

CHAPTER 1
CONSTITUTION OF ZAMBIA ACT

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SCHEDULE

AN ACT

to provide for the new Constitution of the Republic of Zambia; to provide for the savings and transitional provisions of existing offices, institutions and laws; to provide for the savings of succession to property and assets, rights and liabilities, obligations and legal proceedings; and to provide for matters connected with or incidental to the foregoing.

[30th August, 1991]

Act 17 of 1996,

Act 18 of 1996,

Act 20 of 2009,

Act 2 of 2016.

1. Short title

This Act may be cited as the Constitution of Zambia Act.

2. Interpretation

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

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

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

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

3. Amendment of Constitution of Zambia Act, 1991 and Schedule thereto

Except as provided under this Act, the Constitution of Zambia Act, 1991, and the Constitution in the Schedule thereto, are amended in so far as they form Part of the laws of Zambia.

4. Commencement

Subject to the other provisions of this Act, The Constitution as amended under Act 18 of 1996, shall come into operation on the commencement of this Act.

5. Printing and publication of the Constitution

The Constitution may be printed and published by the Government Printer separately from this Act, and the production of a copy of the Constitution purporting to be so printed shall be *prima facie* in all courts and for all purposes whatsoever of the Constitution as its provisions.

6. Existing Laws

(1) Subject to the other provisions of this Act, and so far as they are not inconsistent with the Constitution, the existing laws shall continue in force after the commencement of this Act as if they had been made in pursuance of the Constitution, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) The President may, by statutory instrument at any time within two years of the commencement of this Act, make such amendment to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Act or the Constitution as amended or otherwise for giving effect or enabling effect to be given to those provisions.

(3) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under any existing law, including any amendment to any such law made under this section, or is otherwise prescribed or provided immediately before the commencement of this Act by or under the law amended by section 3, that prescription or provision shall, as from the commencement of this Act, have effect as if it had been made under the Constitution by Parliament or, as the case may be, the other authority or person.

(4) This section shall be without prejudice to any powers conferred by this Act or the Constitution upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

7. Prerogative and privileges of the President

Where under the existing law any prerogatives or privileges are vested in the President those prerogatives or privileges shall, after the commencement of this Act, continue to vest in the President.

8. Continuation of office of President

The person holding the office of President immediately before the commencement of this Act shall, unless he ceases to hold office by virtue of the provisions of Article 34 or 35 of the Constitution or resigns, continue in office and shall exercise the executive powers of the President under the Constitution until the person elected at the first election to the office of President under the Constitution assumes office.

9. Existing offices

(1) Where any office has been established by or under the law in force before the commencement of this Act and the Constitution establishes a similar or an equivalent office, any person who immediately before the commencement of this Act holds or is acting in the former office shall, so far as is consistent with the Constitution, be deemed to have been appointed, elected or designated as from the commencement of this Act to hold or to act in the latter office in accordance with the Constitution and to have taken the oath of allegiance and any other necessary oath under the Constitution:

Provided that any person who, under the law in force before the commencement of this Act or any other existing law, would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(2) Any person holding the office of Vice-President, Minister and Deputy Minister under the Constitution immediately before the commencement of this Act shall continue in office and shall exercise the powers conferred on him by the Constitution.

(3) Subject to the provision of the Constitution relating to persons in public employment, any person who is a public officer and who immediately before the commencement of this Act holds any public office shall continue to be a public officer of the Government after the commencement of this Act.

(4) The President may, at any time after the commencement of this Act, require any person who continues in office by virtue of this section to take an oath of allegiance and any oath for the due execution of his office that is prescribed by or under any Act of Parliament.

(5) This section shall be without prejudice to—

(a) the provisions of section 10; and

(b) any powers conferred by or under the Constitution upon any person or authority to make provision for the abolition of offices or the removal of any person holding or acting in any office.

10. The National Assembly

(1) Subject to sub-section (2), the National Assembly constituted under the law in force before the commencement of this Act (hereinafter referred to as “**the existing National Assembly**”) shall be the National Assembly during the period beginning on the commencement of this Act and ending on the date set for the holding of elections to the office of President and the National Assembly under the Constitution.

(2) The persons who immediately before the commencement of this Act are the elected or nominated members of the existing National Assembly shall continue to be the members of the National Assembly during the period beginning on the commencement of this Act and ending on the date set for the holding of elections to the office of President and the National Assembly under the Constitution, and, in the case of elected members, shall be deemed to have been elected to the National Assembly to represent the same constituencies as the constituencies for which they were respectively elected.

(3) The persons who immediately before the commencement of this Act are the Speaker and the Deputy Speaker of the existing National Assembly shall continue to be respectively the Speaker and the Deputy Speaker of the National Assembly during the period beginning on the commencement of this Act and ending on the date set for the holding of elections to the office of the National Assembly under the Constitution.

(4) All the functions and powers vested in Parliament by the Constitution shall be exercised, during the period beginning on the commencement of this Act and ending on the date set for the holding of elections to the office of President and National Assembly, by Parliament in accordance with the Constitution.

(5) The rules and orders of the existing National Assembly as in force immediately before the commencement of this Act, shall, until it is otherwise provided for under Article 86 of the Constitution be the rules of procedure of the National Assembly but shall be construed with such modifications, adaption's, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(6) Any person who under this section continued to be the Speaker, the Deputy Speaker or a member of the National Assembly after the commencement of this Act shall be deemed to have taken the necessary oath under the Constitution.

(7) All money granted, voted or appropriated by the existing National Assembly in respect of the services of the Republic for the current financial year shall be deemed to have been granted, voted or appropriated by the existing National Assembly and in accordance with the Constitution.

11. Succession to property and assets

(1) Subject to this Act and the Constitution, all property of every nature and kind whatsoever and all assets that immediately before the commencement of this Act were vested in, or held in trust for, the President or in any other person in right for the purposes of the Government of Zambia shall after the commencement of this Act continue to be so vested or held in trust, as the case may be.

(2) Any property which, immediately before the commencement of this Act, was liable to escheat or to be forfeited to the President for the purposes of the Government of Zambia, after the commencement of this Act, shall continue to be liable to escheat or to be forfeited to the President on behalf of the Government of Zambia.

12. Rights, liabilities and obligations

All rights, liabilities and obligations of the President or any public officer on behalf of the Government of Zambia before the commencement of this Act shall, on and after the commencement of this Act, be rights, liabilities and obligations of the President or such public officer, as the case may be, on behalf of the Government of Zambia.

13. Legal proceedings

(1) All proceedings that, immediately before the commencement of this Act, are pending before any court established by or under the law in force before the commencement of this Act may be continued and concluded before those courts established by or under the Constitution.

(2) Any proceedings that immediately before the commencement of this Act are pending before any Commissioner of the High Court appointed by or under the law in force before the commencement of this Act shall be continued and concluded before such Commissioner, notwithstanding the abolition of the office of Commissioner of the High Court.

14. Transitional provisions

(1) All rights and obligations under conventions, treaties or agreements which were exercisable by or binding upon the Government of Zambia immediately before the commencement of this Act shall continue to be so exercisable and binding.

(2) All functions which immediately before the commencement of this Act were vested in the President or in any other authority shall, as far as the same continue in existence and are capable of being exercised after the commencement of this Act, be vested in the President or the authority exercising similar functions under the Constitution, as the case may be, except such functions as are by this Act or any other law vested in some other authority.

15. Appeals in respect of certain decisions affecting pensions and like benefits

(1) The following provisions of this section shall have effect for the purpose of enabling any officer to whom this section applies or his personal representatives to appeal against a decision to which this section applies, that is to say a decision within the following clauses—

(a) a decision of the Service Commission to give such concurrence as is required by Article 124 of the Constitution in relation to the refusal, withholding, reduction in amount or suspension of any benefits in respect of such an officer's service as a public officer;

(b) a decision by any authority to remove such an officer from office if the consequence of the removal is that benefits cannot be granted in respect of the officer's service as a public officer; or

(c) a decision by any authority to take some other disciplinary action in relation to such an officer if the consequence of the action is to reduce the amount of any benefits that may be granted in respect of the officer's service as a public officer.

(2) Where any decision such as is referred to in sub-section (1), is taken by any authority, the authority shall cause to be delivered to the officer concerned, or his personal representatives, a written notice of that decision stating the time, not being less than 28 days from the date on which the notice is delivered, within which he, or his personal representatives, may apply to the authority for the case to be referred to an Appeals Board.

(3) If application is duly made to an authority within the time stated in such a notice as is mentioned in sub-section (2), for a case to be referred to an Appeals Board, the authority shall notify the President in writing of that application and the President shall appoint an Appeals Board for that purpose consisting of—

(a) one member selected by the President;

(b) one member selected by the association representative of public officers or a professional body, nominated in either case by the applicant; and

(c) one member selected by the two other members jointly (or, in default of agreement between those members, by the Chief Justice) who shall be the Chairman of the Board.

(4) Such an Appeals Board shall inquire into the facts of the case that is referred to it, and for that purpose the Board—

(a) if the applicant so requests in writing, hear the applicant either in person or by legal representative of his choice, according to the terms of the request;

(b) may hear any other person who, in the opinion of the Board, is able to give the Board information on the case; and

(c) shall have access to, and shall consider, all documents that were available to the authority concerned and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or the authority.

(5) When such an Appeals Board has completed its consideration of the case, then—

(a) if the decision that is the subject of the reference to the Board is a decision such as is mentioned in paragraph (a) of sub-section (1), the Board shall advise the appropriate Commission whether the decision should be affirmed, reversed or modified and the Commission shall act in accordance with that advice;

(b) if the decision that is the subject of the reference to the Board is a decision such as is mentioned in paragraph (b) or (c) of sub-section (1), the Board shall not have power to advise the authority responsible for making the decision to affirm, reverse or notify the decision but the Board may advise the authority responsible for granting the benefits in question;

(i) where the officer has been removed from office, to grant all or part of the benefits for which the officer concerned would have been eligible under any law if he had retired voluntarily at the date of dismissal; or

(ii) where some other disciplinary action has been taken in relation to the officer, that on the grant of any benefits under any law in respect of the officer's service such benefits shall be increased in such manner, as the board may specify in order to offset all or any part of the reduction in the amount of such benefits that, in the opinion of the Board, would or might otherwise be a consequence of the action; and that authority shall act in accordance with that advice and the provisions of that law shall have effect accordingly.

(6) In this section—

“**pension benefits**” has the meaning assigned to it in clause (5) of Article 124 of the Constitution;

“**Service Commission**” has the meaning assigned to it in Clause (2) of Article 123 of the Constitution.

(7) This section applies to any officer who on the 24th October, 1964, was on pensionable conditions of service and—

(a) was designated under the Overseas Service Aid Scheme; or

(b) was immediately before the 24th October, 1964, a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary; or

(c) whose conditions of service included an entitlement to free overseas passages from Zambia for the purpose of leave of absence upon the completion of a tour of duty; or

(d) was not a citizen of Zambia.

16. Compulsory retirement of non-citizens

Notwithstanding anything to the contrary contained in this Act or the Constitution, the President may, with a view to securing the appointment of citizens of Zambia to public offices, direct retirement from public office of any person who is not a citizen of Zambia:

Provided that a person shall not be retired under the provisions of this section unless notice in writing is given to him specifying the date of retirement which shall not be earlier than six months from the date on which such notice is received by him.

SCHEDULE

[Section 2]

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ANNEX

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PREAMBLE

WE, THE PEOPLE OF ZAMBIA:

ACKNOWLEDGE the supremacy of God Almighty;

DECLARE the Republic a Christian Nation while upholding a person's right to freedom of conscience, belief or religion;

UPHOLD the human rights and fundamental freedoms of every person;

COMMIT ourselves to upholding the principles of democracy and good governance;

RESOLVE to ensure that our values relating to family, morality, patriotism and justice are maintained and all functions of the State are performed in our common interest;

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

RECOGNISE AND UPHOLD the multi-ethnic, multi-racial, multi-religious and multi-cultural character of our Nation and our right to manage our affairs and resources sustainably in a devolved system of governance;

RESOLVE that Zambia shall remain a unitary, multi-party and democratic sovereign State;

RECOGNISE AND HONOUR the freedom fighters who fought for the independence of our Nation in order to achieve liberty, justice and unity for the people of Zambia;

AND DIRECT that all State organs and State institutions abide by and respect our sovereign will;

DO HEREBY SOLEMNLY ADOPT AND GIVE TO OURSELVES THIS CONSTITUTION:

[Preamble subs by s 2 of Act 2 of 2016.]

PART I

SUPREMACY OF CONSTITUTION

[Part I subs by s 3 of Act 2 of 2016.]

1. Supremacy of Constitution

(1) This Constitution is the supreme law of the Republic of Zambia and any other written law, customary law and customary practice that is inconsistent with its provisions is void to the extent of the inconsistency.

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

(3) This Constitution shall bind all persons in Zambia, State organs and State institutions.

(4) The validity or legality of this Constitution is not subject to challenge by or before a State organ or other forum.

(5) A matter relating to this Constitution shall be heard by the Constitutional Court.

[Article 1 subs by s 3 of Act 2 of 2016.]

2. Defence of Constitution

Every person has the right and duty to—

(a) defend this Constitution; and

(b) resist or prevent a person from overthrowing, suspending or illegally abrogating this Constitution.

[Article 2 subs by s 3 of Act 2 of 2016.]

3. Continuous effect of Constitution

The operation of this Constitution shall not be affected by an unlawful act to overthrow, suspend or illegally abrogate its provisions.

[Article 3 subs by s 3 of Act 2 of 2016.]

4. Republic of Zambia

(1) Zambia is a sovereign Republic under a constitutional form of governance.

(2) The Republic consists of the territory defined in an Act of Parliament.

(3) The Republic is a unitary, indivisible, multi-ethnic, multi-racial, multi-religious, multi-cultural and multi-party democratic State.

(4) The Republic shall not be ceded in whole or in part.

(5) The Republic may enter into a union or other form of interstate organisation, which action shall not be construed as ceding the Republic.

[Article 4 subs by s 3 of Act 2 of 2016.]

5. Sovereign authority

(1) Sovereign authority vests in the people of Zambia, which may be exercised directly or through elected or appointed representatives or institutions.

(2) Power that is not conferred by or under this Constitution on any State organ, State institution, State officer, Constitutional office holder or other institution or person is reserved for the people.

(3) The people of Zambia shall exercise their reserved power through a referendum, as prescribed

[Article 5 subs by s 3 of Act 2 of 2016.]

6. National symbols

(1) The national symbols of the Republic are the—

(a) National Flag;

(b) National Anthem;

(c) Coat of Arms;

(d) Public Seal; and

(e) National Motto.

(2) The form, words, description and use of the national symbols shall be as prescribed.

[Article 6 subs by s 3 of Act 2 of 2016.]

7. Laws of Zambia

The Laws of Zambia consist of—

- (a) this Constitution;
- (b) laws enacted by Parliament;
- (c) statutory instruments;
- (d) Zambian customary law which is consistent with this Constitution; and
- (e) the laws and statutes which apply or extend to Zambia, as prescribed.

[Article 7 subs by s 3 of Act 2 of 2016.]

PART II

NATIONAL VALUES, PRINCIPLES AND ECONOMIC POLICIES

[Part II subs by s 3 of Act 2 of 2016.]

8. National values and principles

The national values and principles are—

- (a) morality and ethics;
- (b) patriotism and national unity;
- (c) democracy and constitutionalism;
- (d) human dignity, equity, social justice, equality and non-discrimination;
- (e) good governance and integrity; and
- (f) sustainable development.

[Article 8 subs by s 3 of Act 2 of 2016.]

9. Application of national values and principles

(1) The national values and principles shall apply to the—

- (a) interpretation of this Constitution
- (b) enactment and interpretation of the law; and
- (c) development and implementation of State policy.

(2) The President shall, once in every year, report to the National Assembly the progress made in the application of the values and principles specified under this Part.

[Article 9 subs by s 3 of Act 2 of 2016.]

10. Basis of economic policies

(1) The Government shall create an economic environment which encourages individual initiative and self-reliance among the people, so as to promote investment, employment and wealth.

(2) The Government shall promote the economic empowerment of citizens so that they contribute to sustainable economic growth and social development.

(3) The Government shall promote local and foreign investment and protect and guarantee such investment through agreements with investors and other countries.

(4) The Government shall not compulsorily acquire an investment, except under customary international law and subject to Article 16.

(5) Where the investment compulsorily acquired under clause (4) was made from the proceeds of crime no compensation shall be paid by the Government.

[Article 10 subs by s 3 of Act 2 of 2016.]

PART III

PROTECTION OF THE FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

11. Fundamental rights and freedoms

It is recognised and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex or marital status, but subject to the limitations contained in this Part, to each and all of the following, namely—

(a) life, liberty, security of the person and the protection of the law;

(b) freedom of conscience, expression, assembly, movement and association;

(c) protection of young persons from exploitation;

(d) protection for the privacy of his home and other property and from deprivation of property without compensation;

and the provisions of this Part shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in this Part, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

12. Protection of right to life

(1) A person shall not be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which he has been convicted.

(2) A person shall not deprive an unborn child of life by termination of pregnancy except in accordance with the conditions laid down by an Act of Parliament for that purpose.

(3) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this Article if he dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

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

13. Protection of right to personal liberty

(1) A person shall not be deprived of his personal liberty except as may be authorised by law in any of the following cases—

- (a) in execution of a sentence or order of a court, whether established for Zambia or some other country, in respect of a criminal offence of which he has been convicted;
- (b) in execution of an order of a court of record punishing him for contempt of that court or of a court inferior to it;
- (c) in execution of an order of a court made to secure the fulfillment of any obligation imposed on him by law;
- (d) for the purpose of bringing him before a court in execution of an order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia;
- (f) under an order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of 18 years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol or a vagrant, for the purpose of his care or treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Zambia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person while he is being conveyed through Zambia in the course of his extradition or removal as a convicted prisoner from one country to another; or
- (j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Zambia or prohibiting him from being within such area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Zambia in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) 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.

(3) Any person who is arrested or detained—

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

(b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia; and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained under paragraph (b) 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.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

14. Protection from slavery and forced labour

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

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

(3) For the purpose of this Article, the expression “forced labour” does not include—

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

(b) labour required of any person while he is lawfully detained that, though not required in consequence of a sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(d) any labour required during any period when the Republic is at war or a declaration under Article 30 or 31 is in force or in the event of any other emergency or calamity that threatens the life and 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 calamity, for the purpose of dealing with that situation; or

(e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

15. Protection from inhuman treatment

A person shall not be subjected to torture, or to inhuman or degrading punishment or other like treatment.

16. Protection from deprivation of property

(1) Except as provided in this Article, property of any description shall not be compulsorily taken possession of, and interest in or right over property of any description shall not be compulsorily acquired, unless by or under the authority of an Act of Parliament which provides for payment of adequate compensation for the property or interest or right to be taken possession of or acquired.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of clause (1), to the extent that it is shown that such law provides for the taking possession or acquisition of any property or interest therein or right there over—

(a) in satisfaction of any tax, rate or due;

- (b) by way of penalty for breach of any law, whether under civil process or after conviction of an offence;
- (c) in execution of judgments or orders of courts;
- (d) upon the attempted removal of the property in question out of or into Zambia in contravention of any law;
- (e) as an incident of contract including a lease, tenancy, mortgage, charge, pledge or bill of sale or of a title deed to land;
- (f) for the purpose of its administration, care or custody on behalf of and for the benefit of the person entitled to the beneficial interest therein;
- (g) by way of the vesting of enemy property or for the purpose of the administration of such property;
- (h) for the purpose of—
 - (i) the administration of the property of a deceased person, a person of unsound mind or a person who has not attained the age of 18 years, for the benefit of the persons entitled to the beneficial interest therein;
 - (ii) the administration of the property of a person adjudged bankrupt or a body corporate in liquidation, for the benefit of the creditors of such bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;
 - (iii) the administration of the property of a person who has entered into a deed of arrangement for the benefit of his creditors; or
 - (iv) vesting any property subject to a trust in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust;
- (i) in consequence of any law relating to the limitation of actions;
- (j) in terms of any law relating to abandoned, unoccupied unutilised or undeveloped land, as defined in such law;
- (k) in terms of any law relating to absent or non-resident owners, as defined in such law, of any property;
- (l) in terms of any law relating to trusts or settlements;
- (m) by reason of a dangerous state or prejudicial to the health or safety of human beings, animals or plants;
- (n) as a condition in connection with the granting of permission for the utilisation of that or other property in any particular manner;
- (o) for the purpose of or in connection with the prospecting for, or exploitation of, minerals belonging to the Republic on terms which provide for the respective interests of the persons affected;
- (p) in pursuance of a provision for the marketing of property of that description in the common interests of the various persons otherwise entitled to dispose of that property;
- (q) by way of the taking of a sample for the purposes of any law;

(r) 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 of shares;

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

(t) for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—

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

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

(u) where the property consists of any licence or permit;

(v) where the property consists of wild animals existing in their natural habitat or the carcasses of wild animals;

(w) where the property, is held by a body corporate established by law for public purposes and in which no moneys have been invested other than moneys provided by Parliament;

(x) where the property is any mineral, mineral oil or natural gases or any rights accruing by virtue of any title or licence for the purpose of searching for or mining any mineral, mineral oil or natural gases—

(i) upon failure to comply with any provision of such law relating to the title or licence or to the exercise of the rights accruing or to the development or exploitation of any mineral, mineral oil or natural gases; or

(ii) terms of any law vesting any such property or rights in the President;

(y) for the purpose of the administration or disposition of such property or interest or right by the President in implementation of a comprehensive land policy or a policy designed to ensure that the statute law, the Common Law and the doctrines of equity relating to or affecting the interest in or rights over land, or any other interests or rights enjoyed by Chiefs and persons claiming through or under them, shall apply with substantial uniformity throughout Zambia;

(z) in terms of any law providing for the conversion of titles to land from freehold to leasehold and the imposition of any restriction on sub-division, assignment or sub-letting;

(aa) in terms of any law relating to—

(i) the forfeiture or confiscation of the property of a person who has left Zambia for the purpose or apparent purpose, of defeating the ends of justice;

(ii) the imposition of a fine on, and the forfeiture or confiscation of the property of, a person who admits a contravention of any law relating to the imposition or collection of any duty or tax or to the prohibition or control of dealing or transactions in gold, currencies or securities.

(3) An Act of Parliament such as is referred to in clause (1), shall provide that in default of agreement, the amount of compensation shall be determined by a court of competent jurisdiction.

17. Protection for privacy of home and other property

(1) Except with his own consent, a person shall not 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 inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or in order to secure the development or utilisation of any property for a purpose beneficial to the community;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that authorises an officer or agent of the Government, a local government authority or a body corporate established by law 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, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government, authority or body corporate, as the case may be; or

(d) that authorises, 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 entry upon any premises by such order; and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

18. Provisions to secure protection of the law

(1) 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.

(2) 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 unless legal aid is granted to him in accordance with the law enacted by Parliament for such purpose be permitted to defend himself before the court in person, or at his own expense, by a legal representative of his own choice;

(e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance 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.

(3) When a person is tried for any criminal offence, the accused person or any person authorised 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 judgement a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) A person shall not 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 a penalty shall not 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 it was committed.

(5) A person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall not 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, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) A person shall not be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(8) A person shall not be convicted of a criminal offence unless that offence is defined and the penalty is prescribed in a written law:

Provided that nothing in this clause shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefore is not so prescribed.

(9) Any court or other adjudicating authority prescribed by law for determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(10) Except 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 clause (10), shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(a) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings; or

(b) may be empowered by law to do in the interest of defence, public safety, public order, public morality, the welfare of persons under the age of 18 years or the protection of the private lives of persons concerned in the proceedings.

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

(a) paragraph (a) of clause (2), to the extent that it is shown that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(b) paragraph (d) of clause (2) to the extent that it is shown that the law in question prohibits legal representation before a subordinate court in proceedings for an offence under Zambian customary law, being proceedings against any person who, under that law, is subject to that law;

(c) paragraph (e) of clause (2), to the extent that it is shown that the law in question imposes reasonable conditions that 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) clause (2), to the extent that it is shown that the law provides that—

(i) where the trial of any person for any offence prescribed by or under the law has been adjourned and the accused, having pleaded to the charge, fails to appear at the time fixed by the court for the resumption of his trial after the adjournment, the proceedings may continue notwithstanding the absence of the accused if the court, being satisfied that, having regard to all the circumstances of the case, it is just and reasonable so to do, so orders; and

(ii) the court shall set aside any conviction or sentence pronounced in the absence of the accused in respect of that offence if the accused satisfies the court without undue delay that the cause of his absence was reasonable and that he had a valid defence to the charge;

(e) clause (2), to the extent that it is shown that the law provides that the trial of a body corporate may take place in the absence of any representative of the body corporate upon a charge in respect of which a plea of not guilty has been entered by the court;

(f) clause (5), to the extent that it is shown that the law in question authorises 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 disciplinary law of that force, 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.

(13) In the case of any person who is held in lawful detention, clause (1), paragraphs (d) and (e) of clause (3), shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In its application to a body corporate clause (2), shall have effect as if words “in person or” were omitted from paragraph (d) and (e).

(15) In this Article “**criminal offence**” means a criminal offence under the law in force in Zambia.

19. Protection of freedom of conscience

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Article the said freedom includes freedom of thought and religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent, or, if he is a minor, the consent of his guardian, a person attending any place of education shall not 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) A religious community or denomination shall not be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination or from establishing and maintaining institutions to provide social services for such persons.

(4) A person shall not be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision which is reasonably required—

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

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion; and except so far as that provision or, the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society.

20. Protection of freedom of expression

(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication be to the public generally or to any person or class of persons, and freedom from interference with his correspondence.

(2) Subject to the provisions of this Constitution, a law shall not make any provision that derogates from freedom of the press.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision—

(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or

(b) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclo

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