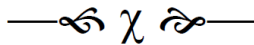


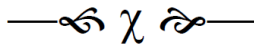
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**ABRIDGED**

**DRAFT CONSTITUTION OF  
THE REPUBLIC OF ZIMBABWE**

**(FINAL DRAFT 31 JANUARY, 2013)**



## **SUMMARY**

### **ABRIDGED DRAFT CONSTITUTION OF THE REPUBLIC OF ZIMBABWE**

**FEBRUARY 2013**

#### **Introduction**

The Constitution Parliamentary Select Committee (COPAC) has produced this Summary of The Final Draft Constitution of Zimbabwe 2013 to assist the public understand the contents of the Draft. The Draft is 172 pages long. COPAC considered that it will be easier for a person who may have no time to read the whole Draft, to read only this summary and obtain an appreciation of the contents of the Draft.

The Summary does not contain all the details in the Draft but only information on the main provisions to enable the reader to make an informed decision.



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## **The Preamble**

The preamble expresses and acknowledges colonial injustices, honours the sacrifices of the men and women who fought to overcome the injustices. It also looks to the future with a resolve to live in a democratic society based on the rule of law, hard work, respect for and enjoyment of the fundamental human rights and freedoms, unity, our natural resources and attain prosperity for all citizens.

## **CHAPTER 1**

### **Founding Provisions (Sections 1-7)**

- Zimbabwe is founded on the following values and principles:-
  - Zimbabwe is a unitary, democratic and sovereign republic;
  - the Constitution is its supreme law and any law, practice custom or conduct inconsistent with the Constitution is invalid;
  - The Constitution binds everyone, including juristic persons, the State, all executive, legislative and judicial institutions and all agencies of government;
  - Supremacy of the Constitution, the rule of law, human rights, the nation's religious and cultural diversity, the inherent dignity of every person, equality of all; gender equality, and respect for the liberation struggle;
  - Good governance which includes:
    - a multi-party political system;
    - an electoral system which ensures the holding of free and fair elections regularly;
    - the orderly transfer of political power after an election;
    - separation of powers between the executive, legislative and judicial arms of the State;
    - respect for the people;
    - the fostering of national unity and peace;
    - recognition of the rights of minority groups;
    - fair sharing of national resources;
  - Devolution and decentralisation of governmental power;
  - A national flag, a national anthem, a coat of arms and a public seal;
  - Three tiers of government, namely, National government, Provincial Councils and Local Authorities;
  - Official recognition of all the major spoken languages, which are Chewa, Chibarwe, English, Kalanga, Koisan, Nambya, Ndau, Ndebele, Shangani, Shona, sign language, Sotho, Tonga, Tswana, Venda and Xhosa
  - Promotion of public awareness of the Constitution.



## **CHAPTER 2**

### **National Objectives (Sections 8-34)**

- Zimbabwe has the following National Objectives, which enjoin the State, within the limits of available resources, to–
  - ensure good governance by appointing public officers on merit, combating corruption and abuse of power and adequately funding all institutions of the State;
  - promote national unity, peace and stability;
  - protect fundamental human rights and freedoms;
  - adopt a foreign policy which protects the national interest, respects international law, promotes peaceful co-existence with other nations and espouses the settlement of international disputes by peaceful means;
  - facilitate national development, economically empower Zimbabweans and create employment;
  - promote food security, cultural values of the people, gender balance, fair regional representation;
  - promote the interests of children, the youths, elderly persons, persons with disabilities, veterans of the liberation struggle, workers, the family and marriage;
  - provide free and compulsory basic education to all children
  - provide shelter, basic, accessible and adequate health services, social welfare and legal aid and sporting and recreational facilities;
  - protect and preserve indigenous knowledge systems;
  - incorporate into domestic law treaties to which Zimbabwe is a party.

## **CHAPTER 3**

### **Citizenship (Sections 35-43)**

- Zimbabwean citizenship is by birth, descent or registration.
- All citizens are equally entitled to:
  - protection by the State;
  - to passports and other travel documents;
  - birth certificates and other identity documents issued by the State.
- Citizens by birth are persons:
  - who are born in Zimbabwe by a mother or a father who was a Zimbabwean citizen or any of their grandparents was a Zimbabwean citizen by birth or descent; or
  - who, if born outside Zimbabwe, either of their parents was a Zimbabwean citizen and ordinarily resident in Zimbabwe but working outside the country for the State or an international organisation; or
  - who, when found in Zimbabwe, are children under the age of 15 years and their nationality and parents are unknown;

- who were born in Zimbabwe before the coming into force of this Constitution and one or both their parents was a citizen of a country which is a member of the Southern African Development Community and was ordinarily resident in Zimbabwe.
- Citizens by descent are persons born outside Zimbabwe of either a mother or father who was a Zimbabwean citizen by birth or descent or any of their grandparents was a Zimbabwean citizen by birth or descent and their birth is registered in Zimbabwe.
- Citizens by registration are persons who, on application, have been granted Zimbabwean citizenship.
- Dual citizenship is automatically permitted in respect of Zimbabweans by birth.
- A law may prohibit dual citizenship in respect of citizens by descent or registration.
- Citizenship by birth may be revoked if it was acquired by fraud, false representation or concealment of a material fact.
- Citizenship by registration may be revoked if it was acquired by fraud, false representation or concealment of a material fact or if during a war the person concerned unlawfully trades, communicates or associates with a business that assisted an enemy of Zimbabwe in that war.
- Citizenship may not be revoked if the person concerned would become stateless.
- A Citizenship and Immigration Board must be established by Parliament to deal with matters of citizenship and work permits.

## **CHAPTER 4**

### **Declaration of Rights (Sections 44-87)**

#### **Part 1**

##### **General Matters**

- Every person and the State are bound by the Declaration of Rights.

#### **Part 2**

##### **Rights and Freedoms**

- The fundamental rights and freedoms are as follows:
  - Every person has a right to life but:
    - the law may permit the death penalty for murder in aggravating circumstances;
    - the death penalty must not be imposed on a woman or a person who was less than 21 years when the offence was committed or is more than 70 years old.
    - the right of the unborn child is protected in Zimbabwe. Abortion is prohibited by law.
  - Every person has a right to personal liberty and may not be:
    - detained without trial or deprived of their liberty arbitrarily or without just cause;
    - imprisoned merely for inability to fulfil a contractual obligation.

- Persons who have been arrested or detained must:
  - be informed of the reason for the arrest or detention;
  - be permitted to contact their spouse, or relative or lawyer at the expense of the State;
  - at their own expense, consult in private with a lawyer and a doctor of their choice;
  - be treated humanely;
  - pending trial, be released unconditionally or on reasonable conditions;
  - must be brought before a court within 48 hours;
  - have the right to challenge the lawfulness of their arrest or detention in person before a court;
  - have the right to remain silent and to be informed of this right;
  - must not be compelled to make a confession or admission;
  - have the right to communicate and to be visited by a spouse or partner, a relative, their chosen religious counsellor or by anyone else;
  - must be tried within a reasonable time or else must be released either unconditional or on reasonable conditions.
  
- Any person may approach the High Court for an order of *habeas corpus* (an order requiring that a detained person be released) if detained illegally or after arrest their whereabouts are not known.
- A person who has been illegally arrested or detained is entitled to compensation from the person responsible for the arrest or detention.
- Every person has inherent dignity and a right to have that dignity respected.
- Every person has a right to personal security which includes the right to make decisions concerning reproduction and the right not to be subjected to scientific experiments.
- No person may be subjected to torture or to cruel, inhuman and degrading treatment or punishment.
- No person may be subjected to slavery or servitude or to perform forced labour.
- All persons are equal before the law and everyone has a right not to be treated in an unfairly discriminatory manner.
- Every person has a right to privacy:
  - their home, premises or property may not be entered or searched without their permission;
  - their property may not be seized;
  - the privacy of their communication infringed;
  - their health condition disclosed.
- Every person has a right to freedom of assembly and association and may not be compelled to:
  - belong to an association; or
  - attend a meeting or gathering.
- Every person has a right to freedom of conscience and no person may be compelled to take an oath that is contrary to their religion or belief.

- Every person has a right to freedom of expression which includes:
  - the entitlement to freedom of the media;
  - the protection of confidential of journalists' sources of information.
  - the freedom of establishment of broadcasting and other electronic media of communication subject only to State licensing procedures;

But freedom of expression and freedom of the media exclude incitement to violence, advocacy of hatred or hate speech, malicious injury to a person's reputation or dignity or malicious breach of a person's right to privacy.

- Every citizen or permanent resident has a right of access to any information held by the State or by any agency of government where the information is required in the interests of public accountability.
- Every person has a right of access to any information held by any person in so far as the information is required for the protection of a right.
- Every person has a right to use the language of their choice and to participate in the cultural life of their choice.
- Every person has a right to choose and carry on a profession, trade or occupation subject to regulation by law.
- Every person has a right to fair and safe labour practices and standards and to be paid a fair and reasonable wage.
- Every person, except a member of the security services, has a right to form and join trade unions and employee or employer organisations of their choice, the right to participate in collective job action and the right to engage in collective job action and to organise.
- Women and men have a right to equal remuneration for similar work.
- Every citizen has freedom of movement, the right to enter Zimbabwe, the right not to be expelled from Zimbabwe and the right to a passport or other travel document, and every person has a right to move freely within Zimbabwe, to reside in any part of Zimbabwe and to leave Zimbabwe.
- Every citizen has a right to:
  - free, fair and regular elections;
  - make political choices freely;
  - join a political party of their choice;
  - campaign freely and peacefully for a political party or cause;
  - vote in all elections and referendums;
  - stand for election for public office.
- Every person has a right to administrative justice.
- Every person has a right of access to the courts, a right to a fair, speedy and public hearing or trial before an independent and impartial court established by law and a right, at their own expense, to choose and be represented by a lawyer.
- Every accused person has the right to:
  - be presumed innocent until proved guilty;
  - be informed promptly of the charge ;
  - be given reasonable time to prepare their defence;

- choose and be represented by a lawyer of their choice at their own expense;
  - be represented by a lawyer assigned by the State if injustice would otherwise result;
  - be present when being tried;
  - adduce and challenge evidence or to remain silent;
  - have proceedings of the trial translated into a language that they understand;
  - appeal to a higher court against conviction and sentence.
- Every person has a right to acquire, use and dispose of all forms of property but different provisions apply to agricultural land.
- Except in respect of agricultural land, every person has a right not to be deprived of their property compulsorily unless:
- the deprivation is in terms of a law of general application;
  - the deprivation is necessary in the interests, public defence, public safety and public order, etc;
  - the law requires the acquiring authority to give reasonable notice to acquire the property and to pay fair and adequate compensation;
  - the law entitles the person whose property is acquired to apply to court if the acquisition is contested or for the determination of their interest in the property, the legality of the acquisition and the amount of compensation.
- Every person is entitled to property, including land. The state may acquire agricultural land for:
- settlement for agricultural purposes;
  - land reorganisation;
  - the relocation of persons;

and:

- no compensation is payable in respect of the acquisition except for improvements, provided that where agricultural land is acquired from an indigenous Zimbabwean, or land protected by bi-lateral agreements, full compensation is paid;
  - no person may contest the acquisition in a court except for compensation for improvements;
  - the acquisition may not be challenged on the ground that it was discriminatory;
- Agricultural land that was compulsorily acquired during the land reform programme or was identified for such purpose before the commencement of this Constitution continues to be vested in the State and no compensation, is payable in respect of its acquisition except for improvements effected on it before its acquisition.
- In regard to the compulsory acquisition of agricultural land for resettlement of people the following factors are of ultimate and overriding importance, namely, that the people of Zimbabwe were unjustifiably dispossessed of their land during colonialism; that the people of Zimbabwe took up arms in order to regain their land and thus they must be enabled to re-assert their rights and regain ownership of their land.
- The former colonial power, not the government of Zimbabwe, has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement of people.

- Every person has a right to:
  - an environment that is not harmful to their health or well-being;
  - have the environment protected for the benefit of future generations;
- Every citizen and permanent resident has a right to a basic State-funded education.
- Every person has a right to establish and maintain, at their own expense, educational institutions of reasonable standards but they may not discriminate on any grounds prohibited by this Constitution.
- Every citizen and permanent resident has a right to basic health-care services including reproductive health-care services and care for chronic illnesses.
- No person may be refused emergency medical treatment at any health-care institution.
- Every person has a right to sufficient food and to safe, clean and potable water.
- Every person who has attained the age of 18 years has the right to found a family and not to be forced to enter into a marriage.
- Persons of the same sex are prohibited from marrying each other.

### **Part 3**

#### **Additional Rights**

- Every woman has equal dignity of the person with men including equal opportunities in political, social and economic activities.
- Women have the same rights as men regarding the custody and guardianship of children.
- All laws, customs, traditions and cultural practices that infringe the rights of women are void to the extent of the infringement.
- Every child has the following rights:
  - the right to equal treatment before the law, including the right to be heard;
  - a right to be given a name and a family name;
  - to be promptly provided with a birth certificate;
  - a the right to family and parental care;
  - to be protected from economic and sexual exploitation;
  - not to be recruited into a militia or take part in armed conflict or hostilities;
  - not to be compelled to take part in any political activity;
  - not to be detained except as a measure of last resort.
- The elderly i.e., people over the age of seventy years have the right to:
  - receive care and assistance from their families and the State;
  - receive financial assistance by way of social security and welfare.
- Persons with disabilities must:
  - be enabled to become self-sufficient;
  - be enabled to live with their families and participate in social, creative and recreational activities;
  - be protected from exploitation and abuse;
  - be given access to medical, psychological and functional treatment.

- Veterans of the liberation struggle, that is to say, those fought in the war of liberation, those who assisted in the liberation struggle and those who were detained during the liberation struggle are entitled to due recognition for their contribution to the liberation of Zimbabwe and to suitable welfare and access to basic health care.

## **Parts 4 and 5**

### **Enforcement and Limitations**

- Every person acting in their own interest or acting for another person or persons is entitled to approach a court for the enforcement of human rights.
- Fundamental rights and freedoms must be exercised with due regard to the rights of others.
- Human rights may be limited only by a law of general application which is necessary and justifiable in a democratic society.
- No law may limit:
  - the right to life except in regard to the death penalty as provided;
  - the right to human dignity;
  - the right not to be tortured or subjected to cruel, inhuman and degrading treatment or punishment;
  - the right not to be placed in slavery or servitude;
  - the right to a fair trial;
  - the right to obtain an order to disclose the whereabouts of the detained person.
- During periods of public emergency, fundamental rights and freedoms, except those mentioned above, may be further limited by a written law.
- Violations of rights during a state of emergency will lead to prosecution and/or legal action, and no person can be protected by any law from that action.

## **CHAPTER 5**

### **The Executive (Sections 88-115)**

#### **Part 1**

##### **Executive Authority**

- Executive authority derives from the people and must be exercised in accordance with this Constitution.
- Executive authority vests in the President who exercises it through the Cabinet as determined by this Constitution.

## **Part 2**

### **The Presidency**

- The President is Head of State and Government and Commander-in-Chief of the Defence Forces
- The President must:
  - uphold, defend, obey and respect the Constitution and the law;
  - promote unity and peace in the nation;
  - recognise and respect the ideals of the liberation struggle;
  - ensure protection of fundamental human rights and freedoms and the rule of law;
  - respect the diversity of the people and communities of Zimbabwe.
- A person who is a citizen by birth or descent, is a registered voter, is 40 years old and ordinarily resident in Zimbabwe qualifies for election as President or Vice President.
- A Presidential candidate must nominate two running mates.
- An aggrieved candidate may challenge the validity of an election of a President or Vice-President in the Constitutional Court. The Constitutional Court must finalise this case within 14 days.
- The term of office of the President is two five year terms.
- The President or Vice-President may resign his or her office.
- The President or a Vice-President may be removed from office for:
  - serious misconduct;
  - failure to obey, uphold or defend the Constitution;
  - wilful violation of the Constitution;
  - inability to perform the functions of the office due to physical or mental incapacity.
- The President enjoys immunity from civil or criminal proceedings for things done in his or her personal capacity until after he or she has ceased to be President. For official acts, good faith is a defence.
- If the President dies, resigns or is removed from office the First Vice-President takes over for the remainder of the former President's term of office;

## **Part 3**

### **Ministers, Deputy Ministers and Cabinet**

- The President, guided by considerations of regional and gender balance, appoints Ministers and Deputy Ministers from among members of Parliament. Up to 5 of them may be appointed from outside Parliament for their professional skills and competence.
- Cabinet is responsible for directing the operations of government, conducting the business of government in Parliament, preparing, initiating and implementing national legislation and advising the President.



## **Part 5**

### **The Attorney-General**

- There is now an Attorney-General who is the principal legal advisor to the President and Cabinet and holds office at the pleasure of the President.
- All prosecutions will now be handled by the National Prosecuting Authority, headed by the Prosecutor-General.

## **CHAPTER 6**

### **THE LEGISLATURE (Sections 116-117)**

#### **Part 1**

##### **Legislative Authority**

- The Legislature consists of Parliament and the President.
- The legislative authority derives from the people and:
  - confers on the Legislature the power to amend this Constitution;
  - to make laws for the peace, order and good governance;
  - to confer subordinate legislative power upon another body or authority.

#### **Part 2**

##### **Parliament**

- Parliament:
  - consists of the Senate and the National Assembly;
  - must protect the Constitution and promote democratic governance;
  - has power to require compliance with the Constitution;
- All agencies of government are accountable to Parliament.

#### **Part 3**

##### **The Senate**

- The Senate consists of 80 Senators of whom:
  - 6 are elected from each province by a system of proportional representation;
  - 16 are chiefs of whom two are elected by the provincial assembly of chiefs from each province except the metropolitan provinces of Bulawayo and Harare;

- 2 are President and Deputy President of the National Council of Chiefs;
  - two are elected to represent persons with disabilities.
- The Senators elected by a system of proportional representation must be elected under a party-list system which is based on the votes cast for candidates representing political parties in each of the provinces in the general election of members of the National Assembly and in which male and female candidates are listed alternately, every list starting with a woman.
  - A Senator must be a registered voter and at least 40 years of age; a senator chief must additionally be a chief; the Senators representing disabled persons must themselves be persons with disability.
  - A person is disqualified for election as a Senator if he or she is disqualified as voter or has vacated a seat in Parliament within 5 years immediately preceding the election through having been convicted of an offence or if he or she is already a member of Parliament.
  - The President of the Senate and the Deputy President of the Senate preside over the Senate.

## **Part 4**

### **The National Assembly**

- The National Assembly consists of:
  - 210 members elected by secret ballot from the 210 constituencies into which Zimbabwe is divided; and
  - for the first two Parliaments after this Constitution comes into force, an additional 60 women members, six each from each province, elected through a system of proportional representation based on the votes cast for candidates representing political parties in a general election for constituency members in the provinces.
- The same general qualifications and disqualifications for Senators apply except the age qualification which is at least 21 years of age.
- The Speaker and the Deputy Speaker preside over the National Assembly.

## **Part 5**

### **Tenure of Member of National Assembly**

- The circumstances for vacation of seat by a Member of Parliament are detailed in the Constitution and include floor-crossing, resignation, criminal conviction and conviction of an electoral offence.

## **Part 6**

### **Powers of Parliament**

- Parliament has the power to initiate, prepare, consider or reject any legislation.
- Parliament's legislative authority is exercised through the enactment of Acts of Parliament.

- The procedure for the passing of legislation is detailed in the Fifth Schedule.
- Parliament may delegate power to make statutory instruments.

## **Part 7**

### **Procedure in Parliament**

- The head of Parliament is the Speaker and that of the Senate is the President of the Senate.
- The Clerk of Parliament is the head of Administration of Parliament and he or she has a limited term of six years renewable once.

## **Part 8**

### **Duration and Dissolution and Sittings**

- Parliament is elected for a term of 5 years and stands dissolved on the day before polling starts in the next election.
- Parliament may resolve that it be dissolved and in that event the President must dissolve it.
- If Parliament unreasonably refuses to pass an Appropriation Bill, the President may dissolve it but the dissolution may be challenged in by the Constitutional Court on application by any Member of Parliament.
- In the normal course of events, the President must call for a general election within 30 days before the end of the term of Parliament.
- A general election resulting from dissolution of Parliament other than at the end of its term, must be held within 90 days of the dissolution.
- The President must to consult the Electoral Commission when fixing the dates of any general election.
- The first sitting of Parliament takes place within 90 days after the President assumes office.
- Each House of Parliament determines its own sittings but the President may summon it at any time to conduct special business and no more than 180 days may elapse between sittings of a House.
- Presiding officers of Parliament and Members of Parliament have freedom of speech in Parliament and are not liable to civil or criminal proceedings for anything they say in Parliament.
- Citizens may petition Parliament.

## **CHAPTER 7**

### **Elections (Sections 155-161)**

#### **Part 1**

#### **Electoral Systems and Processes**

- Elections must be peaceful, free and fair, conducted by secret ballot, based on universal adult suffrage and equality of votes, and free from violence.
- The Electoral Commission must ensure that:
  - the voting system is simple, accurate, verifiable, secure and transparent;
  - the results of the election or referendum are announced as soon as possible after closure of polls;
  - violence and other electoral mal-practices are eliminated;
  - electoral materials are safely kept;
- the State must, through legislation or other measures, ensure that-
  - all eligible citizens i.e. qualified under the 4<sup>th</sup> Schedule are registered as voters
  - every citizen eligible to vote in an election has the opportunity to cast a vote
  - political parties and candidates have reasonable access to all material and information to enable them to participate effectively;
  - political parties and candidates have fair and equal access to electronic and print media, both private and public;
  - electoral disputes are resolved expeditiously.
- An electoral law must provide, among other things, for:
  - the periodic delimitation of constituencies and wards;
  - registration of voters;
  - a code of conduct for political parties and candidates;
  - a system of proportional representation to fill seats in Parliament which must be filled on that basis;
  - the election to the Senate of persons with disabilities.
  - the nomination of candidates to take place not less than 14 days after the election and not less than 30 days before polling.
- No amendments may be made to the Electoral Law or its subsidiary legislation without a recommendation from the Electoral Commission;
- After an election has been called, any change to the Electoral Law or any subsidiary legislation under it has no effect for the purpose of that election.

## **Part 2**

### **Timing of Elections**

- A general election must be held:
  - not more than 30 days after the dissolution of Parliament or the expiry of its term; or
  - within 90 days after its dissolution resolution; or
  - 90 days after dissolution following a vote of no confidence in government;
- General elections to local authorities must be held concurrently with presidential and parliamentary elections.
- By-elections must take place within 90 days after the vacancies have occurred unless they occur within 9 months before a general election is due to be held, in which event the vacancies remain unfilled until the general election.
- All vacancies to elective offices under the Constitution must be filled within 90 days.

## **Part 3**

### **Delimitation of Electoral Boundaries**

- For the purpose of electing Members of Parliament, the Electoral Commission must divide Zimbabwe into 210 constituencies and for the election of councillors; it must divide local authority areas into wards, in accordance with the guidelines in the Constitution.
- The delimitation must be done every ten years as soon as possible following a population census.
- A delimitation which has been completed less than 6 months before polling does not apply to that election.
- A preliminary report on delimitation must be laid before Parliament by the President and the Commission must give further consideration to any matters raised by Parliament before submitting its final report and its decision on it is final.
- The President must, within 14 days of receiving the final report, publish a proclamation declaring the names and boundaries of wards and constituencies as determined by the Commission.

## **CHAPTER 8**

### **Judiciary and the Courts (Sections 162-193)**

#### **Part 1**

##### **Court System**

- Judicial authority derives from the people and is vested in the courts, namely, the Constitutional Court, the Supreme Court, the High Court, the Labour Court, the

Administrative Court, the magistrates courts, the customary courts and other courts established by or under an Act of Parliament;

- The Chief Justice, the Deputy Chief Justice, other judges of the courts and persons presiding over magistrates court and customary courts constitute the judiciary;
- The courts are independent and subject only to the Constitution and their independence and impartiality are central to the rule of law and democratic governance;
- The State must protect the courts;
- Members of the judiciary must be guided by the following principles:
  - that justice must be done to all persons;
  - that justice must not be delayed;
  - that the role of the court is paramount in safeguarding human rights and freedoms and the rule of law;
- Members of the judiciary must not engage in political activities or accept or solicit gifts, give priority to their work and keep abreast of legal developments;
- The Constitutional Court is the highest Court in all constitutional matters;
- the Supreme Court is a superior court of record and the final court of appeal in Zimbabwe except for matters over which the Constitutional court has jurisdiction;
- the High Court is a superior court of record;
- the Labour Court and the Administrative Court are court of record;
- the jurisdiction, establishment and composition of magistrates courts, and customary courts of law may be provide in an Act of Parliament.

## **Part 2**

### **Appointments and Tenure**

- The qualifications of judges of all the courts, their tenure and the procedure for their appointment and removal from office are set out in detail in the Constitution.
- The minimum qualification for appointment as a judge is that a person must have been qualified to practise as a lawyer for at least 7 years but 10 years is the minimum period for Supreme Court judges and 12 years for the Constitutional Court judges.
- Judges will now be appointed in the following manner-
  - advertise vacancies;
  - invites the President and the public to make nominations;
  - conducts public interviews of the candidates;
  - prepares a list of three nominees for the office;
  - submits the list to the President for appointment.
- Judges of the Constitutional Court are, subject to the age limit for retirement for all judges, appointed for a non-renewable term of not more than 15 years. Judges of the Supreme Court and the High Court hold office until they reach the age of 70years.
- A judge may be removed from office only for:
  - inability to perform functions of office due to mental or physical incapacity;
  - gross incompetence;
  - gross misconduct.

- A judge is removed on the recommendation of an investigation tribunal set up for that purpose by the President and must consist of at least three members.
- The President must act in accordance with any recommendation of the tribunal.

### **Part 3**

#### **Judicial Service Commission**

- The Judiciary will be managed by the Judicial Service Commission and is presided over by the Chief Justice.
- Its composition is detailed in the Constitution.
- Its functions include:
  - tendering advice to government on matters of the judiciary and the administration of justice;
  - promoting the independence and accountability of the judiciary and the efficient and transparent administration of justice;
  - making regulations relating to the judiciary.
- The Commission must conduct its business in a fair and transparent manner.

## **CHAPTER 9**

### **Principles of Public Administration and Leadership (Sections 194-198)**

This chapter sets out the principles governing public administration. These principles cover government and all its institutions, local authorities, parastatals and government companies and the people who hold positions in these public institutions.

#### **1. Values and principles**

- In public administration, the following must be observed at all times:
  - the democratic values set by this Constitution;
  - professionalism and ethical standards;
  - efficiency and economy;
  - impartiality and equity;
  - swift responsiveness to people's needs;
  - accessible, transparent and accountable administration which addresses development needs;
  - public participation in policy-making;
  - human resource-management policies which promote employment, training and advancement practices based on ability and national diversity but merit must be paramount;

- the equality of men and women and the inclusion of persons with disability (section 194).

## **2. Parastatals and government companies**

- Parastatals and government companies must be viable and subject to corporate governance standards.
- Procurement practices must be transparent and competitive (section 195).

## **3. Leaders and public officers**

- Leaders and public officers hold office for the benefit of the people.
- Their actions must be in compliance with the Constitution.
- They must respect the people, serve them rather than rule them.

## **4. Chief executive officers**

The terms of offices of CEOs of parastatals and government companies may be limited by the law.

## **5. Enforcement of the principles of public administration**

Law will be passed requiring:

- regular asset disclosures by public officers;
- codes of conduct and discipline;
- the setting of standards of good corporate governance for parastatals and government companies.

# **CHAPTER 10**

## **Civil Service (Sections 194-205)**

### **1. The Civil Service**

- Members of the Civil Service are persons employed by the Government.
- Not included in the Civil Service are the police, the defense forces, prison officers, members of the judiciary and staff of Parliament.
- When doing their work, civil servants will be required:
  - to abide by the Constitution;
  - not to obey illegal orders;
  - not to be politically biased;
  - to respect the human rights and freedoms of all people.



- Civil servants may not be office bearers of any political party.

## **2. Civil Service Commission**

- The Civil Service will be managed by the Civil Service Commission.
- Members of the Commission must be appropriately qualified to serve as Commissioners and they are appointed by the President.
- Its functions include appointment, regulation of conditions of service, fixing of salaries, discipline and investigation of grievances of civil servants. The Commission also advises government on matters concerning the Civil Service.
- For purposes of determining the salaries and conditions of service, civil servants shall have the right to collectively agree with their employer.

## **3. Ambassadors**

- Ambassadors will be appointed by the President and they serve at his pleasure.

## **4. Permanent secretaries**

- Permanent secretaries will be appointed by the President after consulting the Public Service Commission;
- They serve for up to 5 years renewable once subject to competence and good performance.

# **CHAPTER 11**

## **Security Services (Sections 206-210)**

### **Part 1**

#### **1. Make up and obligations of security services**

- Security Services are made up of the Defence Forces, the Police, Prisons, intelligence services and any security service permitted by law.
- They are responsible for national security and this function must be discharged in compliance with the Constitution and with respect for the fundamental rights and freedoms of citizens.
- They must uphold the rule of law.

#### **2. Members of security services**

- When doing their work, members of security services will be required:
  - to abide by the Constitution;

- not be active members or office bearers of political parties;
- not to be politically biased;
- to respect the fundamental human rights and freedoms of citizens.

➤ They must not work in civilian institutions except during public emergencies.

### **3. National Security Council**

- There will be a National Security Council responsible for the national security policy of the country.
- It will be made up of the President, Vice Presidents and other members as required by law.

### **4. Complaints**

- Complaints against members of the security services will be dealt with through mechanisms independent of the security services.

## **Part 2**

### **Defence Forces (Sections 211-218)**

#### **1. Characteristics**

- The Defence forces are made up of the Army and the Air Force. Other branches may be set up according to law. It must protect the nation and must be:
  - national in character;
  - patriotic;
  - professional;
  - non-partisan;
  - subordinate to civilian authority;
  - disciplined.

#### **2. Deployment**

- The President as Commander-in-Chief of the Defence Forces can authorize deployment of the Defence Forces:
  - in defence of the country;
  - to maintain public order;
  - to support civilian authorities in public emergencies;
  - outside Zimbabwe in defence of the country's interests or to meet international commitments.
- Deployment is subject to ratification by Parliament failing which it has to be reversed.

### **3. Commanders**

- A Commanders of the Defence Forces:
  - are appointed by the President after consulting the responsible Minister;
  - serve for a term of not more than 5 years renewable once only;
  - command in accordance with policy directives of the Minister as authorized by the President.

### **4. Defence Forces Service Commission**

- The Defence Forces will be managed by the Defence Forces Service Commission.
- Members of the Commission must be appropriately qualified to serve as Commissioners and they are appointed by the President.
- Its functions include:
  - appointment and regulation of conditions of service;
  - fixing of salaries of members of the Defence Forces;
  - fostering harmony between the forces and the citizenry;
  - advising government on matters of the defence forces.

## **Part 3**

### **Police Force (219-223)**

#### **1. The Police Force**

- is responsible for:
  - maintaining law and order and internal security;
  - protecting people and their property.
- must be:
  - national in character;
  - patriotic;
  - professional;
  - non-partisan;
  - subordinate to civilian authority.

#### **2. Commissioner-General**

- The Commissioner-General:
  - is appointed by the President after consulting the responsible Minister;
  - serves for a 5-year term renewable once only;
  - may not be appointed to command any other security service;

- commands in accordance with policy directives of the Minister as authorized by the President.

### **3. Police Service Commission**

- The Police Service will be managed by the Police Service Commission.
- Members of the Commission must be appropriately qualified to serve as Commissioners and they are appointed by the President.
- Its functions include:
  - appointment and regulation of conditions of service;
  - fixing of salaries of members of the Police Service;
  - fostering harmony between the forces and the citizenry;
  - advising government on matters of the Police Service.

## **Part 4**

### **Intelligence Services (Sections 224-226)**

#### **1. Intelligence service**

- Intelligence services must be established under the law or by order of the President or cabinet.
- They must be:
  - national in character;
  - patriotic;
  - professional;
  - non-partisan;
  - subordinate to civilian authority.

#### **2. Command**

- The Director-General of Intelligence Services:
  - is appointed by the President;
  - serves for a 5-year term renewable once only;
  - may not be appointed to command any other security service;
  - commands in accordance with policy directives of the Minister as authorized by the President.

## **Part 5**

### **Prisons and Correctional Service (Sections 227-231)**

#### **1. The Service**

- It is responsible for:
  - protecting the society from criminals by incarcerating and rehabilitating them;
  - administering prisons and correctional facilities.
- The Service must be:
  - national in character;
  - patriotic;
  - professional;
  - non-partisan;
  - subordinate to civilian authority.

#### **2. Commissioner-General of Prisons and Correctional Service**

- The Commissioner-General:
  - is appointed by the President after consulting the responsible Minister;
  - serves for a 5-year term renewable once only;
  - may not be appointed to command any other security service;
  - commands in accordance with policy directives of the Minister as authorized by the President.

#### **3. Prisons and Correctional Service Commission**

- The Service will be managed by the Prisons and Correctional Service Commission.
- Members of the Commission must be appropriately qualified to serve as Commissioners and they are appointed by the President.
- Its functions include:
  - appointment and regulation of conditions of service;
  - fixing of salaries of members of the Service;
  - fostering harmony between the forces and the citizenry;
  - advising government on matters of the prisons and correctional services.

## CHAPTER 12

### Independent Commissions Supporting Democracy

#### Part 1

#### General (Sections 232-237)

##### 1. Characteristics of Commissions

- There are 5 of them, namely:
  - the Zimbabwe Electoral Commission;
  - the Zimbabwe Human Rights Commission;
  - the Zimbabwe Gender Commission;
  - the Zimbabwe Media Commission;
  - the National Peace and Reconciliation Commission.
  
- They will work to support democracy by:
  - entrenching human rights and democracy;
  - protecting the sovereignty and interests of citizens;
  - promoting constitutionalism;
  - promoting transparency and accountability in public institutions;
  - secure the observance of democratic values and principles by all institutions;
  - ensuring the remedying of injustices.
  
- They will:
  - act independent of any control and without fear, favour, prejudice or interference;
  - be accountable to Parliament for efficient performance;
  - be entitled to the support from all government institutions for protection of their independence.

##### 2. Members of Commissions

- Members of Commissions are appointed by the President with Parliamentary and public participation the process.
- They have security of tenure.
- Members must:
  - act in accordance with the Constitution;
  - act in a non-partisan manner;
  - not to be politically biased;
  - not violate fundamental human rights and freedoms of citizens.

## **Part 2**

### **Electoral Commission (Sections 238-241)**

#### **1. Members of Electoral Commission**

- The chairperson, who is a judge, former judge or person qualified for appointment as judge, is appointed by the President after consulting the Judicial Service Commission with Parliamentary and public participation in the process.
- Eight other members appointed by the President with Parliamentary and public participation in the process.
- Must be citizens.
- Must be persons of integrity.
- Must be appointed for a 6-year term renewable once.

#### **2. Functions of Commission**

- It is responsible for managing the electoral process in presidential, provincial, local authority and national council of chiefs' elections and referendums, including:
  - registration of voters;
  - compiling voters' rolls;
  - delimitation of constituencies;
  - voter education;
  - dealing with complaints;
  - reporting on the conduct of every election without delay.(Sections 238-241)

## **Part 3**

### **Human Rights Commission (Sections 242-244)**

#### **1. Members of Human Rights Commission**

- The chairperson, who is a judge, former judge or person qualified for appointment as judge, is appointed by the President after consulting the Judicial Service Commission with Parliamentary and public participation in the process.
- Eight other members appointed by the President with Parliamentary and public participation in the process.
- Must be persons of integrity.

## **2. Functions of Commission**

- It is responsible for:
  - promoting awareness of and respect for human rights throughout the society;
  - monitoring observance of human rights;
  - receiving complaints and taking appropriate action that regard;
  - guarding public against abuse of power and maladministration by government, its institutions and officers;
  - investigation of any violations of human rights;
  - securing appropriate redress;
  - directing the Commissioner-General of Police to investigate criminal violations of human rights;
  - visiting and inspecting prisons and other places of detention;
  - requiring reports from any person or institution on measures being taken to give effect to human rights or for information for international reporting;
  - reporting to Parliament.

## **Part 4**

### **Gender Commission (Sections 245-247)**

#### **1. Members of Gender Commission**

- The chairperson and eight other members appointed by the President with Parliamentary and public participation in the process.
- Must be persons of integrity with an understanding of gender issues.

#### **2. Functions of Commission**

It is responsible for:

- monitoring gender equality issues;
- investigating violations;
- promoting awareness of and respect for human rights throughout the society;
- monitoring observance of human rights;
- receiving complaints and taking appropriate action that regard;
- advising the public and institutions on necessary steps for gender equality;
- recommending affirmative action programmes and prosecution of criminal violations;
- securing redress in cases of violations;
- reporting to Parliament.



## **Part 5**

### **Media Commission (Sections 248-250)**

#### **1. Members of Media Commission**

- Chairperson and eight other members appointed by the President with Parliamentary and public participation in the process.
- Must be persons of integrity with an understanding of human rights issues and media best practices.

#### **2. Functions of Commission**

It is responsible for:

- promotion of freedom of the media;
- promotion of good practices and ethics;
- monitoring broadcasting in the public interest and ensure diversity of views
- encouraging the formulation of or itself formulate and enforce codes of conduct for media practitioners; gender equality issues;
- receiving complaints and taking appropriate action against media personnel;
- ensuring fair access by the public to information, promotion of competition and diversity in the media;
- encouraging use of the various recognized languages.
- reporting to Parliament.

## **Part 6**

### **National Peace and Reconciliation Commission (Sections 251-253)**

#### **1. Duration**

- Will be in place for first 10 years following enactment of this Constitution.

#### **2. Members of National Peace and Reconciliation Commission**

- The chairperson, who is a judge, former judge or person qualified for appointment as judge, is appointed by the President after consulting the Judicial Service Commission with Parliamentary and public participation in the process.
- Eight other members appointed by the President with Parliamentary and public participation in the process.

- Must be persons of integrity, with experience in mediation, conciliation, conflict prevention and management.

### **3. Functions of Commission**

- It is responsible for:
  - ensuring post-conflict justice, healing and reconciliation;
  - development and implementation of programmes for national healing, unity and peaceful resolution of disputes and procedures to facilitate dialogue among disputants;
  - encouraging the truth about past violations as a means to reconciliation, making amends and obtaining justice;
  - development of rehabilitative programmes for treatment and support;
  - development of mechanisms for early detection of potential conflicts and disputes and preventive measures;
  - conciliating and mediating in disputes;
  - receiving complaints and taking appropriate action;
  - reporting to Parliament.

## **CHAPTER 13**

### **Institutions to Combat Corruption and Crime**

#### **Part 1**

#### **Zimbabwe Anti-Corruption Commission (Sections 254-257)**

##### **1. Members of Anti-Corruption Commission**

- The chairperson and eight other members appointed by the President with Parliamentary and public participation in the process.
- Must be persons of integrity with knowledge of investigation and prosecution of crime.
- They will:
  - act independent of any control, without fear, favour, prejudice or interference;
  - be accountable to Parliament for efficient performance;
  - be entitled to the support from all government institutions for protection of their independence.
- They have security of tenure.

## **2. Functions of Commission**

- It is responsible for:
  - investigating and exposing corruption in public and private sectors;
  - combating corruption, theft, abuse of power and other improper conduct;
  - promotion of honesty, financial discipline and transparency;
  - receiving complaints from the public and taking action;
  - directing Commissioner-General of Police to investigate cases of corruption and report to the Commission;
  - recommending measures to combat corruption;
  - reporting to Parliament.
- Government must ensure that the Commission will have to recommend arrest and prosecution of offenders.

## **Part 2**

### **National Prosecuting Authority (Sections 258-263)**

#### **1. The Authority**

Is responsible for all prosecutions, and is headed by the Prosecutor- General whose qualifications shall be the same as of the judges of the Supreme Court.

## **CHAPTER 14**

### **Provincial and Local Government (Sections 264-266)**

#### **1. Devolution**

- The devolution of power to provincial and local government authorities is to ensure participation by all citizens in Zimbabwe. As such, it is not about the promotion of divisionism, secessionism, or the promotion of disunity.
- The objective is to:
  - enable people at local authority levels to increase their participation in decision making and in the exercise of State powers
  - to recognize the right of communities to manage their own affairs;
  - to ensure the equitable sharing of local and national resources and to establish a sound financial base for local authorities.

## **2. Principles of provincial and local government**

- Local authorities must:
  - ensure good governance through effectiveness, transparency and institutional coherence;
  - assume only those functions conferred on them;
  - restrict the exercise their powers to their geographical, functional and institutional confines;
  - co-operate with other authorities through consultation, harmonizing and co-ordinating their activities through any mechanisms and procedures provided by law for that purpose;
  - ensure the fair and equitable representation of people in their areas of jurisdiction

## **3. Employees of provincial and local authorities**

- They must:
  - abide by the Constitution;
  - not be office bearers of political parties;
  - be politically neutral;
  - respect the fundamental human rights and freedoms of citizens.

## **Part 2**

### **Provincial and Metropolitan Councils (Sections 267-273)**

#### **1. Provinces and districts**

- There will be 10 provinces, viz.:
  - Bulawayo Metropolitan Province;
  - Harare Metropolitan Province;
  - Manicaland Province;
  - Mashonaland Central Province;
  - Mashonaland East Province;
  - Mashonaland West Province;
  - Masvingo Province;
  - Matabeleland North Province;
  - Matabeleland South Province; and
  - Midlands Province.
  
- The division of districts will be provided for by law.

## **2. Provincial councils**

- Each province will have a provincial council made up of:
  - all persons who are members of Parliament from that province;
  - all mayors and chairpersons of the local authorities of that province;
  - ten persons elected on the basis of votes cast in the general election;
  - a chairperson elected by the above members from nominations by the party with the majority Members of the National Assembly in the province.

## **3. Metropolitan councils**

- Each Metropolitan council is made up of:
  - all persons who are members of Parliament from that province;
  - all mayors and deputy mayors and chairpersons of the local authorities of that province;
  - in Bulawayo, the chairperson of the council will be the mayor of Bulawayo;
  - in Harare, the chairperson of the council will be the mayor of Harare and the Deputy will be the mayor or chairperson of the second largest urban local authority in the province.

## **4. Functions of provincial and metropolitan councils**

- Their functions include:
  - social and economic development;
  - coordinating and implementing government programmes;
  - management of natural resources;
  - overseeing use of resources.
- Staff of the councils will be appointed in accordance with the law.
- Councils are accountable to the people of the province and to central government.

## **5. Chairpersons of provincial and metropolitan councils**

- They must be qualified to be Members of Parliament.
- The Chairperson of the Provincial Council shall be elected by the Provincial Council from a list of at least two qualified persons submitted by a party with the majority of seats, or the highest votes attained in the election of National Assembly members in the province.
- May be removed from office by an independent tribunal for incompetence, gross misconduct, conviction for dishonesty, corruption or abuse of office and violation of the law.

## **Part 3**

### **Local Government (Sections 274-279)**

#### **1. Urban local authorities**

- They will be responsible for affairs in urban areas.
- They will be made up of councillors elected by residents and presided over by mayors or chairpersons.
- If any mayor is to be executive, they must directly elected by voters in the area.

#### **2. Rural local authorities**

- They will be responsible for affairs in rural areas.
- The election of councillors, chairpersons and their qualifications will be in accordance with the law.

#### **3. General for all local authorities**

- They will have power:
  - to make by-laws, rules and regulations for the administration of their areas;
  - levy rates and taxes for revenue for their responsibilities.
- Elections are concurrent with general elections
- Mayors and chairpersons, unless they are directly elected as executive mayors, are elected at the first sitting of council.
- Members of councils lose their seats in the same manner as Members of Parliament and they can be removed from office by an independent tribunal for incompetence, gross misconduct, conviction for dishonesty, corruption or abuse of office and violation of the law.

## **CHAPTER 15**

### **Traditional Leaders (Sections 280-287)**

#### **1. Recognition**

- This chapter recognises traditional leadership under customary law cultural, customary and traditional purposes under Chiefs, head persons and village heads in the communities under their jurisdiction
- It is an independent institution

## **2. Traditional leaders**

- They must:
  - act in accordance with the Constitution;
  - act in a non-partisan manner;
  - not to be politically biased;
  - not violate fundamental human rights and freedoms of any person;
  - observe their customs subject to the Constitution;
  - treat all people in their area equally and fairly.
- Their functions include:
  - upholding of cultural values and preserve the culture, traditions, history and heritage of their communities;
  - the promotion of sound family values;
  - facilitating development;
  - resolution of disputes at customary law.
- They are appointed and removed from office:
  - by the President;
  - in accordance with the law and the prevailing customs and practices of their communities;
  - on the recommendation of Provincial Council of Chiefs and the Minister;
  - without regard to political considerations.
- Their remuneration is fixed by law with the approval of the President.

## **3. National council and provincial assemblies of chiefs**

- The National Council of Chiefs and provincial assemblies of chiefs will be set up in accordance with the law.
- Election of President and Deputy President of National Council of Chiefs is conducted by the Electoral Commission. They serve for 5 years renewable once.
- Elections of chiefs to National Council will be in accordance with the law and each province must be fairly represented on the Council.
- Provincial Assemblies elect Senator Chiefs.
- Their functions include:
  - the promotion and protection of cultural traditions;
  - representing the views of traditional leaders and advancing their interests;
  - defining and enforcing ethical conduct by traditional leaders.

#### **4. An integrity and ethics committee**

An integrity and ethics committee of chiefs will be established by law for enforcing integrity and ethical conduct by chiefs, resolving disputes between chief and dealing with complaints against chiefs.

### **CHAPTER 16**

#### **Agricultural Land (Sections 288-297)**

##### **1. Policy on agricultural land**

- All citizens, regardless of race, have a right to hold, occupy, use or dispose of agricultural land.
- Its allocation must be fair and equitable having regard to:
  - the fact that it is a finite resource and part of the common heritage;
  - gender balance;
  - diverse community interests.
- Its use must promote food security and employment subject to conservation for future generations.
- The right to use and occupy it may not be arbitrarily taken.

##### **2. Current rights on agricultural land**

- The ownership by the State of land acquired in the land reform programme is confirmed.
- Compensation for land acquired by the State in the land reform programme is payable only in respect land:
  - acquired from indigenous Zimbabweans; and
  - protected by government to government agreements;
- The rights, whatever their nature, granted to occupiers of agricultural land acquired by the State in the land reform programme are recognized.

##### **3. Rights of tenure**

- Measures are to be taken to grant security of tenure to persons lawfully owning or occupying agricultural land.
- The State may transfer ownership or lease land for value or grant any other right to land.
- Only one piece of land may be alienated to the same person and his/her family.
- Owners may alienate their rights in agricultural land.



#### **4. Land Commission**

- Members appointed by the President
- They have security of tenure of office.
- Its functions include:
  - ensuring transparency and fairness in administration of agricultural land;
  - conduct of periodic land audits;
  - enforcement of restrictions on amount of land held by any person or household;
  - recommendations on land tenure systems, allocations and alienations of land, land usage and sizes of land holdings, fair compensation on compulsory land acquisition;
  - simplification of acquisition and transfer of land.

### **CHAPTER 17**

#### **Finance (Sections 298-317)**

##### **1. Financial management**

- In management of public finances:
  - There must be transparency and accountability and funds must be expended prudently, economically and effectively;
  - Finance system must be directed at national development;
  - Burden of taxation must be shared fairly;
  - National revenue must be shared fairly between central, provincial and local governments;
  - Burdens and benefits of resources must be shared fairly between present and future generations;
  - Financial reporting must clear;
  - Borrowings must be transparent and incurred in the best interests of the country.

##### **2. Oversight by Parliament**

- Parliament must monitor the spending of all State revenues.
- Limits on borrowings by the State, public debt and on State guarantees must not be exceeded without Parliamentary approval.
- Parliament must be kept informed of government loan and guarantee obligations.

##### **3. Allocation of Revenue**

- Allocations of capital grants must be equitable across provincial and local authorities taking into account:

- the national interest;
  - provisions necessary for the national debt;
  - needs of central government;
  - need for basic services in marginalized areas
  - fiscal capacity and efficiency of the provincial and local authorities
  - economic disparities between provinces
- Not less than 5% of national revenues in any financial year must be allocated to provinces and local authorities.

#### **4. Consolidated Revenue Fund**

- All revenue due to the State must be paid into the Consolidated Revenue Fund unless the law permits otherwise.
- Money may only be withdrawn from the Consolidated Revenue Fund as authorized by the Constitution and the law.
- Government estimates of revenue and expenditure must be approved by Parliament annually;
- Supplementary estimates may be approved if insufficient appropriations were made or if money is need for a purpose not originally provided for.
- There are limits on authorization of expenditure before appropriation for unforeseen circumstances but subsequent approval must be obtained through a supplementary appropriation.
- Condonation through an Act of Parliament may be sought for unauthorized expenditure.

#### **5. Public funds and property**

- Public funds and property must be safeguarded and used for legally authorized purposes.
- It must be protected from loss, destruction, damage and abuse.
- Disciplinary and recovery action must be taken against any person responsible for any breach.

#### **6. Auditor-General**

- The office is an independent public office.
  - The Auditor-General is responsible for:
    - audit of the accounts, financial systems and financial management of all government institutions;
    - carry out special audits of parastatals and other government-controlled entities;
    - directing the rectification of defects in management of public funds.

- Auditor-General is appointed by the President with the approval of Parliament.
- Must be a citizen.
- Term of office is 6 years and may not serve for more than 12 years.
- Remuneration must be fixed by law with the approval of the President.
- Removal from office by the President is on the recommendation of a tribunal appointed to inquire into the matter of removal.
- Appointment and conditions of service of staff of the Auditor-General is by a board under the law of a board for that purpose.

## **7. Procurement**

- Government procurement will be governed by law.

## **8. Statutory bodies**

- The law must provide for the competent management of parastatals and ensure that the chief executive officers serve for limited periods renewed depending on efficient performance.

## **9. Reserve Bank of Zimbabwe**

- The Reserve Bank for the regulation of monetary system, protection of the Zimbabwe currency and formulate and implement monetary policy must be provided for under the law.

# **CHAPTER 18**

## **General and Supplementary Provisions**

### **Part 1**

## **General Provisions on Commissions (Sections 318-323)**

### **1. Commissions**

- All commissions:
  - have corporate status;
  - only members of independent commissions, the Judicial Service Commission, Anti-Corruption Commission and the Land Commission have protected tenure; the rest serve at the pleasure of the President;
  - chairpersons and deputy chairpersons of commissions must be of different genders;

- remuneration of members of commissions is fixed by law and may not be reduced during tenure office;
- Parliament must appropriate sufficient funds for effectiveness of commissions;
- must submit annual reports and any other to Parliament.

## **Part 2**

### **General (Sections 324-329)**

#### **1. General**

- Constitutional obligations must be performed diligently.
- Constitutional bodies must be adequately funded.
- Customary international law is part of the law of Zimbabwe if it is not inconsistent with the Constitution and the law.
- International treaties signed by Zimbabwe will bind Zimbabwe after approval by Parliament and will become part of our law when incorporated into law by Act of Parliament. Approval may be dispensed with by Parliament except for treaties which require appropriation of government funds or modify the law of Zimbabwe.
- International agreements must be approved by Parliament before they bind Zimbabwe.
- Courts must adopt reasonable interpretations of legislation which are consistent with international treaties, conventions or agreements.

#### **2. Amendment of Constitution**

- Ninety days' notice in the Gazette must be given by the Speaker of a constitutional bill to amend the Constitution.
- Members of the public must be invited to express views immediately the notice is given. Meetings must be convened for this purpose.
- The Bill must be passed by at least two-thirds of the total membership of each House.
- Amendment of the chapters on human rights and freedoms and agricultural land (Chapters 4 and 16) must be put to a referendum within 3 months of being passed by Parliament and only becomes law if the referendum approves it.
- An amendment to a term limit to extend the term does not extend the term of any person in office before the amendment.
- Subsections (6) and (7) of section 328 of the Constitution may not be amended in the same Bill and amendments to these subsections may not be put to the people in the same referendum.
- Amendment of section 328 of the Constitution must also be approved at a referendum after the 3 months' public notice and a two-thirds majority passage by Parliament.

### **3. Commencement of the Constitution**

This Constitution will come into force in stages:

➤ 1<sup>st</sup> Stage: on publication day, these provisions will come into force:

- provisions which allow the first elections under this Constitution to take place and this includes:
- chapter on elections;
- election of President (except that the President in the first 10 years of the first election will not be required to nominate running mates but will nominate vice presidents and in the event of the office of the first president becoming vacant, a nominee of his party will fill the vacancy) (paragraph 14 of the Schedule);
- chapter on Members of Parliament and summoning of Parliament after elections;
- chapter on principles of public administration and leadership;
- provisions relating to the conduct of the security services;
- provisions on Electoral Supervisory Commission
- the chapter on human rights and freedoms;
- the provisions on the Constitutional Court;
- the chapter on provincial and local government.

These provisions will override the equivalent provisions in the present Constitution.

➤ 2<sup>nd</sup> Stage: the effective date, being the day the President assumes office; the rest of the Constitution comes into operation.

Section 329 as read with the Sixth Schedule.

## **Part 3**

### **Interpretation (Sections 330-345)**

- In this Part, terms used in the Constitution are defined in section 322.
- Other matters are also explained in this Part, among them being:
  - Meaning of:
    - “acting on the advice of” which means the authority advised must follow the advice;
    - acting “after consultation with...” which means the authority concerned has to consult but does not have to follow the recommendation made;
  - Resignations:
    - the president resigns by notice to the Speaker;
    - Speaker and President of Senate and their deputies, by notice to Clerk of Parliament or by announcement to the House concerned;
    - Members of Parliament, by notice to the Speaker or President of the Senate, as the case may be;
    - Members of constitutional bodies, to the appointing authority;
  - Quorum:
    - generally, half of the total membership of a constitutional body forms a quorum;
    - a vacancy in a body does not disable it from acting provided there is a quorum;
    - total membership in relation to Parliament excludes vacancies.

