsection inserted by section 15 of Act No. 5 of 2005 – Amendment No. 17;
original subsection repealed by section 6 of Act 15 of 1990 - Amendment No. 10]

(5) A Constitutional Bill shall not be submitted to the President for assent unless—

(a) it is accompanied by—

(i) a certificate from the President of the Senate that at the final vote thereon in the Senate the Bill received the affirmative votes of not less than two-thirds of the total membership of the Senate; and

(ii) a certificate from the Speaker that at the final vote thereon in the House of Assembly the Bill received the affirmative votes of not less than two-thirds of the total membership of the House of Assembly;

or

(b) it is accompanied by the certificate referred to in paragraph (a)(ii) and a further certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsection (4) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

[Subsection as substituted by section 15 of Act No. 5 of 2005 – Amendment No. 17]

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

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

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

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

[Subsection as inserted by section 7 of Act 30 of 1990 - Amendment No. 11]

(7) ….. [Subsection repealed by section 6 of Act 15 of 1990 - Amendment No. 10]

(8) ….. [Subsection repealed by section 6 of Act 15 of 1990 - Amendment No. 10]

(9) ….. [Subsection repealed by section 6 of Act 15 of 1990 - Amendment No. 10]

53 Enrolment of Acts

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

[Subsection as amended by section 15 of Act 14 of 1996 - Amendment No. 14]

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

(*a*) upon such publication the revision shall in all courts of justice and for all purposes whatsoever be the sole version of the law or part thereof concerned;

(*b*) a copy of the revision, authenticated in the manner provided for in the Act of Parliament, shall be deposited in the office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of the law or part thereof concerned.

[Subsection as substituted by section 4 of Act 1 of 1983 - Amendment No. 3 and as amended by section 8 of Act 30 of 1990 - Amendment No. 11]

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

[Subsection as substituted by section 4 of Act 1 of 1983 - Amendment No. 3]

54 Quorum

(1) If objection is taken by a member of the Senate present that there are present, besides the President of the Senate or the Senator presiding, fewer than eleven members and, after such interval as may be prescribed in Standing Orders, the President of the Senate or the Senator presiding ascertains that the number of members present is less than eleven, the Senate shall thereupon be adjourned in accordance with Standing Orders.

(2) If objection is taken by a member of the House of Assembly present that there are present, besides the Speaker or the member presiding, fewer than twenty-five of the members and, after such interval as may be prescribed in Standing Orders, the Speaker or member presiding ascertains that the

number of members present is less than twenty-five, the House of Assembly shall thereupon be adjourned in accordance with Standing Orders.

[Subsection as substituted by section 16 of Act No. 5 of 2005 – Amendment No. 17]

55 Validity of proceedings

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

[Section as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

56 Voting

(1) Save as otherwise provided in this Constitution, all questions proposed for decision at a sitting of the Senate or the House of Assembly shall be determined by a majority of the votes of the members present and voting.

(2) If, upon any question before the Senate or the House of Assembly, the votes of the members are equally divided, the motion shall be lost.

(3) The person presiding at a sitting of the Senate or the House of Assembly shall not have a deliberative or a casting vote.

[Section as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

57 Standing Orders

(1) Subject to the provisions of this Constitution and any other law, the Senate and the House of Assembly, jointly or severally as may be appropriate, may make Standing Orders with respect to—

(*a*) the passing of Bills;

(*b*) presiding in the Senate or the House of Assembly;

(*c*) any matter in connection with which Standing Orders are required to be made by this Constitution; and

(*d*) generally with respect to the regulation and orderly conduct of proceedings and business in and between the Senate and the House of Assembly.

[Subsection as amended by section 23 of Act No. 5 of 2005 – Amendment No. 17.

(2) Standing Orders made in terms of subsection (1) shall provide for the appointment, membership and functions of a Committee on Standing Rules and Orders.

[Section as substituted by section 19 of Act 31 of 1989 - Amendment No. 9]

PART 6

Elections and Sessions

58 Elections

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

(2) ….. [Subsection repealed by section 20 of Act 31 of 1989 - Amendment No. 9]

(3) The qualifications and disqualifications for registration as a voter and for voting at elections shall be as prescribed in Schedule 3 and, subject thereto, by the Electoral Law.

(4) An Act of Parliament shall make provision for the election of members of Parliament, including elections for the purpose of filling casual vacancies.

[Subsection as amended by section 20 of Act 31 of 1989 - Amendment No. 9]

59 Delimitation Commission

(1) From time to time, as may be required for the purposes of this Constitution, the President shall appoint a Delimitation Commission which shall consist of—

(*a*) a chairman, who shall be the Chief Justice or some other judge of the Supreme Court or the High Court appointed after consultation with the Chief Justice; and

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2 and by section 20 of Act 23 of 1987]

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

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

Provided that a person shall not be eligible for appointment if he is a member of the Senate or the House of Assembly.

[Proviso as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

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

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2 and by section 20 of Act 23 of 1987]

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

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

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

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

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

[Proviso as amended by section 6 of Act 15 of 1987 - Amendment No. 6]

60 Delimitation of constituencies

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

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

[Proviso as inserted by section 7 of Act 15 of 1987 - Amendment No. 6]

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

[Subsection as amended by section 7 of Act 15 of 1987 - Amendment No. 6 and by section 21 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as amended by section 10 of Act 15 of 1987 - Amendment No. 6]

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

(*a*) its physical features;

(*b*) the means of communication within the area;

(*c*) the geographical distribution of voters registered on the common roll;

(*d*) any community of interest as between voters registered on the common roll; and

(*e*) in the case of any delimitation after the first delimitation consequent upon an alteration in the number of constituencies, existing electoral boundaries;

[Paragraph as amended by sections 7 and 10 of Act 15 of 1987 - Amendment No. 6]

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

[Subsection as amended by section 10 of Act 15 of 1987 - Amendment No. 6]

(5) The Delimitation Commission shall submit to the President a report comprising—

(*a*) a list of constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;

(*b*) a map or maps showing the constituencies into which Zimbabwe has been divided by the Commission; and

(*c*) any further information or particulars which the Commission considers necessary.

(6) The President may refer back to the Delimitation Commission for its further consideration and final decision any matter arising out of its report.

(7) If there appears to be any discrepancy between the description of the boundaries of any constituency and the map or maps, the description shall prevail.

(8) As soon as may be after the Delimitation Commission has completed its report, the President shall, by proclamation in the *Gazette*, declare the names and boundaries of the constituencies as finally settled by the Commission to be the constituencies of Zimbabwe which shall have effect for the purposes of the next and any subsequent general election.

61 Zimbabwe Electoral Commission

(1) There shall be a commission to be known as the Zimbabwe Electoral Commission which shall consist of—

(a) a chairman who shall be a judge of the High Court or the Supreme Court or a person qualified to be appointed as a judge of the High Court or the Supreme Court appointed by the President after consultation with the Judicial Service Commission; and

(b) six other members, at least three of whom shall be women, appointed by the President from a list of nine nominees submitted by the Committee on Standing Rules and Orders.

(2) If the appointment of a chairman of the Zimbabwe Electoral Commission is not consistent with any recommendation of the Judicial Service Commission in terms of subsection (1)(a), the President shall cause Parliament to be informed as soon as practicable.

(3) A member of the Zimbabwe Electoral Commission shall, before entering upon his office, take and subscribe before the President or some person authorized by the President in that behalf the oath of loyalty and the oath of office in the forms set out in Schedule 1.

(4) The Zimbabwe Electoral Commission shall have the following functions—

(a) to prepare for, conduct and supervise—
  (i) elections to the office of President and to Parliament; and
  (ii) elections to the governing bodies of local authorities; and
  (iii) referendums;
and to ensure that those elections and referendums are conducted efficiently, freely, fairly, transparently and in accordance with the law;
(b) to supervise the registration of voters by the authority charged with that responsibility under the Electoral Law; and
(c) to compile voters' rolls and registers; and
(d) to ensure the proper custody and maintenance of voters' rolls and registers; and
(e) to design, print and distribute ballot papers, approve the form of and procure ballot boxes, and establish and operate polling centres; and
(f) to conduct voter education; and
(g) to accredit observers of elections and referendums in accordance with an Act of Parliament; and
(h) to give instructions to—
  A. the Registrar-General of Voters in regard to the exercise of his functions under the Electoral Law or any other law; and
  B. other persons in the employment of the State or of a local authority for the purpose of ensuring the efficient, proper, free and fair conduct of any election or referendum;
and
(i) to exercise any other functions that may be conferred or imposed on the Commission by the Electoral Law or any other law.

(5) The Zimbabwe Electoral Commission shall not, in the exercise of its functions in terms of subsection (4), be subject to the direction or control of any person or authority.

(6) There shall be charged upon and paid out of the Consolidated Revenue Fund—
(a) sufficient funds appropriated to the Zimbabwe Electoral Commission to enable it to exercise its functions in terms of subsection (4);
(b) to the members of the Zimbabwe Electoral Commission such salaries, allowances, pension and other benefits as may from time to time be prescribed by or under an Act of Parliament.

(7) The salary, allowances and other benefits payable to a member of the Zimbabwe Electoral Commission shall not be reduced during his tenure of office.

(8) An Act of Parliament—
(a) shall make provision for—
  (i) the terms of office of members of the Zimbabwe Electoral Commission;
  (ii) the qualifications or eligibility of any person to be appointed as a member of the Commission in terms of subsection (1)(b);
  (iii) the vacation of or removal from office of any member of the Commission who becomes disqualified or ineligible as a member or on the grounds of misconduct or inability to hold office as a member;
  (iv) the procedure at meetings of the Commission;
  (v) the appointment and functions of a chief executive of the Commission to manage the funds and affairs of the Commission;
  (vi) the making of reports to Parliament on the conduct of any election or referendum;
(b) may make provision for—
  (i) functions related to elections and referendums that are additional to those specified in subsection (4); and

(ii) the manner in which the Zimbabwe Electoral Commission shall exercise its functions; and

(iii) the appointment and discipline of the staff of the Commission.

[Section as substituted by s. 17 of Act No. 5 of 2005 – Amendment No. 17]

62 Sessions

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

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

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

63 Prorogation or dissolution

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

[Subsection as substituted by section 6 of Act 23 of 1987 - Amendment No. 7]

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

[Subsection as substituted by section 6 of Act 23 of 1987 - Amendment No. 7]

(3) ….. [Subsection repealed by section 6 of Act 23 of 1987 - Amendment No. 7]

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

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

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

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

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

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

[Subsection as amended by section 26 of Act 23 of 1987 - Amendment No. 7]

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

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

CHAPTER VI
THE EXECUTIVE

[Chapter repealed by section 7 of Act 23 of 1987 - Amendment No. 7.
See now Chapter IV above]

CHAPTER VII
THE PUBLIC SERVICE

73 Public Service

(1) There shall be a Public Service for the administration of the country.

(2) An Act of Parliament shall make provision for the organization, administration and discipline of the Public Service, including the appointment of persons to posts or grades in the Public Service, their removal from office or reduction in grade, their punishment for misconduct and the fixing of their conditions of service.

[Subsection as inserted by section 6 of Act 4 of 1993 - Amendment No. 12]

(3) ….. [Subsection repealed by section 6 of Act 4 of 1993 - Amendment No. 12]

74 Public Service Commission

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

[Subsection as amended by section 20 of Act 23 of 1987 - Amendment No. 7 and section 7 of Act 4 of 1993 - Amendment No. 12]

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

[Subsection as amended by section 3 of Act 27 of 1981 - Amendment No. 1 and section 7 of Act 4 of 1993 - Amendment No. 12]

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

[Subsection as amended by section 7 of Act 4 of 1993 - Amendment No. 12]

75 Functions of Public Service Commission

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

[Section as substituted by section 8 of Act 4 of 1993 - Amendment No. 12]

76 Attorney-General

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

[Subsection as substituted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

[Subsection as substituted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

[Subsection as substituted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

(*a*) a member of the Cabinet, but shall not have the right to vote therein; and

(*b*) a member of Parliament, but—

(i) shall not have the right to vote therein; and

(ii) shall not be eligible for election or appointment to any office, post or committee of Parliament.

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8 and as amended by section 22 of Act 31 of 1989 - Amendment No. 9]

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

(*a*) to institute and undertake criminal proceedings before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in such proceedings;

(*b*) to take over and continue criminal proceedings that have been instituted by any other person or authority before any court, not being a court established by a disciplinary law, and to prosecute or defend an appeal from any determination in proceedings so taken over by him; and

(*c*) to discontinue at any stage before judgment is delivered any criminal proceedings he has instituted under paragraph (*a*) or taken over under paragraph (*b*) or any appeal prosecuted or defended by him from any determination in such proceedings.

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

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

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

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

[Subsection as amended by section 12 of Act 4 of 1989 - Amendment No. 8]

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

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8 and as amended by section 22 of Act 31 of 1989 - Amendment No. 9]

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8]

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

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

(*a*) be a member of the Cabinet; or

(*b*) be entitled to sit or speak in Parliament.

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8 and as amended by section 22 of Act 31 of 1989 - Amendment No. 9]

(14) ….. [Subsection repealed by section 11 of Act No. 14 of 1996 - Amendment No. 14]

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

[Subsection as inserted by section 22 of Act 31 of 1989 - Amendment No. 9 and amended by section 11 of Act No. 14 of 1996 - Amendment No. 14]

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

[Subsection as inserted by section 12 of Act 4 of 1989 - Amendment No. 8 and as amended by section 22 of Act 31 of 1989 - Amendment No. 9]

77 Secretaries of Ministries, etc.

(1) The power to appoint persons to hold the office of Secretary to the Cabinet or Secretary of a Ministry shall vest in the President after consultation with the Public Service Commission.

(2) If the appointment of a Secretary by the President is not consistent with any recommendation made by the Public Service Commission in terms of subsection (1), the President shall cause the House of Assembly to be informed as soon as is practicable.

[Section as substituted by section 10 of Act 23 of 1987 - Amendment No. 7 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9 and section 23 of Act No. 5 of 2005 – Amendment No. 17]

78 Principal representatives of Zimbabwe abroad

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

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

[Section as amended by section 11 of Act 23 of 1987 - Amendment No. 7 and section 15 of Act No. 14 of 1996 - Amendment No. 14]

CHAPTER VIII
THE JUDICIARY

79 Judicial authority

(1) The judicial authority of Zimbabwe shall vest in—

(*a*) the Supreme Court; and

(*b*) the High Court; and

(*c*) such other courts subordinate to the Supreme Court and the High Court as may be established by or under an Act of Parliament.

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

(*a*) vesting adjudicating functions in a person or authority other than a court referred to in subsection (1); or

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

[Section as substituted by section 10 of Act 30 of 1990 - Amendment No. 11]

79A Judiciary

The judiciary of Zimbabwe shall consist of—

(*a*) the Chief Justice, who shall be the head of the judiciary; and

(*b*) the judges of the Supreme Court; and

(*c*) the Judge President and the other judges of the High Court; and

(*d*) persons presiding over other courts subordinate to the Supreme Court and the High Court that are established by or under an Act of Parliament.

[Section as inserted by section 10 of Act 30 of 1990 - Amendment No. 11]

79B Independence of judiciary

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

[Section as inserted by section 10 of Act 30 of 1990 - Amendment No. 11]

80 Supreme Court

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

[Subsection as amended by section 11 of Act 30 of 1990 - Amendment No. 11]

(2) The Supreme Court shall consist of—

(*a*) the Chief Justice;

(*b*) such other judges of the Supreme Court, being not less than two, as the President may deem necessary;

(*c*) such other judges as have been appointed under subsection (3).

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

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

(*a*) the making of orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;

(*b*) deciding preliminary or interlocutory matters, including applications for directions but not including matters affecting the liberty of the subject:

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

[Subsection as inserted by section 8 of Act 1 of 1983 - Amendment No. 3]

[Section as substituted by section 3 of Act 25 of 1981 - Amendment No. 2]

81 High Court and criminal jurisdiction of other courts

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

[Subsection as amended by section 12 of Act 30 of 1990 - Amendment No. 11]

(2) The High Court shall consist of—

(*a*) the Chief Justice;

(*b*) the Judge President of the High Court who shall, subject to the directions of the Chief Justice, be in charge of the High Court;

(*c*) such other judges of the High Court as may from time to time be appointed.

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

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

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

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

(*a*) the making of orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;

(*b*) deciding preliminary or interlocutory matters, including applications for directions but not including matters affecting the liberty of the subject:

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

[Subsection as inserted by section 9 of Act 1 of 1983 - Amendment No. 3]
[Section as substituted by section 3 of Act 25 of 1981 - Amendment No. 2]

82 Qualifications of judges

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

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

(*b*) he is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner—

(i) in Zimbabwe:

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

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

[Subsection as amended by sections 4 and 13 of Act 25 of 1981 - Amendment No. 2]

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

(*a*) any period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included; and

(*b*) any period during which he has held judicial office, whether in or outside Zimbabwe, after having so qualified as a legal practitioner shall be included;

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

[Subsection as substituted by section 4 of Act 25 of 1981 - Amendment No. 2]

83 Oath of office

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

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

[Section as substituted by section 5 of Act 25 of 1981 - Amendment No. 2]

84 Appointment of judges

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

[Subsection as substituted by section 12 of Act 23 of 1987 - Amendment No. 7]

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

[Subsection as substituted by section 12 of Act 23 of 1987 - Amendment No. 7
and as amended by section 13 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

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

[Subsection as inserted by section 2 of Act 4 of 1984 - Amendment No. 4]

85 Acting judges

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2
and by section 20 of Act 23 of 1987 - Amendment No. 7]

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

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2, by section 7 of Act 4 of 1984 - Amendment No. 4 and by section 20 of Act 23 of 1987 - Amendment No. 7]

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

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

[Paragraph as amended by section 7 of Act 4 of 1984 - Amendment No. 4 and by section 20 of Act 23 of 1987 - Amendment No. 7]

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

86 Tenure of office of judges

(1) Subject to the provisions of section 87, a judge of the Supreme Court or the High Court shall retire when he attains the age of sixty-five years unless, before he attains that age, he has elected to retire on attaining the age of seventy years:

Provided that—

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

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2, by sections 3 and 7 of Act 4 of 1984 - Amendment No. 4 and by section 20 of Act 23 of 1987 - Amendment No. 7]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

87 Removal of judges from office

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2, by section 6 of Act 4 of 1985 - Amendment No. 5 and by section 20 of Act 23 of 1987 - Amendment No. 7]

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

(*a*) persons who have held office as a judge of the Supreme Court or the High Court;

(*b*) persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in a country in which the common law is Roman-Dutch or English, and English is an official language;

(*c*) legal practitioners of not less than seven years' standing who have been nominated under subsection (5);

(*d*) ….. [Paragraph repealed by section 6 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as amended by sections 6 and 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as inserted by section 6 of Act 25 of 1981 - Amendment No. 2]

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

[Subsection as amended by section 6 of Act 25 of 1981 - Amendment No. 2]

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

(7) The provisions of the Commissions of Inquiry Act [*Chapter 80*] as in force at the time or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed under subsection (2) or (3) as they apply to commissioners appointed under that Act.

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

88 Remuneration of judges

(1) There shall be charged upon and paid out of the Consolidated Revenue Fund to a person who holds the office of or is acting as Chief Justice, a judge of the Supreme Court, Judge President of the High Court or a judge of

the High Court such salary and allowances as may from time to time be prescribed by or under an Act of Parliament.

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

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

89 Law to be administered

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

[Section as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

90 Judicial Service Commission

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

(*a*) the Chief Justice or, if there is no Chief Justice or acting Chief Justice or the Chief Justice is not available, the most senior judge of the Supreme Court who is available;

(*b*) the Chairman of the Public Service Commission;

(*c*) the Attorney-General;

(*d*) no less than two or more than three other members appointed, subject to the provisions of subsection (2), by the President.

[Paragraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

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

(*a*) is or has been a judge of the Supreme Court or the High Court; or

(*b*) is and has been for not less than five years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe; or

(*c*) possesses such legal qualifications and has had such legal experience as the President considers suitable and adequate for his appointment to the Judicial Service Commission;

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

[Subsection as amended by section 13 of Act 30 of 1990 - Amendment No. 11]

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

[Section as substituted by section 4 of Act 4 of 1984 - Amendment No. 4]

91 Functions of Judicial Service Commission

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

[Section as substituted by section 14 of Act 30 of 1990 - Amendment No. 11]

(2) An Act of Parliament referred to in subsection (1) may confer on the Judicial Service Commission functions in connection with the employment, discipline and conditions of service of such officers and persons employed in—

(a) the Supreme Court, the High Court and other courts subordinate to the Supreme Court and the High Court; and

(b) the office of the Ombudsman;

as are specified in such Act.

[Subsection inserted by s. 18 of Act 5 of 2005 with effect from the 14th September, 2005.]

92 Persons presiding over special courts

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

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

[Subsection as amended by section 13 of Act 25 of 1981 - Amendment No. 2, by section 7 of Act 4 of 1984 - Amendment No. 4 and by section 20 of Act 23 of 1987 - Amendment No. 7]

(2) During the term of office of a person appointed to preside over a special court his conditions of service shall not be amended and his office shall not be abolished without his consent.

(3) Notwithstanding the provisions of subsection (2), an Act of Parliament may—

(*a*) vest the functions of a special court in another special court if such Act provides that any person who has been appointed to preside over the first-mentioned court shall be deemed to have been appointed to preside over the second-mentioned court; and

(*b*) effect a change in the designation of the person referred to in paragraph (*a*).

(4) In this section, **"special court"** means—

(*a*) the Administrative Court established by section 3 of the Administrative Court Act [*Chapter 7:07*];

(Paragraph as substituted by section 2 of Act No. 10 of 1998 - Amendment No. 15.)

(a1) the Fiscal Appeal Court established by section 3 of the Fiscal Appeal Court Act [*Chapter 23:05*];

(Paragraph as inserted by section 2 of Act No. 10 of 1998 - Amendment No. 15.)

(a2) the Special Court for Income Tax Appeals established by section 64 of the Income Tax Act [*Chapter 23:06*];

(Paragraph as inserted by section 2 of Act No. 10 of 1998 - Amendment No. 15.)

(a3) any court or other adjudicating authority established by law which exercises any function that was vested in a court referred to in paragraph (a), (a1) or (a2) on the date of commencement of the Constitution of Zimbabwe Amendment (No. 15) Act, 1998;

(Paragraph as inserted by section 2 of Act No. 10 of 1998 - Amendment No. 15.)

(*b*) any court or other adjudicating authority established by law, other than—

(i) a local court; or

(ii) a court established by or under a disciplinary law; or

(iii) a court established by or under an Act of Parliament for the adjudication of small civil claims;

if there is no right of appeal, directly or indirectly, from a decision of that court or adjudicating authority to the Supreme Court or the High Court;

[Paragraph as substituted by section 12 of Act No. 14 of 1996 - Amendment No. 14]

(*c*) any court or other adjudicating authority established by law which is declared by that law to be a special court for the purposes of this section.

CHAPTER IX
THE POLICE FORCE

93 Police Force and Commissioner of Police

(1) There shall be a Police Force which, together with such other bodies as may be established by law for the purpose, shall have the function of preserving the internal security of and maintaining law and order in Zimbabwe.

(2) Subject to the provisions of an Act of Parliament, the Police Force shall be under the command of the Commissioner of Police, who shall be appointed by the President after consultation with such person or authority as may be prescribed by or under an Act of Parliament.

(3) An Act of Parliament shall make provision for the organization, administration and discipline of the Police Force, including the appointment of persons to offices or ranks in the Police Force, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

94 Police Service Commission

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

(*a*) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and

(*b*) not less than two and not more than seven other members appointed, subject to the provisions of subsection (2), by the President.

(2) The persons to be appointed under subsection (1)(*b*) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment, and at least one such member shall be a person who has held senior rank in the Police Force for periods which in the aggregate amount to at least five years.

95 Functions of Police Service Commission

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

[Chapter as substituted by section 9 of Act 4 of 1993 - Amendment No. 12, with effect from 1.10.1995]

CHAPTER X
THE DEFENCE FORCES

96 Defence Forces and command thereof

(1) For the purpose of defending Zimbabwe, there shall be Defence Forces consisting of an Army, an Air Force and such other branches, if any, of the Defence Forces as may be provided for by or under an Act of Parliament.

(2) The supreme command of the Defence Forces shall vest in the President as Commander-in-Chief and, in the exercise of his functions as such, the President shall have power to determine the operational use of the Defence Forces.

(3) Subject to the provisions of subsection (2) and any Act of Parliament, the Defence Forces shall be under the command of a Commander:

Provided that an Act of Parliament may provide that the different branches of the Defence Forces, or any one or more of them, shall be under the command of different Commanders.

(4) The Commander of the Defence Forces, and every Commander of a branch of the Defence Forces, shall be appointed by the President after consultation with such person or authority as may be prescribed by or under an Act of Parliament.

(5) An Act of Parliament shall make provision for the organization, administration and discipline of the Defence Forces, including the appointment of

persons to offices or ranks in the Defence Forces, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

97 Defence Forces Service Commission

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

(*a*) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and

(*b*) not less than two and not more than seven other members appointed, subject to the provisions of subsection (2), by the President.

(2) The persons to be appointed under subsection (1) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment, and at least one such member shall be a person who has held senior rank in the Defence Forces for periods which in the aggregate amount to at least five years.

98 Functions of Defence Forces Service Commission

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

[Chapter as substituted by section 9 of Act 4 of 1993 - Amendment No. 12 with effect from 1.7.1994]

CHAPTER XA
THE PRISON SERVICE

99 Prison Service and Commissioner of Prisons

(1) There shall be a Prison Service for the administration of prisons in Zimbabwe and for the protection of society from criminals through the incarceration and rehabilitation of offenders and their re-integration into society.

(2) Subject to the provisions of an Act of Parliament, the Prison Service shall be under the command of the Commissioner of Prisons, who shall be appointed by the President after consultation with such person or authority as may be prescribed by or under an Act of Parliament.

(3) An Act of Parliament shall make provision for the organization, administration and discipline of the Prison Service, including the appointment of persons to offices or ranks in the Prison Service, their removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.

100 Prison Service Commission

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

(*a*) a chairman who, subject to the provisions of section 74(3), shall be the chairman of the Public Service Commission; and

(*b*) not less than two and not more than seven other members appointed, subject to the provisions of subsection (2), by the President.

(2) The persons to be appointed under subsection (1)(*b*) shall be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members, and at least one such member shall be a person who has held the rank of Superintendent or any more senior rank in the Prison Service for periods which in the aggregate amount to at least five years.

100A Functions of Prison Service Commission

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

[Chapter as inserted by section 9 of Act 4 of 1993 - Amendment No. 12 with effect from 18.8.1995]

CHAPTER XI
FINANCE

101 Consolidated Revenue Fund

All fees, taxes and other revenues of Zimbabwe from whatever source arising, not being moneys that—

(*a*) are payable by or under an Act of Parliament into some other fund established for a specific purpose; or

(*b*) may, by or under an Act of Parliament, be retained by the authority that received them for the purpose of defraying the expenses of that authority;

shall be paid into and form one Consolidated Revenue Fund.

102 Withdrawals from Consolidated Revenue Fund or other public fund

(1) No moneys shall be withdrawn from the Consolidated Revenue Fund except—

(*a*) to meet expenditure that is charged upon that Fund by this Constitution or by an Act of Parliament; or

(*b*) where the issue of those moneys has been authorized by an Appropriation or other Act made pursuant to the provisions of section 103.

(2) Where any moneys are charged by this Constitution or an Act of Parliament upon the Consolidated Revenue Fund or any other public fund, they shall be paid out of that fund by the Government to the person or authority to whom payment is due.

(3) No moneys shall be withdrawn from any public fund, other than the Consolidated Revenue Fund, unless the issue of those moneys has been authorized by or under an Act of Parliament.

(4) An Act of Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Revenue Fund or any other public fund.

(5) The investment of moneys forming part of the Consolidated Revenue Fund shall be made in such manner as may be prescribed by or under an Act of Parliament.

(6) Notwithstanding the provisions of subsection (1), provision may be made by or under an Act of Parliament authorizing withdrawals to be made from the Consolidated Revenue Fund for the purpose of making repayable advances.

103 Authorization of expenditure from Consolidated Revenue Fund

(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Assembly, on a day on which the House sits, before or not later than thirty days after the start of each financial year estimates of the revenue and expenditure of Zimbabwe for that financial year:

Provided that if, by reason of the prorogation or dissolution of Parliament, the provisions of this subsection cannot be complied with, the estimates of the revenue and expenditure shall be laid before the House of Assembly, on a day on which the House sits not later than thirty days after the date on which the House first meets after that prorogation or dissolution.

(2) When the estimates of expenditure, other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or an Act of Parliament, have been approved by Parliament, a Bill, to be known as an Appropriation Bill, shall be introduced into Parliament providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(3) If in respect of any financial year it is found that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums required shall be laid

before Parliament and, when such estimates have been approved by Parliament, a supplementary Appropriation Bill shall be introduced into Parliament providing for the issue of such sums from the Consolidated Revenue Fund and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(4) An Act of Parliament may make provision for the President, where he is satisfied that there is an urgent need for expenditure which was unforeseen or the extent of which was unforeseen and for which no other provision exists, to authorize the withdrawal from the Consolidated Revenue Fund of moneys for the purpose of meeting that expenditure and any moneys so withdrawn shall be included in supplementary or additional estimates which shall be laid before Parliament on one of the fourteen days on which Parliament sits next after the authorization of such withdrawal and, when such estimates have been approved by Parliament, a supplementary or additional Appropriation Bill shall be introduced into Parliament providing that the sums so withdrawn shall be charged upon the Consolidated Revenue Fund and that they shall be appropriated, under separate votes for the several heads of expenditure approved, to the purposes specified therein:

Provided that the aggregate of all moneys so authorized to be withdrawn shall not at any one time prior to the consequential estimates having been approved by Parliament exceed one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act.

(5) If in respect of any financial year it is found that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose under this Chapter or for a purpose to which no amount has been appropriated under this Chapter, the Minister for the time being responsible for finance shall cause to be introduced into Parliament on one of the fourteen days on which Parliament sits next after the extent of the unauthorized expenditure has been established a Bill providing for the condonation of such unauthorized expenditure.

(6) An Act of Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the coming into operation of the Act, whichever is the earlier:

Provided that—

(*a*) the aggregate of all moneys so authorized to be withdrawn shall not exceed one-third of the sums included in the estimates of expenditure for the preceding financial year that have been laid before Parliament;

(*b*) any moneys so withdrawn shall be included in the Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

(7) An Act of Parliament may make provision under which, where at any time Parliament has been dissolved before any provision or sufficient provision is made under this Chapter for the carrying on of the government of Zimbabwe, the President may authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the dissolution of Parliament and expiring three months after the day on which Parliament first meets after that dissolution and any moneys so withdrawn shall be included in an Appropriation Act under separate votes and shall be accounted for in accordance with the provisions thereof.

[Section as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

104 Public debt

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

(2) The costs and charges and expenses incurred incidental to the collection and management of the Consolidated Revenue Fund shall form the first charge thereon.

(3) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Revenue Fund and the service and redemption of debt created thereby.

105 Comptroller and Auditor-General

(1) There shall be a Comptroller and Auditor-General whose office shall be a public office but shall not form part of the Public Service.

(2) The Comptroller and Auditor-General shall be appointed by the President after consultation with the Public Service Commission.

[Subsection as substituted by section 15 of Act 23 of 1987 - Amendment No. 7]

(2a) If the appointment of a Comptroller and Auditor-General by the President is not consistent with any recommendation made by the Public Service Commission, the President shall cause the House of Assembly to be informed as soon as is practicable.

[Subsection as inserted by section 15 of Act 23 of 1987 - Amendment No. 7
and as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(3) A person shall not be qualified to hold or act in the office of Comptroller and Auditor-General unless he has held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(4) The Comptroller and Auditor-General shall, subject to the provisions of subsection (5), hold office on such terms and conditions as are fixed by the President after consultation with the Public Service Commission.

[Subsection as amended by section 7 of Act 4 of 1984 - Amendment No. 4
and by section 15 of Act 23 of 1987 - Amendment No. 7]

(5) The Comptroller and Auditor-General may only be removed from office by the President if the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that he be removed from office for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour.

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

106 Functions of Comptroller and Auditor-General

(1) The public accounts of Zimbabwe and of all accounting officers, receivers of revenue and other persons entrusted with public moneys or property of the State shall at least once in every financial year be examined, audited and reported on by the Comptroller and Auditor-General on behalf of the House of Assembly:

Provided that if the Comptroller and Auditor-General is of the opinion that it would not be appropriate or expedient for him to examine and audit any particular account or fund or any particular class of documents, he may, by notice in writing, inform the Speaker and the Minister for the time being responsible for finance of his opinion and, unless otherwise directed by the House of Assembly, he shall not make any examination, audit or report in relation thereto.

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(2) It shall be the duty of the Comptroller and Auditor-General to satisfy himself that—

(*a*) all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(*b*) all reasonable precautions have been taken to safeguard the collection of all fees, taxes and other revenues of the State and to safeguard and control property of the State.

(3) The Comptroller and Auditor-General and any officer authorized by him shall have access to all books, records, returns, reports and other documents that, in his opinion, relate to any of the accounts referred to in subsection (1) and to all cash, stamps, securities, stores and other property of whatever kind that he considers it necessary to inspect in connection with any of those accounts and that is in the possession of any employee, agent or authority of the State.

(4) The Comptroller and Auditor-General shall submit every report made by him in accordance with subsection (1) to the Minister for the time being responsible for finance who shall, on one of the seven days on which Parliament sits next after he has received the report, lay it before Parliament.

[Subsection as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

(5) The Comptroller and Auditor-General shall exercise in relation to the accounts of the State or the accounts of any authority, body or fund established directly by or under any Act of Parliament for special purposes specified in that Act such other functions as may be prescribed by or under an Act of Parliament.

(6) In the exercise of his functions under subsections (1), (2), (3) and (4), the Comptroller and Auditor-General shall not be subject to the direction or control of any person or authority other than the House of Assembly.

[Subsection as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

CHAPTER XII
MISCELLANEOUS PROVISIONS

PART I

General

107 Ombudsman and Deputy Ombudsman

(1) There shall be an Ombudsman and, where the President has deemed it desirable, a Deputy Ombudsman, whose offices shall be public offices but shall not form part of the Public Service.

(2) The Ombudsman and the Deputy Ombudsman shall be appointed by the President after consultation with the Judicial Service Commission.

[Subsection as amended by section 16 of Act 23 of 1987 - Amendment No. 7]

(2a) If the appointment of an Ombudsman or Deputy Ombudsman is not consistent with any recommendation made by the Judicial Service Commission, the President shall cause the House of Assembly to be informed as soon as is practicable.

[Subsection as inserted by section 16 of Act 23 of 1987 - Amendment No. 7
and as amended by section 26 of Act 31 of 1989 - Amendment No. 9
and section 23 of Act No. 5 of 2005 – Amendment No. 17]

(3) The Deputy Ombudsman shall—

(*a*) assist the Ombudsman in the exercise of his functions and duties and the Ombudsman may authorize him to exercise any of his functions or duties on his behalf;

(*b*) act as Ombudsman whenever the office of the Ombudsman is vacant or the Ombudsman is for any reason unable to perform the functions of his office.

(4) An Act of Parliament may make provision for the qualifications and remuneration of the Ombudsman and the Deputy Ombudsman.

[Section as substituted by section 6 of Act 4 of 1984 - Amendment No. 4]

108 Functions of Ombudsman

(1) The Ombudsman may investigate—

(*a*) action taken by any officer, person or authority referred to in subsection (2) in the exercise of the administrative functions of that officer, person or authority in any case where it is alleged that a person has suffered injustice in consequence of that action and it does not appear that there is any remedy reasonably available by way of proceedings in a court or on appeal from a court; or

(*b*) allegations that any provision of the Declaration of Rights has been contravened by any officer, person or authority referred to in subsection (2).

[Subsection as substituted by section 13 of Act No. 14 of 1996 - Amendment No. 14]

(2) Subject to such exceptions and conditions as may be prescribed by or under an Act of Parliament, the provisions of subsection (1) shall apply in respect of any action taken by the following officers and authorities—

(*a*) any Ministry or department or any member of such Ministry or department; and

(*b*) such other persons or authorities as may be prescribed by or under an Act of Parliament for the purposes of this paragraph.

(3) An Act of Parliament may confer other functions on the Ombudsman, and may make provision for the exercise of his functions including, without prejudice to the generality of the foregoing, the officers and authorities whose actions are not subject to investigation by him.

108A Anti-Corruption Commission

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

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

(a) at least one shall be entitled to practise as a legal practitioner; and

(b) at least one shall be entitled to practise as an auditor or public accountant in Zimbabwe; and

(c) at least one shall have had not less than ten years' experience in the investigation of crime.

(3) The Anti-Corruption Commission shall have the following functions—

(a) to combat corruption, theft, misappropriation, abuse of power and other improprieties in the conduct of affairs in both the public and private sectors;

(b) to make recommendations to the Government and to organisations in the private sector on measures to enhance integrity and accountability and to prevent improprieties; and

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

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

(a) to conduct investigations and inquiries on its own initiative or on receipt of complaints;

(b) to require assistance from members of the Police Force and other investigative agencies of the State; and

(c) through the Attorney-General, to secure the prosecution of persons for corruption, theft, misappropriation, abuse of power and other improprieties.

[Section inserted by section 4 of Act 5 of 2000 – Amendment No. 16.]

109 General provisions as to Commissions, etc

(1) Save as is provided in this Constitution or an Act of Parliament, a Commission shall not, in the exercise of its functions, be subject to the direction or control of any person or authority.

[Subsection as amended by section 10 of Act 4 of 1993 - Amendment No. 12]

(2) An Act of Parliament may make provision for the powers and functions of a Commission and, without prejudice to the generality of the foregoing, may make provision for the disqualifications, tenure of office and remuneration of the members thereof, and may authorize the delegation of any power or function, other than the power to make appointments to, or to make recommendations or tender advice in respect of, any office established by this Constitution.

[Subsection as amended by section 10 of Act 4 of 1993 - Amendment No. 12]

(3) ... [Subsection repealed by section 10 of Act 4 of 1993 - Amendment No. 12]

(4) Any decision of a Commission shall require the concurrence of a majority of all the members thereof.

(5) The salary payable to a member of a Commission shall not be reduced during his tenure of office.

(6) No law shall—

(*a*) increase or authorize an increase in—

(i) the fixed salary or salary scale applicable to any post, grade or rank in the Public Service, Prison Service, Police Force or Defence Forces;

(ii) the bonuses or allowances payable to, or the privileges or benefits that may be granted to, members of any such Service or Force;

(iii) the rate of pensions, gratuities or other benefits payable to or in respect of such members;

(iv) the rate of leave that may be granted to or accrued by such members; or

(v) the number or level of posts;

or

(*b*) provide for a general decrease or permit a general decrease in the hours of work to be performed by such members;

unless the Minister for the time being responsible for finance, having regard to the financial implications, whether direct or indirect, has agreed thereto.

[Subsection as amended by section 10 of Act 4 of 1993 - Amendment No. 12]

(7) No law shall provide for or permit a reduction in the fixed salary or salary scale applicable to any member of the Public Service, Prison Service, Police Force or Defence Forces except when such member has been found guilty of misconduct or an offence against discipline, as the case may be, or has consented to such reduction.

[Subsection as amended by section 10 of Act 4 of 1993 - Amendment No. 12]

(8) ... [Subsection repealed by section 10 of Act 4 of 1993 - Amendment No. 12]

(9) If there is any alteration in the ranks into which the Prison Service or the posts or grades into which the Public Service is divided, the appropriate Commission may, by order in the *Gazette*, specify some other rank, post or grade as being equivalent to that referred to in section 100(2) or 105(3), as the case may be, and the reference shall thereafter be construed as including a reference to the rank, post or grade for the time being so specified.

[Subsection as amended by section 10 of Act 4 of 1993 - Amendment No. 12]

(10) A person shall not be eligible for appointment as a member of a Commission if he is a member of Parliament or any local authority.

[Subsection as substituted by section 11 of Act 1 of 1983 - Amendment No. 3 and as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

(11) In this section—

"appointing authority" means ...

[Definition repealed by section 10 of Act 4 of 1993 - Amendment No. 12]

"Commission" means the Public Service Commission, the Judicial Service Commission, the Police Service Commission, the Defence Forces Service Commission or the Prison Service Commission.

[Definition as amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

110 Tenure of office of certain persons

(1) This section shall apply to—

(*a*) the Attorney-General and every Deputy Attorney-General; and

[Paragraph as substituted by section 14 of Act 4 of 1989 - Amendment No. 8]

(*a*1) the Ombudsman and the Deputy Ombudsman; and

[Paragraph as inserted by section 14 of Act 4 of 1989 - Amendment No. 8]

(*b*) any member of the Judicial Service Commission appointed under section 90(1)(*d*); and

[Paragraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

(*c*) any member of the Public Service Commission, the Police Service Commission, the Defence Forces Service Commission or the Prison Service Commission.

[Paragraph as amended by section 11 of Act 4 of 1993 - Amendment No. 12]

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

(3) Such person shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (5) and that tribunal has advised the President that he ought to be removed from office for inability to discharge the functions of his office or for misbehaviour.

(4) If the question of removing a person to whom this section applies has been referred to a tribunal appointed under subsection (5), the President may suspend that person from performing the functions of his office and any such suspension—

(*a*) may at any time be revoked by the President; and

(*b*) shall cease to have effect if the tribunal advises the President that the person should not be removed.

[Subsection as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

(5) The tribunal referred to in this section shall consist of a chairman and two other members appointed by the President, and—

(*a*) the chairman shall be a person who is or has been a judge of the Supreme Court or the High Court;

(*b*) at least one of the other members shall be a person who is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe.

[Subsection as amended by section 9 of Act 25 of 1981 - Amendment No. 2 and by section 20 of Act 23 of 1987 - Amendment No. 7]

(6) In computing, for the purposes of subsection (5)(*b*), the period during which any person has been qualified to practise as a legal practitioner, any

period during which he was qualified to practise as an advocate or attorney in Zimbabwe shall be included.

[Subsection as inserted by section 9 of Act 25 of 1981 - Amendment No. 2]

111 Chiefs and Councils of Chiefs

(1) There shall be Chiefs to preside over the tribespeople in Zimbabwe who shall, subject to the provisions of subsection (2), be appointed by the President in accordance with an Act of Parliament.

(2) An Act of Parliament shall provide that in appointing a Chief the President shall give due consideration to the customary principles of succession of the tribespeople over which the Chief will preside and may provide for the appointment of deputy Chiefs and acting Chiefs.

(3) There shall be a Council of Chiefs which shall consist of such number of Chiefs elected by the Chiefs from each of the various areas of Communal Land in such manner as is prescribed by or under an Act of Parliament, so, however, as to secure as far as is practicable equitable representation for the various areas of Communal Land with due regard to the total number of tribespeople in each such area:

Provided that an Act of Parliament may provide for the establishment of two or more Councils of Chiefs for separate areas of Communal Land.

[Subsection as amended by section 12 of Act 1 of 1983 - Amendment No. 3]

(4) The qualifications and disqualifications of candidates for election to any Council of Chiefs and the tenure of office of members thereof shall be as prescribed by or under an Act of Parliament.

111A Provincial, district or regional governors

(1) For the better administration of Zimbabwe, an Act of Parliament may provide for the appointment by the President of governors for any areas within Zimbabwe.

(2) Governors appointed in terms of an Act of Parliament referred to in subsection (1) shall have such functions and powers in relation to the areas for which they have been appointed as may be prescribed by or under the Act of Parliament.

(3) The offices of governors appointed in terms of an Act of Parliament referred to in subsection (1) shall be public offices but shall not form part of the Public Service.

[Section as inserted by section 7 of Act 4 of 1985 - Amendment No. 5]

111B Effect of international conventions, etc.

(1) Except as otherwise provided by this Constitution or by or under an Act of Parliament, any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organizations—

(*a*) shall be subject to approval by Parliament; and

(*b*) shall not form part of the law of Zimbabwe unless it has been incorporated into the law by or under an Act of Parliament.

(2) Except as otherwise provided by or under an Act of Parliament, any agreement—

(*a*) which has been concluded or executed by or under the authority of the President with one or more foreign organizations, corporations or entities, other than a foreign State or government or an international organization; and

(*b*) which imposes fiscal obligations upon Zimbabwe;

shall be subject to approval by Parliament.

(3) Except as otherwise provided by this Constitution or by or under an Act of Parliament, the provisions of subsection (1)(*a*) shall not apply to—

(*a*) any convention, treaty or agreement, or any class thereof, which Parliament has by resolution declared shall not require approval in terms of subsection (1)(*a*); or

(*b*) any convention, treaty or agreement the subject-matter of which falls within the scope of the prerogative powers of the President referred to in section 31H(3) in the sphere of international relations;

unless the application or operation of the convention, treaty or agreement requires—

(i) the withdrawal or appropriation of moneys from the Consolidated Revenue Fund; or

(ii) any modification of the law of Zimbabwe.

[Section as substituted by section 12(1) of Act 4 of 1993 - Amendment No. 12. Section 12(2) of Act 4 of 1993 provides that the new section 111B shall not have the effect of requiring approval by Parliament of any convention, treaty or agreement which was acceded to, concluded or executed by or under the authority of the President before the 1st November, 1993, and which, immediately before that date, did not require approval or ratification by Parliament.]

112 Pensions

The provisions of Schedule 6 shall apply in respect of the pension rights of public officers and the remittability of pensions.

PART 2

Interpretation

113 Interpretation

(1) In this Constitution, unless the context otherwise requires—

"Act of Parliament" includes—

(a) any law included in the Revised Edition of the Statute Law prepared under the authority of the Revised Edition of the Laws Act, 1973, or which, though omitted from that Edition, continued in force notwithstanding the omission; and

(*b*) any other Act or Ordinance;

which was in force immediately before the appointed day;

"advocate" and **"attorney"** ...

[Definition repealed by section 15 of Act No. 14 of 1996 - Amendment No. 14]

"African customary law" means the tribal law and custom of Africans of a particular tribe;

"amend" includes vary, alter, modify or adapt;

"Appellate Division"

[Definition repealed by section 7 of Act 15 of 1990 - Amendment No. 10]

"appointed day" means the day appointed for the commencement of this Constitution;

[The day so appointed was the 18th April, 1980.]

"Chief" means a Chief referred to in section 111(1);

"Committee on Standing Rules and Orders" means the committee referred to in section 57(2);

[Definition as inserted by section 23 of Act 31 of 1989 - Amendment No. 9]

"Communal Land" means Communal Land referred to in the Communal Land Act, 1982;

[Definition as inserted by section 13 of Act 1 of 1983 - Amendment No. 3]

"Constitutional Bill" means a Bill which, if enacted, would have the effect of amending, adding to or repealing any of the provisions of this Constitution;

"Council of Chiefs" means a Council of Chiefs referred to in section 111(3);

"Declaration of Rights" means the Declaration of Rights set out in Chapter III;

"disciplinary law" means any written law in so far as it provides for the regulation of the discipline of regular or full-time members of any disciplined force or any other members of a disciplined force while they are rendering service as such members or in respect of their failure to render such service;

"disciplined force" means—

(a) a naval, military or air force;
(b) a police force;
(c) a prison service; or
(d) any other body established for public purposes by or under an Act of Parliament providing for the regulation of the discipline of that body and declared by that Act to be a disciplined force for the purposes of this definition;

"Electoral Law" means the Act of Parliament having effect for the purposes of section 58(4) which is for the time being in force;

"financial year" means—

(a) in respect of the financial year which began on the 1st July, 1997, the period of eighteen months ending on the 31st December, 1998;
(b) in respect of every subsequent financial year, the period of twelve months ending on the 31st December;

[Definition as substituted by section 3 of Act No. 10 of 1998 - Amendment No. 15.]

"Gazette" means the official Gazette of the Government;

"General Division"

[Definition repealed by section 7 of Act 15 of 1990 - Amendment No. 10]

"general election" means a general election of the members of Parliament;

[Definition as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

"Government" means the Government of Zimbabwe;

"High Court" means the High Court of Zimbabwe;

[Definition as inserted by section 10 of Act 25 of 1981 - Amendment No. 2 and amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

"law" means—

(a) any provision of this Constitution or of an Act of Parliament;
(b) any provision of a statutory instrument; and
(c) any unwritten law in force in Zimbabwe, including African customary law;

[Paragraph as amended by section 15 of Act 30 of 1990 - Amendment No. 11]

and "lawful" and "lawfully" shall be construed accordingly;

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

[Definition as inserted by section 10 of Act 25 of 1981 - Amendment No. 2]

"local authority" means any council or other such body established by or under any law to regulate the affairs of any local community and to make statutory instruments for that purpose;

"local court" means any court constituted by or under a written law for the purpose of applying African customary law;

"Mashonaland" …

[Definition repealed by section 7 of Act 15 of 1990 - Amendment No. 10]

"Matabeleland" …

[Definition repealed by section 7 of Act 15 of 1990 - Amendment No. 10]

"member", in relation to a disciplined force, includes any person who, in terms of any disciplinary law relating to that force, is subject to that discipline;

"metropolitan province" means the Harare or Bulawayo province declared in terms of the Provincial Councils and Administration Act [*Chapter 29:11*] or any other law substituted for the same;

[Definition inserted by section 19 of Act No. 5 of 2005 – Amendment No. 17]

"Minister" ….. [Definition repealed by section 18 of Act 23 of 1987 - Amendment No. 7]

"Money Bill" ….. [Definition repealed by section 23 of Act 31 of 1989 - Amendment No. 9]

"oath" includes affirmation;

"period of public emergency" means—

(a) any period when Zimbabwe is engaged in any war and the period immediately following thereon until such date as may be declared by the President, by proclamation in the *Gazette*, as the end of the period of public emergency caused by that war; or

(b) any period when a declaration under section 31J(1) is in effect;

[Paragraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

"person" means any individual or any body of persons, whether corporate or unincorporated;

"President" means the President of Zimbabwe;

"province" means an area of Zimbabwe declared as such in terms of the Provincial Councils and Administration Act [*Chapter 29:11*] or any other law substituted for the same;

[Definition inserted by section 19 of Act No. 5 of 2005 – Amendment No. 17]

"Provincial Governor" means a person appointed as such in terms of the Provincial Councils and Administration Act [*Chapter 29:11*];

[Definition as substituted by section 19 of Act No. 5 of 2005 – Amendment No. 17, having been originally inserted by section 23 of Act 31 of 1989 - Amendment No. 9]

"public moneys" means any fees, taxes or other revenues payable to the State and any other moneys received and held by an employee of the State in his official capacity;

"public office" means a paid office in the service of the State;

"public officer" means a person holding or acting in any public office;

"Public Service" means the service of the State but does not include—

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

(b) service as a judge of the Supreme Court or the High Court or as a person appointed to preside over a special court under section 92;

[Paragraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

(c) service as a member of any Commission established by this Constitution or any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act;

(d) service which this Constitution or an Act of Parliament provides shall not form part of the Public Service;

[Paragraph as amended by section 15 of Act 30 of 1990 - Amendment No. 11]

"session" means the sittings of Parliament commencing when Parliament first meets after the appointed day or after a prorogation or dissolution and terminating when Parliament is next prorogued or is dissolved without having been prorogued;

"sitting" means a period during which Parliament is sitting continuously without adjournment, including any period during which the House of Assembly or the Senate, as the case may be, is in committee;

[Definition as amended by section 26 of Act 31 of 1989 - Amendment No. 9
by section 9 of Act 15 of 1990 - Amendment No. 10.
and by section 19 of Act No. 5 of 2005 – Amendment No. 17]

"sitting day" means any weekday which is prescribed in the Standing Orders of Parliament to be a sitting day, whether or not Parliament meets on that day;

[Definition as substituted by section 23 of Act 31 of 1989 - Amendment No. 9]

"Speaker" means the Speaker of the House of Assembly elected in terms of section 39;

[Definition as inserted by section 23 of Act 31 of 1989 - Amendment No. 9 and amended by section 19 of Act No. 5 of 2005 – Amendment No. 17]

"statutory instrument" means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law made by the President, a Vice-President, a Minister or any other person or authority under this Constitution or any Act of Parliament;

[Definition as amended by section 15 of Act No. 14 of 1996 - Amendment No. 14]

"Supreme Court" means the Supreme Court of Zimbabwe;

[Definition as inserted by section 10 of Act 25 of 1981 - Amendment No. 2]

"tax" includes duty or due;

"Tribal Trust Land" ….. [Definition repealed by section 13 of Act 1 of 1983 - Amendment No. 3]

"Vice-President" means a Vice-President of Zimbabwe;

[Definition as inserted by section 18 of Act 23 of 1987 - Amendment No. 7 and as amended by section 9 of Act 15 of 1990 - Amendment No. 10]

"voter", in relation to an election to the office of President or to Parliament, means a person entitled to vote at that election by virtue of being registered on a voters' roll;

[Definition inserted by s. 19(a) of Act 5 of 2005 with effect from the 14th September, 2005.]

"Zimbabwe" means the Republic of Zimbabwe.

[Definition as inserted by section 15 of Act 30 of 1990 - Amendment No. 11]

"Zimbabwe Electoral Commission" means the Zimbabwe Electoral Commission referred to in section 61.

[Definition inserted by section 19 of Act No. 5 of 2005 – Amendment No. 17]

(2) Any reference in this Constitution, without qualification, to—

(*a*) a section, Chapter or Schedule shall be read and construed as a reference to a section or Chapter of or Schedule to this Constitution;

(*b*) a subsection shall be read and construed as a reference to a subsection of the section in which the reference is made;

(*c*) a paragraph shall be read and construed as a reference to a paragraph of the Schedule, subsection or definition in which the reference is made;

(*d*) a subparagraph shall be read and construed as a reference to a subparagraph of the paragraph or, as the case may be, of the subparagraph in which the reference is made.

(3) In this Constitution, unless the context otherwise requires—

(*a*) words importing the masculine gender include the feminine;

(*b*) words in the singular include the plural and words in the plural include the singular;

(*c*) where a period of time is expressed—

(i) to begin on or to be reckoned from a particular day, that day shall not be included in the period;

(ii) to end on or to be reckoned to a particular day, that day shall be included in the period;

(*d*) where the time limited for the doing of any thing expires or falls upon a Saturday, Sunday or public holiday, the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or public holiday;

(*e*) a reference to a month shall be construed as a reference to a calendar month;

(*f*) a reference without qualification to a year shall be construed as a reference to a period of twelve months.

(4) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or exercising the functions of that office.

(5) In this Constitution, unless the context otherwise requires, a reference to the power to appoint a person to any public office shall be construed as including a reference to the like power—

(*a*) to reappoint him to that office;

(*b*) to appoint him on promotion or transfer to that office;

(*c*) to appoint him to act in that office;

(*d*) to fix and vary his conditions of service in that office, including his remuneration and the period of his appointment and any benefits to him in respect of the termination of his appointment.

[Subsection as substituted by section 15 of Act 30 of 1990 - Amendment No. 11]

114 Supplementary provisions

(1) Any power, jurisdiction or right conferred by this Constitution may be exercised and any duty imposed by this Constitution shall be performed from time to time as occasion requires.

(1a) Where any power, jurisdiction or right is conferred by this Constitution, any other powers that are reasonably necessary or incidental to its exercise shall be deemed also to have been conferred.

[Subsection as inserted by section 16 of Act 30 of 1990 - Amendment No. 11]

(2) Subject to the provisions of section 31E(3), where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

[Subsection as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

(3) For the purposes of this Constitution, no person shall be deemed to hold public office by reason only of the fact that he is in receipt of a pension, half-pay, retired pay or any other like allowance in respect of service in an office that was at the relevant time a public office.

(3a) A body established by or in terms of this Constitution may act notwithstanding any vacancy in its membership if the members of the body who authorize or perform the act concerned constitute a quorum of the membership of that body.

[Subsection as inserted by section 19 of Act 23 of 1987 - Amendment No. 7]

(3b) Except as otherwise provided in this Constitution or in any law or rule regulating the proceedings of the body concerned, one-half of the membership of any body established by or in terms of this Constitution shall constitute a quorum of the membership of that body.

[Subsection as inserted by section 19 of Act 23 of 1987 - Amendment No. 7]

(4) Any reference in this Constitution to the affirmative votes of not less than two-thirds of a body shall, when the number of its membership is not a multiple of three, be interpreted to mean that the number of votes shall be not less than the integer next above two-thirds of the number of its membership.

(5) For the purposes of this Constitution a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

(6) The Interpretation Act for the time being in force in Zimbabwe shall apply to the interpretation of any regulations made by the President in the exer

cise of a power to make regulations conferred by this Constitution and to the interpretation of any such power.

[Subsection as amended by section 13 of Act 4 of 1993 - Amendment No. 12]

SCHEDULE 1

(Sections 7, 28, 31C, 31D, 31G, 39, 44, 76, 83 and 113)

Oaths and Affirmations

Oath or Affirmation of Loyalty

I, ... do 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*]

Oath or Affirmation of Office

I, ... do swear [*or solemnly affirm*] that I will well and truly serve Zimbabwe in the office of.....

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

Oath or Affirmation of a Member of the Cabinet

I, ... being chosen and admitted to the Cabinet of Zimbabwe, do swear [*or solemnly affirm*] that I will to the best of my judgment, at all times when so required, freely give my counsel and advice to the President of Zimbabwe for the good management of the public affairs of Zimbabwe, that I will not, directly or indirectly, reveal such matters as may be debated in the Cabinet and committed to my secrecy, but that I will in all things be a true and faithful member thereof.

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

Judicial Oath or Affirmation

I, ... do swear [*or solemnly affirm*] that I will well and truly serve Zimbabwe in the office of ..... and I will do right to all manner of people after the laws and usages of Zimbabwe, without fear or favour, affection or ill-will.

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

SCHEDULE 2

(*Sections 25, 31J and 113*)

SAVINGS IN THE EVENT OF PUBLIC EMERGENCIES

1 Savings in the event of public emergencies

(1) Nothing contained in any law shall be held to be in contravention of section 13, 17, 20, 21, 22 or 23 to the extent that the law in question provides for the taking, during a period of public emergency, of action for the purpose of dealing with any situation arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation.

(2) Nothing contained in any law shall be held to be in contravention of section 13 to the extent that the law in question provides for preventive detention, during a period when a resolution under section 31J(6) is in effect, in the interests of defence, public safety or public order, and nothing done by any person under the authority of any such law shall be held to be in contravention of section 13 unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasona

bly have been thought to be required for the purpose of dealing with the situation.

[Subparagraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

(3) Where a declaration under section 31J(1) or a resolution under section 31J(6) applies only in relation to a part of Zimbabwe, the law in question shall not provide for the taking of action or for preventive detention, as the case may be, in relation to any place outside that part.

[Subparagraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

2 Preventive detention

(1) Where a person is detained under any law providing for preventive detention—

(*a*) he shall be informed as soon as reasonably practicable after the commencement of the detention, and in any case not later than seven days thereafter, in a language that he understands of the reasons for his detention and shall be permitted at his own expense to obtain and instruct without delay a legal representative of his own choice and to hold communication with him;

(*b*) his case shall be submitted not later than fourteen days (or during a period of public emergency thirty days) after the commencement of the detention for review by a tribunal established under subparagraph (4) and shall be reviewed by such tribunal forthwith; and thereafter his case shall be reviewed by such tribunal at intervals of thirty days (or during a period of public emergency one hundred and eighty days) from the date on which his case was last reviewed;

(*c*) at the hearing of his case by the tribunal he shall be permitted to appear in person or at his own expense by a legal representative of his own choice; and

(*d*) if the tribunal orders, either because he satisfies the tribunal that new circumstances have arisen or because the tribunal considers it to be desirable, that his case should be submitted to the tribunal for review before the expiration of thirty days (or during a period of public emergency one hundred and eighty days) from the previous review, the case shall be submitted for review when so ordered by the tribunal.

(2) On any such review, the tribunal may make recommendations concerning the necessity or expedience of continuing the detention to the authority by which it was ordered and that authority shall be obliged to act in accordance with any such recommendation unless, during a period of public emergency, the President otherwise directs; and where the President so directs, the authority shall cause to be published in the *Gazette* a notice that he has so directed.

(3) A person who has been detained under any law providing for preventive detention and who has been released from detention in consequence of a report of a tribunal established under subparagraph (4) that there is, in its opinion, insufficient cause for his detention shall not again be detained by virtue of such law within the period of one hundred and eighty days from his release on the same grounds as those on which he was originally detained.

(4) A tribunal for the purposes of this paragraph shall be established by law and shall consist of—

(*a*) a chairman, who shall be a person who is or has been a judge of the Supreme Court or the High Court or is qualified under section 82 to be appointed as such; and

(*b*) two other persons, one of whom—

(i) is or has been a judge of the Supreme Court or the High Court or is qualified under section 82 to be appointed as such;

(ii) has been a magistrate in Zimbabwe for not less than seven years; or

(iii) is and has been for not less than seven years, whether continuously or not, qualified to practise as a legal practitioner in Zimbabwe.

[Subparagraph as amended by sections 11 and 13 of Act 25 of 1981 - Amendment No. 2]

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

[Subparagraph as inserted by section 11 of Act 25 of 1981 - Amendment No. 2]

(5) No law providing for preventive detention during a period when a resolution under section 31J(6) is in effect shall authorize the detention of a person for a period longer than fourteen days unless the Minister designated for the purpose has issued an order providing for the preventive detention of that person.

[Subparagraph as amended by section 20 of Act 23 of 1987 - Amendment No. 7]

(6) The reference in subparagraph (1)(*b*) to a period of fourteen or thirty days in relation to a first review includes a reference to any lesser periods that amount in the aggregate to fourteen or thirty days respectively:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than fourteen or thirty days, as the case may be.

(7) For the purposes of subparagraph (3), a person shall be deemed to have been detained on the same grounds as those on which he was originally detained unless a tribunal established under subparagraph (4) has reported that, in its opinion, there appear *prima facie* to be new and reasonable grounds for the detention, but the giving of any such report shall be without prejudice to the provisions of subparagraphs (1) and (5).

SCHEDULE 3

(*Section 38 and 39*)

QUALIFICATIONS FOR MEMBERS OF PARLIAMENT AND VOTERS

1 Qualifications for members of Parliament

(1) Subject to the provisions of paragraph 2, a person who—

(a) is registered as a voter; and

(b) in the case of a person other than a Chief, has attained the age of forty years; and

(c) has been ordinarily resident in Zimbabwe for not less than five years during the period of twenty years immediately preceding his nomination or appointment, as the case may be;

shall be qualified for election or appointment as a Senator, other than a Senator to be elected pursuant to section 34(1)(c).

[Subparagraph inserted by s. 20 of Act 5 of 2005 with effect from the 14th September, 2005.
[Original subparagraph repealed by section 24 of Act 31 of 1989 - Amendment No. 9]

(2) Subject to the provisions of paragraph 2, a person shall be qualified for election as a Senator pursuant to section 34(1)(c) if he holds the office of Chief.

[Subparagraph inserted by s. 20 of Act 5 of 2005 with effect from the 14th September, 2005.
original subparagraph repealed by section 24 of Act 31 of 1989 - Amendment No. 9]

(3) Subject to the provisions of paragraphs 2 and 4, a person who—

(*a*) is registered as a voter;

(*b*) has attained the age of twenty-one years; and

(*c*) has been ordinarily resident in Zimbabwe for not less than five years during the period of twenty years immediately preceding his nomination;

shall be qualified for election as a member of the House of Assembly.

[Subparagraph as amended by section 24 of Act 31 of 1989 - Amendment No. 9, and by s. 20 of Act 5 of 2005 with effect from the 14th September, 2005.]

(4) In determining, for the purposes of this paragraph, the period during which a person has been ordinarily resident in Zimbabwe, any period of residence outside Zimbabwe during which he was occupied in the discharge of his duties while in the service of the State shall be regarded as residence in Zimbabwe.

2 Disqualifications for members of Parliament

(1) A person shall be disqualified for election or appointment as a member of Parliament if he—

(*a*) is disqualified under paragraph 3 for registration as a voter;

(*b*) ….. [Subparagraph repealed by section 24 of Act 31 of 1989 - Amendment No. 9]

(2) A person shall be disqualified for election as a member of Parliament at an election for filling a vacancy if he is a member of Parliament.

[Subparagraph as substituted by section 24 of Act 31 of 1989 - Amendment No. 9]

3 Qualifications and disqualifications for voters

(1) Subject to the provisions of this paragraph and to such residence qualifications as may be prescribed in the Electoral Law for inclusion on the electoral roll of a particular constituency, any person who has attained the age of eighteen years and who—

(*a*) is a citizen of Zimbabwe; or

(b) ...

[Subparagraph (b) repealed by s. 20 of Act 5 of 2005 with effect from the 14th September, 2005.]

shall be qualified for registration as a voter on the common roll.

[Subparagraph (1) as substituted by section 17 of Act 30 of 1990 - Amendment No. 11]

(2) The following shall be disqualified for registration as a voter for the periods stated hereunder—

(*a*) any person who is found or declared in accordance with any Act relating to mental health to be mentally disordered or defective as defined in that Act, for so long as he is so mentally disordered or defective;

(*b*) any person who is declared by order of the High Court to be incapable of managing his own affairs, for so long as that order remains in force;

[Subparagraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

(*c*) any person who has been convicted—

(i) within Zimbabwe of a criminal offence; or

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

and sentenced by a court to imprisonment, by whatever name called, for a term of six months or more, for the period of his imprisonment;

(*d*) any person who has been convicted of an offence under the Electoral Law and has been declared by the High Court under the powers conferred by the Electoral Law to be disqualified for registration as a voter or from voting at any election, for the period for which he has been so declared to be disqualified;

[Subparagraph as amended by section 13 of Act 25 of 1981 - Amendment No. 2]

(*e*) any person who has been expelled from Parliament in accordance with section 43, for a period of five years from the date he vacates his seat under that section;

[Subparagraph as amended by section 26 of Act 31 of 1989 - Amendment No. 9]

(*f*) any person who for a continuous period of more than six months is the subject of a preventive detention order under any law providing for the preventive detention of persons, for the period of his detention.

(3) Any person who is registered on the electoral roll of a constituency shall be entitled to vote at an election which is held for that constituency unless—

(*a*) he has then ceased to be a citizen of Zimbabwe; or

(*b*) he is then, in accordance with the provisions of subparagraph (2), disqualified for registration.

[Subparagraph as substituted by section 14 of Act No. 14 of 1996, and amended by s. 20 of Act 5 of 2005 with effect from the 14th September, 2005; latter amendment consequential to repeal of paragraph 3(1)(b) by the same provision.]

(4) For the purposes of subparagraph (2)(*c*)—

(*a*) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of such terms;

(*b*) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms;

(*c*) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended;

(*d*) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

4 Temporary provision

[Paragraph repealed by section 9 of Act 15 of 1990 - Amendment No. 10]

SCHEDULE 4 [5]

(*Sections 40B and 51*)

PROCEDURE WITH REGARD TO BILLS AND OTHER MATTERS IN PARLIAMENT

1 Introduction of Bills, motions and petitions

(1) Any Bill may originate in the House of Assembly.

(2) Any Bill, other than a Money Bill, may originate in the Senate.

(3) Subject to the provisions of this Constitution and Standing Orders—

(a) any member of the Senate may introduce any Bill into or move any motion for debate in or present any petition to the Senate;

(b) any member of the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to the House of Assembly;

(c) a Vice-President, Minister or Deputy Minister may introduce any Bill into or move any motion for debate in or present any petition to Parliament.

(4) Except on the recommendation of a Vice-President, Minister or Deputy Minister, Parliament shall not—

(a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, makes provision for any of the following matters—

(i) imposing or increasing any tax;

(ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of the State or varying any such charge otherwise than by reducing it;

(iii) compounding or remitting any debt due to the State or condoning any failure to collect taxes;

(iv) authorizing the making or raising of any loan by the State;

(v) condoning unauthorized expenditure;

[5] Schedule as substituted by section 21 of Act No. 5 of 2005 – Amendment No. 17. Previously substituted by section 25 of Act 31 of 1989 - Amendment No. 9.

(b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case may be, is that provision should be made for any of the matters specified in subparagraph (a); or

(c) receive any petition which, in the opinion of the President of the Senate or Speaker, as the case may be, requests that provision be made for any of the matters specified in subparagraph (a).

(5) The provisions of subparagraph (4) shall not apply to any Bill introduced, motion or amendment moved or petition presented by a Vice-President, Minister or Deputy Minister.

2 Procedure in regard to Bills

(1) Immediately after a Bill which originated in the House of Assembly has been passed by the House of Assembly, the Speaker shall cause an authenticated copy of the Bill to be transmitted to the Senate for consideration and the day on which it is transmitted is to be recorded in the journal of the House of Assembly.

(2) A Bill transmitted to the Senate in accordance with subparagraph (1) shall be introduced forthwith into the Senate and, subject to the provisions of the Constitution, the Senate may reject the Bill or pass the Bill, with or without amendments.

(3) A Bill introduced into the Senate in accordance with subparagraph (2) which has been passed by the Senate with amendments shall be returned forthwith to the House of Assembly with the amendments duly certified by the Clerk of Parliament and the House of Assembly may reject, agree to or amend the amendments made to the Bill by the Senate.

(4) Immediately after a Bill which originated in the Senate has been passed by the Senate, the President of the Senate shall cause an authenticated copy of the Bill to be transmitted to the House of Assembly for consideration and the day on which it is transmitted is to be recorded in the journal of the Senate.

(5) A Bill transmitted to the House of Assembly in accordance with subparagraph (4) shall be introduced into the House of Assembly as soon as may be convenient and the House of Assembly may reject the Bill or pass the Bill, with or without amendments.

(6) A Bill introduced into the House of Assembly in accordance with subparagraph (5) which has been passed by the House of Assembly with amendments shall be returned forthwith to the Senate with the amendments duly certified by the Clerk of Parliament and the Senate may reject, agree to or amend the amendments made to the Bill by the House of Assembly.

3 Disagreement between Senate and House of Assembly

(1) Subject to the provisions of this paragraph, if—

(a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the House of Assembly before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate;

(b) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originated in the Senate before the expiration of a period of ninety days beginning on the day of the return of the Bill to the Senate; or

(c) a Bill which originated in the House of Assembly has been rejected or has not been passed by the Senate before the expiration of a period of ninety days beginning on the day of the introduction of the Bill into the Senate;

the Bill may be presented to the President for assent in the form in which it was passed by the House of Assembly, except for minor changes required by the passage of time, with such amendments, if any, as the Senate and the House of Assembly may have agreed:

Provided that if, in the opinion of the Speaker, a Bill which—

(i) originated in the House of Assembly; and

(ii) was introduced into the House of Assembly after the expiration of a period of ninety days beginning on the day of the introduction into the Senate of a previous Bill originating in the Senate;

contains provisions identical with those contained in that previous Bill, except for minor changes required by the passage of time, the provisions of this subparagraph shall be construed and have effect as though any reference in subparagraphs (a) and (c) to a period of ninety days were a reference to a period of eight sitting days.

(2) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period—

(a) in the case of a Bill referred to in subparagraph (a) or (c) of that subparagraph, of ninety days beginning on the day of the introduction of the Bill into the Senate;

(b) in the case of a Bill referred to in subparagraph (b) of that subparagraph, of ninety days beginning on the day of the return of the Bill to the Senate;

(c) in the case of a Bill referred to in the proviso to that subparagraph, of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(3) The provisions of subparagraphs (1) and (2)—

(a) shall not apply to a Constitutional Bill, a Money Bill or a Bill where a certificate of urgency is issued;

(b) shall apply to a Bill in respect of which the President of the Senate has reported under paragraph 4(4) as though any reference in subparagraphs (1) and (2) to a period of ninety days were a reference to a period of one hundred and eighty days.

(4) A Bill referred to in subparagraph (1) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subparagraphs (1) and (2) apply and that the Bill may lawfully be presented for assent by virtue of those provisions, as read with subparagraph (3)(b), where relevant.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (2) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) In the calculation of any period of ninety days or one hundred and eighty days referred to in this paragraph, no account shall be taken of any period during which Parliament is prorogued.

(7) For the purposes of this paragraph—

(a) a Bill originating in the House of Assembly shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1);

(b) a Bill originating in the Senate shall be deemed to have been returned to the Senate on the sitting day next following the day on which the Bill is returned for the first time to the Senate in accordance with paragraph 2(6).

4 Reports of Parliamentary Legal Committee on Bills

(1) The House of Assembly or the Senate, whichever is the House in which a Bill originates, shall not proceed upon the Bill, other than a Money Bill[6],

[6] *(sic).* The reference to a Money Bill is mistaken and must be ignored; compare the new section 40B(1)(a) of the Constitution in section 10 of this Act, in terms of which the Parliamentary Legal Committee will examine

a Constitutional Bill or a Bill to which the proviso to paragraph 3(1) applies, after the introduction of the Bill into the House of Assembly or the Senate, as the case may be, or give such Bill its final reading after it has been amended in House of Assembly or the Senate, unless a report of the Parliamentary Legal Committee on the Bill has been presented to the House of Assembly or the Senate:

Provided that, if no report has been presented within the period specified in Standing Orders or any extension thereof granted in accordance with Standing Orders, it shall be presumed that the Committee is of the opinion that no provisions of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, and the House of Assembly or the Senate, as the case may be, may proceed upon the Bill or give the Bill its final reading, as the case may be.

(2) It shall be the duty of the House of Assembly or the Senate, as the case may be, to consider any report presented to it under section 40B(1) which states that, in the opinion of the Parliamentary Legal Committee, a provision of a Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution.

(3) If, after considering a report referred to in subparagraph (2), the House of Assembly or the Senate, as the case may be, resolves that a provision of the Bill would, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution, the House of Assembly or the Senate shall not pass the Bill containing that provision.

(4) If the House of Assembly or the Senate, acting under subparagraph (3), does not pass a Bill or amends a Bill so that it would not, if enacted, be in contravention of the Declaration of Rights or any other provision of this Constitution—

(a) the Speaker shall report to the President of the Senate accordingly; or

(b) the President of the Senate shall report to the Speaker accordingly;

as the case may be.

5 Procedure in regard to Bills where certificate of urgency is issued

(1) A Vice-President or a Minister may certify that a Bill, other than a Constitutional Bill, originating in the House of Assembly which has been passed by the House of Assembly is so urgent that it is not in the national interest to delay its enactment.

(2) If—

(a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill in respect of which a certificate has been issued under subparagraph (1) before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate; or

(b) a Bill in respect of which a certificate has been issued under subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed.

Money Bills, just as it does at present. .Section 40B(1)(a) as originally proposed in the Bill for this Act did refer to Money Bills (and would have removed Money Bills from the jurisdiction of the Parliamentary Legal Committee), but the reference was deleted by a Committee Stage amendment. There should have been a corresponding consequential deletion in the subparagraph to which this footnote relates.

(3) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(4) A Bill referred to in subparagraph (2) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subparagraphs (2) and (3) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(5) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) For the purposes of this paragraph, a Bill in respect of which a certificate has been issued under subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(7) If, in the case of a Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (3), the Senate has not considered that Bill in the form in which it was presented to the President for assent, a copy of that Bill certified by the Clerk of Parliament to be in the form in which it was presented to the President for assent shall be transmitted to the Senate immediately after its enactment and the provisions of section 40B and paragraph 4 shall, *mutatis mutandis*, apply in relation to that Bill.

(8) The provisions of subparagraphs (9) and (10) shall apply to a Bill to which the President has assented pursuant to the provisions of this paragraph if the Senate—

(a) resolved before the day on which that Bill was enacted that a provision of that Bill, as enacted, was a provision which would, if enacted, be in contravention of the Declaration of Rights; or

(b) resolves within a period of thirty sitting days beginning on the day on which that Bill was enacted that a provision of that Bill, as enacted, is in contravention of the Declaration of Rights.

(9) If, before the expiration of a period of eight sitting days beginning on—

(a) the day of the resolution of the Senate referred to in subparagraph (8); or

(b) the day on which the Bill is enacted;

whichever is the later day, the House of Assembly has not passed a resolution such as is referred to in subparagraph (10), the President shall forthwith cause to be published in the *Gazette* a notice annulling the provision to which the resolution of the Senate relates with effect from the date of the publication of the notice.

(10) If, before the expiration of a period referred to in subparagraph (9), the House of Assembly has resolved by the affirmative votes of more than one-half of its total membership that the provision to which the resolution of the Senate relates shall remain in force, the provision shall unless it is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force for a period of two hundred and seventy days beginning on the day of the resolution or the day on which that Bill was enacted, whichever is the later day:

Provided that, if—

(a) the resolution of the House of Assembly referred to in this subparagraph was passed by the affirmative votes of not less than ninety-one of its members; or

(b) before the expiration of the period of two hundred and seventy days referred to in this paragraph the House of Assembly has, by the af

firmative votes of not less than ninety-one of its members, passed a further resolution that the provision shall remain in force;

the provision shall, unless it is sooner repealed or has had its effect, subject to the provisions of section 24, continue in force after the expiration of the period of two hundred and seventy days.

(11) Where the Senate or the House of Assembly passes a resolution under subparagraph (8), (9) or (10), the Clerk of Parliament shall forthwith cause to be published in the *Gazette* a notice of such resolution and of the effect thereof.

6 Money Bills

(1) The Senate shall not have power to amend a Bill which is certified by the Speaker to be a Money Bill but may recommend amendments to the House of Assembly.

(2) An amendment to a Bill referred to in subparagraph (1) which is recommended by the Senate shall be duly certified by the Clerk of Parliament and transmitted to the House of Assembly for its consideration.

(3) After the House of Assembly has considered amendments to a Bill referred to in subparagraph (1) which have been recommended by the Senate the Bill shall be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as may have been made by the House of Assembly on the recommendation of the Senate.

(4) If a Bill referred to in subparagraph (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate, the Bill may, subject to the provisions of this paragraph, be presented to the President for assent in the form in which it was passed by the House of Assembly.

(5) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(6) A Bill referred to in subparagraph (4) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subparagraphs (4) and (5) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(7) A Bill presented to the President for assent pursuant to a resolution of the House of Assembly referred to in subparagraph (5) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(8) For the purposes of this paragraph, a Bill referred to in subparagraph (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in accordance with paragraph 2(1).

(9) In this Constitution, "Money Bill" means a public Bill which contains only provisions dealing with all or any of the following matters—

(a) the imposition, repeal, remission, alteration, administration or regulation of taxation or any exemption therefrom;

(b) the imposition, for the payment of debt or other financial purposes, including expenses of administration, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by Parliament or the variation or repeal of any such charges;

(c) the grant of moneys for the services of the Government, including expenses of administration, or the grant of money to any authority or person or the variation or revocation of any such grant;

(d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
(e) the making or raising of any loan by the Government or the repayment thereof or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan;
(f) the guarantee given by or on behalf of the Government in respect of any loan raised by any person and any conditions which are attached to such guarantee;
(g) the compounding or remitting of any debt and the condoning of any failure to collect taxes;
(h) the condoning of unauthorized expenditure;
(i) subordinate matters which are ancillary or incidental to any of the foregoing matters;

and any reference in this subparagraph to taxation, public funds, public money, debt, taxes or expenditure shall not be construed as including a reference to any taxation by, or the funds, money, debts, taxes or expenditure of, a local authority or statutory body.

7 Provisions relating to amendments to Bills

(1) Subject to the provisions of this Constitution and Standing Orders, after a Bill has been returned to the House in which it originated, the Senate or the House of Assembly may, by message to the other House pursuant to a resolution, agree to any amendment or withdraw any amendment which has been made to the Bill:

Provided that the Senate or the House of Assembly shall not agree to or withdraw any amendment unless the Parliamentary Legal Committee has reported thereon and the provisions of paragraph 4 shall, *mutatis mutandis*, apply in relation thereto.

8 Report of Parliamentary Legal Committee on statutory instruments

(1) If—

(a) after considering a report of the Parliamentary Legal Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of this Constitution, the Senate resolves that the provision is in contravention of the Declaration of Rights or any other provision of this Constitution; and
(b) within twenty-one sitting days after the passing of the resolution of the Senate referred to in subparagraph (a)—
    (i) the House of Assembly has not resolved that the provision shall not be repealed; or
    (ii) the Committee has not reported to the Clerk of Parliament that the provision has been repealed or amended in such a way as, in the opinion of the Committee, to remove the contravention;

the Clerk of Parliament shall report the circumstances to the President who shall forthwith, by notice in the *Gazette*, repeal the provision.

(2) The Parliamentary Legal Committee may, at any time before a report of the Committee that a provision of a statutory instrument is in contravention of the Declaration of Rights or any other provision of the Constitution is considered by the Senate, withdraw the report if, in the opinion of the Committee, the provision is repealed or is amended in such a way as, in the opinion of the Committee, to remove the contravention.

(3) A provision of a statutory instrument which has been repealed by the President in terms of subparagraph (1) shall cease to be of force with effect from the date of such repeal notwithstanding that some person or authority other than the President may have made the statutory instrument concerned.

SCHEDULE 5

(*Section 52*)

[Schedule repealed by section 8 of Act 15 of 1990 - Amendment No. 10]

SCHEDULE 6
(*Section 112*)

PENSIONS

1 Protection of pension rights of public officers

(1) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits that were granted to any person before the appointed day shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

[Subparagraph as amended by section 4 of Act 9 of 1993 - Amendment No. 13]

(2) Subject to the provisions of paragraph 2, the law to be applied with respect to any pensions benefits not referred to in subparagraph (1) in relation to a public officer or former public officer in respect of a period of service as a public officer, or any ill-health or injury arising out of and in the course of his official duties during a period of service as a public officer, that—

(*a*) commenced before the appointed day shall be the law that was in force immediately before that day; or

(*b*) commenced on or after the appointed day shall be the law in force on the date on which that period of service commenced;

or any law in force at a later date that is not less favourable to the person entitled to such pensions benefits.

[Subparagraph as amended by section 4 of Act 9 of 1993 - Amendment No. 13]

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this paragraph, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall be charged upon and paid out of the Consolidated Revenue Fund.

(5) Any law which alters the age at which a person holding public office shall retire or otherwise vacate his office shall not have effect in relation to any public officer who was appointed before that law takes effect unless he consents thereto.

(6) In this paragraph—

"law" shall be construed as including the rules or other instrument setting out the terms of service of the staff of Parliament;

"pensions benefits" means any pensions, commutation of pensions, gratuities or other like allowances or refund of pension contributions, including any interest payable thereon, for persons in respect of their service as public officers or any ill-health or injury arising out of and in the course of their official duties or for the spouses, children, dependants or personal representatives of such persons in respect of such service, ill-health or injury.

(7) References in this paragraph to the law with respect to pensions benefits include, without derogation from their generality, references to the law regulating—

(*a*) the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused;

(*b*) the circumstances in which any such benefits that have been granted may be increased, withheld, reduced in amount or suspended; or

(*c*) the amount of any such benefits.

2 Remittability of pensions

(1) Any person who is entitled to receive a pension and who is not ordinarily resident in Zimbabwe shall not be prevented from having remitted to him outside Zimbabwe, free from any deduction, tax or charge, other than ordinary bank charges, made or levied in respect of its remission—

(*a*) any payment of a pension to which he is entitled; and

(*b*) subject to such restrictions as may be imposed by or under an Act of Parliament which are not greater than those which could have been imposed immediately before the appointed day, the amount of any commutation of a pension in such cases and to such extent as was prescribed by law immediately before that day.

(1a) Notwithstanding anything in subparagraph (*b*) of subparagraph (1), provision may be made by or under an Act of Parliament limiting the amount of any commutation of a pension which may be remitted to any person outside Zimbabwe in any period of twelve months, and any such limitation may be greater than might have been imposed or prescribed immediately before the appointed day.

[Subparagraph as inserted by section 4 of Act 9 of 1993 - Amendment No. 13]

(2) Any amount which a person is entitled to have remitted under this paragraph shall not be deducted from the amount of money that he may be entitled to have remitted outside Zimbabwe by or under this Constitution or any law.

(3) In this paragraph—

"pension" means any pension or annuity which is payable—

(*a*) from the Consolidated Revenue Fund to any public officer or former public officer or other person by or under this Constitution or any Act of Parliament; or

(*b*) in accordance with the rules of any pension fund to—

(i) a person who was a member of that fund upon his retirement on account of age or ill-health or other termination of service or on his attaining a specified age; or

(ii) the spouse, children or dependants of a person who was a member of that fund upon or after the death of such former member;

and which is payable for the lifetime of the recipient or for a specified period or until the happening of a specified event;

"pension fund" means any scheme or arrangement established or operating in Zimbabwe the principal object of which is to provide benefits for persons who are or have been members of the scheme or arrangement upon their retirement on account of age or ill-health or other termination of service or on attaining a specified age, whether or not such scheme or arrangement also provides for the payment of benefits in other circumstances, or for dependants or nominees of deceased members.

SCHEDULE 7

(*Section 16B*)

AGRICULTURAL LAND GAZETTED BEFORE THE 8TH JULY, 2005

The pieces of land identified in the General Notices specified in the second column of the following table that were published in the *Gazette* or *Gazette Extraordinary* on the date specified opposite thereto in the third column of the table constitute the land referred to in section 16B(2)(a)(i).

In this Schedule "piece of land" means a piece of land registered as a separate entity under any law providing for the registration of title over land.

	General Notice No.	*Date of publication*
1.	233A of 2000	02/06/2000
2.	400 of 2000	18/08/2000
3.	405A of 2000	25/08/2000
4.	418A of 2000	01/09/2000
5.	439 of 2000	08/09/2000
6.	440B of 2000	14/09/2000
7.	447B of 2000	22/09/2000
8.	447D of 2000	29/09/2000
9.	457B of 2000	06/10/2000
10.	483G of 2000	20/10/2000
11.	521A of 2000	17/11/2000
12.	541A of 2000	24/11/2000
13.	50A of 2001	26/01/2001
14.	67A of 2001	09/02/2001
15.	107A of 2001	23/02/2001
16.	180A of 2001	23/03/2001
17.	195A of 2001	06/04/2001
18.	208 of 2001	20/04/2001
19.	226A of 2001	27/04/2001
20.	237A of 2001	04/05/2001
21.	242B of 2001	11/05/2001
22.	264A of 2001	18/05/2001
23.	313B of 2001	22/06/2001
24.	322A of 2001	29/06/2001
25.	322B of 2001	29/06/2001
26.	322C of 2001	29/06/2001
27.	330A of 2001	06/07/2001
28.	355A of 2001	13/07/2001
29.	442A of 2001	07/09/2001
30.	591 of 2001	16/11/2001
31.	653 of 2001	28/12/2001
32.	656 of 2001	28/12/2001
33.	4A of 2002	04/01/2002
34.	30T of 2002	11/01/2002
35.	48 of 2002	18/02/2002
36.	53A of 2002	25/01/2002
37.	55A of 2002	01/02/2002
38.	65 of 2002	08/02/2002
39.	94A of 2002	22/02/2002
40.	98A of 2002	01/03/2002
41.	104A of 2002	08/03/2002
42.	116A of 2002	15/03/2002
43.	118A of 2002	22/03/2002
44.	144A of 2002	05/04/2002

	General Notice No.	*Date of publication*
45.	163 of 2002	12/04/2002
46.	164 of 2002	12/04/2002
47.	198A of 2002	26/04/2002
48.	220A of 2002	10/05/2002
49.	227A of 2002	17/05/2002
50.	252A of 2002	31/05/2002
51.	252B of 2002	31/05/2002
52.	268A of 2002	07/06/2002
53.	268B of 2002	07/06/2002
54.	296A of 2002	21/06/2002
55.	313 of 2002	05/07/2002
56.	314 of 2002	05/07/2002
57.	325 of 2002	12/07/2002
58.	326 of 2002	12/07/2002
59.	341 of 2002	19/07/2002
60.	342 of 2002	19/07/2002
61.	356 of 2002	02/08/2002
62.	391A of 2002	23/08/2002
63.	391B of 2002	23/08/2002
64.	398 of 2002	30/08/2002
65.	399 of 2002	30/08/2002
66.	409 of 2002	06/09/2002
67.	530A of 2002	11/10/2002
68.	530B of 2002	11/10/2002
69.	541A of 2002	25/10/2002
70.	541B of 2002	25/10/2002
71.	574 of 2002	08/11/2002
72.	575 of 2002	08/11/2002
73.	583A of 2002	15/11/2002
74.	610A of 2002	29/11/2002
75.	610B of 2002	29/11/2002
76.	1 of 2003	03/01/2003
77.	2 of 2003	03/01/2003
78.	37 of 2003	31/01/2003
79.	94 of 2003	28/02/2003
80.	131 of 2003	21/03/2003
81.	132 of 2003	21/03/2003
82.	164 of 2003	18/04/2003
83.	165 of 2003	18/04/2003
84.	202A of 2003	09/05/2003
85.	202B of 2003	09/05/2003
86.	227 of 2003	30/05/2003
87.	228 of 2003	30/05/2003
88.	251 of 2003	20/06/2003
89.	252 of 2003	20/06/2003

	General Notice No.	*Date of publication*
90.	290 of 2003	25/07/2003
91.	291 of 2003	25/07/2003
92.	298A of 2003	01/08/2003
93.	298B of 2003	01/08/2003
94.	298F of 2003	06/08/2003
95.	323A of 2003	08/08/2003
96.	323B of 2003	08/08/2003
97.	323C of 2003	08/08/2003
98.	323D of 2003	08/08/2003
99.	353 of 2003	22/08/2003
100.	354 of 2003	22/08/2003
101.	370 of 2003	22/08/2003
102.	371 of 2003	22/08/2003
103.	382 of 2003	29/08/2003
104.	434 of 2003	05/09/2003
105.	445E of 2003	17/09/2003
106.	445F of 2003	17/09/2003
107.	445G of 2003	17/09/2003
108.	463A of 2003	26/09/2003
109.	463B of 2003	26/09/2003
110.	486 of 2003	03/10/2003
111.	493B of 2003	10/10/2003
112.	550A of 2003	31/10/2003
113.	550B of 2003	31/10/2003
114	558 of 2003	07/11/2003
115.	559 of 2003	07/11/2003
116.	565A of 2003	14/11/2003
117.	565B of 2003	14/11/2003
118.	575A of 2003	21/11/2003
119.	575B of 2003	21/11/2003
120.	606 of 2006	12/12/2003
121.	607 of 2003	12/12/2003
122.	626A of 2003	19/12/2003
123.	626B of 2003	19/12/2003
124.	8 of 2004	02/01/2004
125.	15 of 2004	09/01/2004
126.	42 of 2004	16/01/2004
127.	43 0f 2004	16/01/2004
128.	49 of 2004	23/01/2004
129.	235A of 2004	07/04/2004
130.	257 of 2004	26/04/2004
131.	283 of 2004	07/05/2004
132.	314 of 2004	04/06/2004
133.	315 of 2004	04/06/2004
134.	333C of 2004	18/06/2004

	General Notice No.	*Date of publication*
135.	344 of 2004	02/07/2004
136.	345 of 2004	09/07/2004
137.	401 of 2004	23/07/2004
138.	427 of 2004	06/08/2004
139.	449 of 2004	03/09/2004
140.	445B of 2004	10/09/2004
141.	464A of 2004	17/09/2004
142.	474 of 2004	24/09/2004
143	491 of 2004	08/10/2004
144.	504B of 2004	15/10/2004
145.	539A of 2004	19/11/2004
146.	539B of 2004	19/11/2004
147.	560B of 2004	10/12/2004
148.	18 of 2005	21/01/2005
149.	45 of 2005	18/02/2005
150.	93 of 2005	04/03/2005
151.	102 of 2005	11/03/2005
152.	120B of 2005	08/04/2005
153.	208B of 2005	20/05/2005
154.	226 of 2005	27/05/2005
155.	246D of 2005	10/06/2005
156.	272B of 2005	24/06/2005
157.	305 of 2005	08/07/2005".