IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/028
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: ARTICLE 1(2), (3). AND 8(c), (e), OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA

IN THE MATTER OF: ARTICLE 45(1)(a), 2(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, AS READ TOTHER WITH SECTION 96, 97, 98 AND 99 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: SECTION 81 (1)(a), 83 (1)(a)(d), (2) AS READ TOGETHER WITH THE ELECTORAL CODE OF CONDUCT OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026

IN THE MATTER OF: AN ELECTION PETITION RELATING TO CHIRUNDU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026

BETWEEN:

NEVERS MUCHINDU PETITION

AND

ELECTORAL COMMISSION OF ZAMBIA 1ST RESPONDENT

JAMES K. MWAJA 2ND RESPONDENT

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 07 SEP 2026 PRINCIPAL REGISTRY P.O. BOX LUSAKA

1ST RESPONDENT'S ANSWER TO PETITION

The 1st Respondent's Answer to Petition shows as follows:

1. Save where expressly admitted herein, the 1st Respondent denies each and every allegation of fact and law contained in the Petition, as if the same were set out herein and specifically traversed.
2. The 1st Respondent admits the descriptive paragraphs (1-3) of the Petition only in so far as they identify the parties to these proceedings, and admits paragraph 2 of the Petition to the extent that it correctly states that the 2nd Respondent was declared as the duly elected Member of Parliament for Chirundu Parliamentary Constituency on elections held on 13th August, 2026.

3. The 1st Respondent admits paragraphs 4(a)-(c) of the Petition.
4. The contents of paragraphs 4(d)-(r) are within the peculiar knowledge of the Petitioner and shall be put to strict proof thereof.
5. The 1st Respondent denies the contents of paragraphs 4(s)-w) of the Petition and shall put the Petitioner to strict proof of the same. The Respondent will aver that there was no miscounting or mismanagement of the elections at the said polling stations and no prejudice was occasioned to the Petitioner.
6. The contents of paragraph 4(x) and (y) are within the peculiar knowledge of the Petitioner and shall be put to strict proof thereof.
7. The 1st Respondent denies the contents of paragraphs 4(z) and (aa) and shall put the Petitioner to strict proof of the same. The 1st Respondent avers that 1st Respondent carried out its mandate and declared the duly elected Member of Parliament for Chirundu through the elections conducted on 13th August, 2026.
8. The 1st Respondent avers that the Petitioner is not entitled to the reliefs in his Petition and the same must be dismissed with costs.

Dated the_____ day of _____ 2026

1ST RESPONDENT

Per: Messrs. Nsapato & Co. Advocates
Sub C of Lot 1835/M
3rd Street, Ibex Hill
P.O. Box
Lusaka
Email: *info@nsapato.com*
Advocates for the 1st Respondent

To: The Petitioner & His Advocates
Kamwi Andeleki Legal Practitioners
Independence Avenue
P. O. Box 27617
Email: KamwiAndelekiLegalPractitioners@hotmail.com

Lusaka

To: The 2nd Respondent

James K. Mwaja

Chirundu

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/028

IN THE MATTER OF: ARTICLE 1(2), (3). AND 8(c), (e), OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA

IN THE MATTER OF: ARTICLE 45(1)(a), 2(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, AS READ TOTHER WITH SECTION 96, 97, 98 AND 99 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: SECTION 81 (1)(a), 83 (1)(a)(d), (2) AS READ TOGETHER WITH THE ELECTORAL CODE OF CONDUCT OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026

IN THE MATTER OF: AN ELECTION PETITION RELATING TO CHIRUNDU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026

BETWEEN:

NEVERS MUCHINDU — PETITION

AND

ELECTORAL COMMISSION OF ZAMBIA — 1ST RESPONDENT

JAMES K. MWAJA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

1ST RESPONDENT'S SKELETON ARGUMENTS

MAY IT PLEASE THIS HONOURABLE COURT, we tender hereunder the 1st Respondent's Skeleton Arguments.

1. My Lord/Lady, the starting point is the constitutional character of the 2nd Respondent. The Commission is an independent electoral management institution whose functions are to be performed in accordance with the Constitution and the law and without improper external direction or control.

   Article 216 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 provides:

"A commission shall— (a) be subject only to this Constitution and the law; (b) be independent and not be subject to the control of a person or an authority in the performance of its functions; (c) act with dignity, professionalism, propriety and integrity; (d) be non-partisan; and (e) be impartial in the exercise of its authority."

2. The constitutional requirement of independence is reinforced by section 4(1) of the Electoral Process Act No. 35 of 2016, which provides:

"This Act shall be administered and enforced by the Commission and the Commission shall not be subject to the direction or control of any person or authority in the exercise of its functions under the Constitution and this Act."

3. My Lord/Lady, these provisions are material to the determination of the present Petition because they demonstrate that the Commission's role is that of an independent and impartial electoral regulator. It is not a participant in the electoral contest and does not assume the legal identity or responsibilities of candidates contesting an election. The statutory responsibilities imposed upon candidates and other electoral participants must therefore be distinguished from the institutional responsibilities imposed upon the Commission. The mere occurrence of an alleged prohibited act during an election does not, without evidence establishing a corresponding breach by the Commission, transform the Commission into a joint wrongdoer.

BURDEN AND STANDARD OF PROOF

4. My Lord/Lady, the Petitioner's allegations against the Commission must further be assessed against the applicable burden and standard of proof. Election petitions are civil proceedings, but they possess a special character because they challenge the validity of an election and potentially disturb the electoral choice of voters. Allegations of electoral malpractice must therefore be established by sufficiently cogent evidence.

5. My Lord/Lady, In *Zulu v Kalima*, the Supreme Court stated:

"...Parliamentary election petitions have generally long required to be proved to a standard higher than on a mere balance of probability. It follows, therefore, that in this case... the issues raised are required to be established to a fairly high degree of convincing clarity."

6. My Lord/Lady, the requirement of convincing clarity is particularly significant where allegations are made against an independent constitutional institution. Allegations of deliberate omission, failure to enforce the law or complicity cannot be established merely through suspicion, conjecture or uncorroborated assertions. the Petitioner must establish the factual foundation of each allegation and, separately, establish the legal nexus between that allegation and the Commission.

7. My Lady/Lord, In *Kapembwa v Kachisha*, the Tribunal adopted the Supreme Court's guidance in *Khalid Mohamed v Attorney-General*, stating:

"An unqualified proposition that a plaintiff should succeed automatically wherever a defense has failed is unacceptable to me. A plaintiff must prove his case and if he fails to do so the mere failure of the opponent's defense does not entitle him to judgment."

8. My Lord/Lady, the principle is directly applicable. The Commission does not bear the burden of disproving every allegation merely because the Petitioner has asserted it. The primary burden remains upon the Petitioner to establish the case advanced against the Commission

9. My Lord/Lady, the Petitioner must establish the alleged electoral wrongdoing with the required degree of convincing clarity and must further demonstrate that the conduct is legally attributable to the 2nd Respondent.

WHEREFORE, the 2nd Respondent prays that the Petition be dismissed with costs.

SO, WE PRAY.

Dated at Lusaka this_____day of_____2026.



Per: Messrs. Nsapato & Co. Advocates
Sub C of Lot 1835/M
3rd Street, Ibex Hill
P.O. Box
Lusaka
Email: *info@nsapato.com*
Advocates for the 1st Respondent

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/028

IN THE MATTER OF: ARTICLE 1(2), (3). AND 8(c), (e), OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA

IN THE MATTER OF: ARTICLE 45(1)(a), 2(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, AS READ TOTHER WITH SECTION 96, 97, 98 AND 99 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: SECTION 81 (1)(a), 83 (1)(a)(d), (2) AS READ TOGETHER WITH THE ELECTORAL CODE OF CONDUCT OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026

IN THE MATTER OF: AN ELECTION PETITION RELATING TO CHIRUNDU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026

BETWEEN:

NEVERS MUCHINDU — PETITION

AND

ELECTORAL COMMISSION OF ZAMBIA — 1ST RESPONDENT

JAMES K. MWAJA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 07 SEP 2026 PRINCIPAL REGISTRY 4 P.O. BOX 50067, LUSAKA.

1ST RESPONDENT'S LIST OF AUTHORITIES

The following is list of authorities to be relied on by the 1st Respondent.

STATUTORY AUTHORITY:

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016
2. The Electoral process Act No. 35 of 2016

ZAMBIAN CASE LAW:

3. Kapembwa Pevious v Kachisha Martin (10 of 2021) [2021] ZMLGEL 40 (22 September 2021)
4. Zulu v Kalima (Appeal 141 of 2012) [2013] ZMSC 24 (12 December 2013)
5. Khalid Mohamed v The Attorney General (1982) Z.R. 49 (S.C.)

Dated the _____day of _____2026.

Per:

Messrs. Nsapato & Co. Advocates
Sub C of Lot 1835/M
3rd Street, Ibex Hill
P.O. Box
Lusaka
Email: *info@nsapato.com*
Advocates for the 1st Respondent

To: The Petitioner & His Advocates
Kamwi Andeleki Legal Practitioners
Independence Avenue
P. O. Box 27617
Email: KamwiAndelekiLegalPractitioners@hotmail.com
Lusaka

To: The 2nd Respondent
James K. Mwaja
Chirundu

PDF generated: 31 Mar 2021, 16:00



constituteproject.org

Zambia's Constitution of 1991 with Amendments through 2016

This complete constitution has been generated from excerpts of texts from the repository of the Comparative Constitutions Project, and distributed on **constituteproject.org**.

Table of contents

Preamble 11
PART I: SUPREMACY OF CONSTITUTION 11
Article 1: Supremacy of Constitution 11
Article 2: Defence of Constitution 11
Article 3: Continuous effect of Constitution 12
Article 4: Republic of Zambia 12
Article 5: Sovereign authority 12
Article 6: National symbols 12
Article 7: Laws of Zambia 12
PART II: NATIONAL VALUES, PRINCIPLES AND ECONOMIC POLICIES 13
Article 8: National values and principles 13
Article 9: Application of national values and principles 13
Article 10: Basis of economic policies 13
PART III: PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL 14
Article 11: Fundamental Rights and Freedoms 14
Article 12: Protection of Right to Life 14
Article 13: Protection of Right to Personal Liberty 15
Article 14: Protection from Slavery and Forced Labour 16
Article 15: Protection from Inhuman Treatment 17
Article 16: Protection from Deprivation of Property 17
Article 17: Protection for Privacy of Home and Other Property 20
Article 18: Provisions to Secure Protection of Law 20
Article 19: Protection of Freedom of Conscience 23
Article 20: Protection of Freedom of Expression 24
Article 21: Protection of Freedom of Assembly and Association 24
Article 22: Protection of Freedom of Movement 25
Article 23: Protection from Discrimination on the Ground of Race, etc 25
Article 24: Protection of Young Persons from Exploitation 27
Article 25: Derogation from Fundamental Rights and Detention 27
Article 26: Provisions Relating to Restriction and Detention 27
Article 27: Reference of Certain Matters to Special Tribunal 28
Article 28: Enforcement of Protective Provisions 30
Article 29: Declaration of War 31
Article 30: Declaration of Public Emergency 31
Article 31: Declaration Relating to Threatened Emergency 31
Article 32: Interpretation and Savings 32

PART IV: CITIZENSHIP 33
Article 33: Existing citizenship 33
Article 34: Categories of citizenship 33
Article 35: Citizenship by birth 33
Article 36: Citizenship by descent 33
Article 37: Citizenship by registration 33
Article 38: Citizenship by adoption 34
Article 39: Dual citizenship 34
Article 40: Renunciation and deprivation of citizenship 34
Article 41: Citizenship Board of Zambia 34
Article 42: Entitlements of citizen 34
Article 43: Responsibilities of citizen 35
Article 44: Reference to citizenship of parent 35
PART V: REPRESENTATION OF THE PEOPLE 36
Article 45: Principles of electoral systems and process 36
Article 46: Franchise 36
Article 47: Electoral systems 36
Article 48: Electoral process 37
Article 49: System for administering elections 37
Article 50: Access to media 37
Article 51: Independent candidates 37
Article 52: Nominations 37
Article 53: Unopposed candidates 38
Article 54: Electoral code of conduct 38
Article 55: Losing candidate not eligible for certain appointments 38
Article 56: Election date for general elections 38
Article 57: By-elections 38
Article 58: Constituencies, wards and delimitation 38
Article 59: Matters to take into account when delimiting constituencies and wards 39
Article 60: Political parties 39
PART VI: LEGISLATURE 41
Article 61: Principles of legislative authority 41
Article 62: Parliament, vesting of legislative authority and Members of Parliament 41
Article 63: Functions of Parliament and National Assembly 41
Article 64: Introduction of Bills in National Assembly 41
Article 65: Money Bills 42
Article 66: Presidential assent and referral 42
Article 67: Statutory instruments 43

Article 68: Election and composition of National Assembly 43
Article 69: Nominated Members of Parliament 44
Article 70: Qualifications and disqualifications of Members of Parliament 44
Article 71: Nominations for election to National Assembly 45
Article 72: Vacation of office as Member of Parliament and dissolution of political party 45
Article 73: Petition of election of Member of Parliament 46
Article 74: Leader of Government Business and Leader of Opposition 46
Article 75: Sittings of National Assembly 47
Article 76: Freedom of speech powers, privilegs and immunities 47
Article 77: Procedure of National Assembly 47
Article 78: Voting in National Assembly 48
Article 79: Alteration of Constitution 48
Article 80: Committees of National Assembly 48
Article 81: Term and prorogation of Parliament 49
Article 82: Speaker and Deputy Speakers of National Assembly 50
Article 83: Removal of Speaker on specified grounds 51
Article 84: Clerk of National Assembly 52
Article 85: Officers of National Assembly 52
Article 86: Presidential address to National Assembly and presidential messages 52
Article 87: Vote of censure 52
Article 88: Right to petition and make comments 53
Article 89: Public access and participation 53
PART VII: EXECUTIVE 53
Article 90: Principles of executive authority 53
Article 91: Presidency and vesting of executive authority 53
Article 92: Executive functions of President 54
Article 93: Confirmation of presidential decisions and instructions 54
Article 94: Approval of appointments and measures by National Assembly 55
Article 95: Ratification of appointments and measures by National Assembly 55
Article 96: Advisory Committee on prerogative of mercy 55
Article 97: Prerogative of mercy 56
Article 98: Protection of President from legal proceedings 56
Article 99: Returning officer for presidential elections 57
Article 100: Qualifications and disqualifications for nomination as presidential candidate 57
Article 101: Election of President 58
Article 102: Disqualification for run-off 59
Article 103: Election petition 60
Article 104: Transition period before assuming office 60

Article 105: Assumption of office 61
Article 106: Tenure of office of President and vacancy 61
Article 107: Removal of President on grounds of incapacity 62
Article 108: Impeachment of President 63
Article 109: Performance of executive functions during absence of President 65
Article 110: Vice-President, election to office and swearing in 65
Article 111: Tenure of office fo Vice-President and vacancy 65
Article 112: Functions of Vice-President 66
Article 113: Cabinet 67
Article 114: Functions of Cabinet 67
Article 115: Proceedings of Cabinet meetings 67
Article 116: Ministers 68
Article 117: Provincial Minister 68
PART VIII: JUDICIARY 69
Article 118: Principles of judicial authority 69
Article 119: Vesting of judicial authority and performance of judicial function 70
Article 120: System of court 70
Article 121: Ranking of Supreme and Constitutional Courts 71
Article 122: Functional independence of Judiciary 71
Article 123: Financial independence of Judiciary 71
Article 124: Establishment and composition of Supreme Court 71
Article 125: Jurisdiction of Supreme Court 71
Article 126: Sittings of Supreme Court 72
Article 127: Establishment and composition of Constitutional Court 72
Article 128: Jurisdiction of Constitutional Court 72
Article 129: Sittings of Constitutional Court 73
Article 130: Establishment and composition of Court of Appeal 73
Article 131: Jurisdiction of Court of Appeal 73
Article 132: Sittings of Court of Appeal 74
Article 133: Establishment and composition of High Court 74
Article 134: Jurisdiction of High Court 74
Article 135: Sittings of High Court 74
Article 136: Chief Justice 74
Article 137: Deputy Chief Justice 75
Article 138: President of Constitutional Court 75
Article 139: Deputy of President of Constitutional Court 75
Article 140: Appointment of judges 76
Article 141: Qualification for appointment as judge 76

Article 142: Tenure of office of judge 76
Article 143: Removal of judge from office 77
Article 144: Procedure for removal of judge 77
Article 145: Appointment and retirement of judicial officers 78
Article 146: Chief Administrator of Judiciary 78
PART IX: GENERAL PRINCIPLES OF DEVOLVED GOVERNANCE 79
Article 147: System of devolved governance 79
Article 148: Sub-structures of local government 79
PART X: PROVINCES, DISTRICTS, WARDS AND PROVINCIAL ADMINISTRATION 79
Article 149: Provinces, districts and wards 79
Article 150: Provincial administration 80
PART XI: LOCAL GOVERNMENT 80
Article 151: System of local government 80
Article 152: Local authorities 81
Article 153: Election of councillors, composition of councils and tenure 82
Article 154: Mayor, deputy mayor, council chairperson and deputy council chairperson 82
Article 155: Conduct of councillor 83
Article 156: Accountability of councillors 83
Article 157: Vacation of office of councillor and vacancies 83
Article 158: By-election for council 83
Article 159: Local government elections tribunals and petitions 84
Article 160: Enforcement of judgment against local authority 84
Article 161: Revenue of local authorities 84
Article 162: Constituency Development Fund 84
Article 163: Local Government Equalisation Fund and funds for local authorities 85
Article 164: Legislation on local authorities 85
PART XII: CHIEFTAINCY AND HOUSE OF CHIEFS 85
Article 165: Institution of chieftaincy and traditional institutions 85
Article 166: Status of institution of chieftaincy 86
Article 167: Rights and privileges of chiefs 86
Article 168: Participation of chiefs in public affairs 86
Article 169: House of Chiefs and function 86
Article 170: Tenure of office and vacancy 87
Article 171: Staff of House of Chiefs 87
Article 172: Legislation on House of Chiefs 87
PART XIII: Public Service 88
Article 173: Values and principles of public service 88

Article 174: Constituting offices for public service 89
Article 175: Holding of office in public service 89
Article 176: Secretary to Cabinet 89
Article 177: Attorney-General 90
Article 178: Vacancy in office of Attorney-General 90
Article 179: Solicitor-General 91
Article 180: Director of Public Prosecutions 91
Article 181: Performance of functions of Director of Public Prosecutions during absence, illness or other cause 92
Article 182: Tenure of office of Director of Public Prosecutions 92
Article 183: Secretary to Treasury 92
Article 184: Permanent Secretaries 93
Article 185: Appointment of public officers 94
Article 186: Participation in politics 94
PART XIV: PENSION BENEFIT 94
Article 187: Pension benefit 94
Article 188: Review of pension benefit and tax exemption 94
Article 189: Payment of pension benefits 95
PART XV: DEFENCE AND NATIONAL SECURITY 95
Article 190: Principles relating to Defence Force and national security services 95
Article 191: Status of Defence Force and national security services 95
Article 192: Establishment of Defence Force and functions 95
Article 193: Establishment of national security services and functions 96
Article 194: Qualification to serve in Defence Force and national security service 97
Article 195: Deployment outside Republic 97
Article 196: Prohibition of activities relating to defence and national security 97
Article 197: Legislation on Defence Force and national security services 97
PART XVI: PUBLIC FINANCE AND BUDGET 98
Article 198: Principles relating to public finance 98
Article 199: Imposition of tax 98
Article 200: Consolidated Fund 99
Article 201: Withdrawal from Consolidated Fund 99
Article 202: Annual financial estimates of revenue and expenditure 99
Article 203: Appropriation Act, Supplementary Appropriation Act and Excess Expenditure Appropriation Act 100
Article 204: Limitation and conditions of warrant 100
Article 205: Budget and planning legislation 100
Article 206: Investment of public funds 101
Article 207: Borrowing and lending by Government 101

Article 208: Public debt ... 101
Article 209: Compensation Fund ... 102
Article 210: Public procurement and disposal of State assets ... 102
Article 211: Financial report of Republic ... 102
Article 212: Auditor-General's report ... 102
PART XVII: CENTRAL BANK ... 103
Article 213: Bank of Zambia(1) There is established the Bank of Zambia which shall be the central bank of the Republic ... 103
Article 214: Governor of Bank of Zambia ... 103
Article 215: Legislation on Bank of Zambia ... 103
PART XVIII: SERVICES, COMMISSIONS AND OTHER INDEPENDENT OFFICES 104
Article 216: Principles relating to commissions ... 104
Article 217: Parliamentary Service ... 104
Article 218: Parliamentary Service Commission ... 104
Article 219: Judicial Service ... 105
Article 220: Judicial Service Commission ... 105
Article 221: Civil Service ... 105
Article 222: Civil Service Commission ... 105
Article 223: Teaching Service ... 106
Article 224: Teaching Service Commission ... 106
Article 225: Zambia Correctional Service Commission ... 106
Article 226: Zambia Police Service Commission ... 107
Article 227: Local Government Service ... 107
Article 228: Local Government Service Commission ... 107
Electoral Commission of Zambia: Electoral Commission of Zambia ... 108
Article 229: Electoral Commission of Zambia ... 108
Article 230: Human Rights Commission ... 108
Article 231: Gender Equity and Equality Commission ... 109
Article 232: Emoluments Commission ... 109
Article 233: Lands Commission ... 109
Article 234: State Audit Commission ... 109
Article 235: Investigative Commissions ... 110
Article 236: Judicial Complaints Commission ... 110
Article 237: Police Public Complaints Commission ... 110
Article 238: Financial independence of commissions ... 111
Article 239: Expenses of commissions ... 111
Article 240: Qualifications of members of commissions ... 111
Article 241: General powers of commissions ... 112
Article 242: Legislation on commissions ... 112

Article 243: Public Protector . . . 112
Article 244: Functions of Public Protector . . . 112
Article 245: Limitation of powers of Public Protector . . . 113
Article 246: Performance of functions of Public Protector during absence, illness or other cause . . . 114
Article 247: Tenure of office of Public Protector . . . 114
Article 248: Report to National Assembly . . . 114
Article 249: Auditor-General . . . 114
Article 250: Functions of Auditor-General . . . 115
Article 252: Tenure of office of Auditor-General . . . 115
PART XIX: LAND, ENVIRONMENT AND NATURAL RESOURCES . . . 116
Article 253: Principles of land policy . . . 116
Article 254: Classification and alientation of land and land tenure . . . 116
Article 255: Principles of environmental and natural resources management and development 117
Article 256: Protection of environment and natural resources . . . 118
Article 257: Utilisation of natural resources and management of environment . . . 118
PART XX: GENERAL PROVISIONS . . . 118
Article 258: Official language and use and satus of local languages . . . 118
Article 259: Nominations and appointments . . . 119
Article 260: Oath of office and prescribed oaths . . . 119
Article 261: Code of conduct and ethics . . . 119
Article 262: Conflict of interest . . . 119
Article 263: Declaration of assets . . . 119
Article 264: Emoluments payable under Constitution . . . 119
Article 265: Funding, expenses and emoluments charge on Consolidated Fund . . . 120
Article 266: Definitions . . . 120
Article 267: Interpretation of Constitution . . . 125
Article 268: Grammatical variation . . . 125
Article 269: Computation of time . . . 126
Article 270: Power to appoint includes power to remove . . . 126
Article 271: Implied power . . . 126
Article 272: Legislation to give effect to Constitution . . . 126
Article 273: Power to make statutory instrument, resolutio nor direction . . . 127
Article 274: Time for performance of function . . . 127
Article 275: Exercise of power between publication and commencement of Acts . . . 127
ANNEX: FUNCTIONS OF NATIONAL, PROVINCIAL AND LOCAL LEVELS OF DEVOLVED GOVERNMENT (Article 147(2)) . . . 127
A. Exclusive national functions . . . 127
B. Concurrent national and provincial functions . . . 128

C. Local Authorities exclusive functions 129

Preamble

• Source of constitutional authority
• Motives for writing constitution
• Preamble

WE, THE PEOPLE OF ZAMBIA:

• God or other deities

ACKNOWLEDGE the supremacy of God Almighty;

• Official religion

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;

• Reference to country's history

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:

PART I: SUPREMACY OF CONSTITUTION

Article 1: Supremacy of Constitution

• Constitutionality of legislation

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.

• Duty to obey the constitution

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 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 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 4: Republic of Zambia

• Type of government envisioned

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.

• International organizations

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

Article 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.

• Referenda

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

Article 6: National symbols

1. The national symbols of the Republic are the—

• National flag

a. National Flag;

• National anthem

b. National Anthem;

c. Coat of Arms;

d. Public Seal; and

• National motto

e. National Motto.

• National anthem
• National flag
• National motto

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

Article 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.

PART II: NATIONAL VALUES, PRINCIPLES AND ECONOMIC POLICIES

Article 8: National values and principles

The national values and principles are—

a. morality and ethics;

b. patriotism and national unity;

c. democracy and constitutionalism;

• Human dignity

d. human dignity, equity, social justice, equality and non-discrimination;

e. good governance and integrity; and

f. sustainable development.

Article 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.

• Legislative oversight of the executive

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 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.

• International law

4. The Government shall not compulsorily acquire an investment, except under customary international law and subject to Article 16 (1).
5. Where the investment compulsorily acquired under clause (4) was made from the proceeds of crime no compensation shall be paid by the Government.

PART III: PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Article 11: Fundamental Rights and Freedoms

• Equality regardless of gender
• Equality regardless of skin color
• Equality regardless of creed or belief
• Equality regardless of political party
• Equality regardless of origin
• Equality regardless of race

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:

• Right to life

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

• Freedom of assembly
• Freedom of association
• Freedom of expression
• Freedom of movement
• Freedom of opinion/thought/conscience

b. freedom of conscience, expression, assembly, movement and association;

• Rights of children

c. protection of young persons from exploitation;

• Protection from expropriation
• Right to privacy

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 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.

Article 12: Protection of Right to Life

• Right to life

1. No person shall 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. No person shall 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;

   d. in order to prevent the commission by that person of a criminal offence.

Article 13: Protection of Right to Personal Liberty

1. No person shall 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 or 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 fulfilment 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 eighteen 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 this care or treatment or the protection of the community;

• Power to deport citizens
• Extradition procedure
• Restrictions on entry or exit

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 from Zambia or for the purpose of restricting 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.

• Trial in native language of accused

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.

• Protection from unjustified restraint
• Right to pre-trial release

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.

• Protection from false imprisonment

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

• Prohibition of slavery

Article 14: Protection from Slavery and Forced Labour

1. No person shall be held in slavery or servitude.
2. No person shall 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;

• Right to conscientious objection

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;

• Emergency provisions

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 obligation.

• Prohibition of cruel treatment
• Prohibition of torture

Article 15: Protection from Inhuman Treatment

No person shall be subjected to torture, or to inhuman or degrading punishment or other like treatment.

• Protection from expropriation

Article 16: Protection from Deprivation of Property

1. Except as provided in this Article, no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall 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 thereover—

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 judgements 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 a 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 eighteen 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;

• Protection of environment

m. by reason of the property in question being in 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;

• Ownership of natural resources

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 of 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 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 the land, the carrying out thereon—

• Protection of environment

i. of work for the purpose of the conservation of natural resources or 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;

• Ownership of natural resources

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. in 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 of 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 right enjoyed by Chiefs and persons claiming through and 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 subdivision, 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.

• Regulation of evidence collection
• Right to privacy

Article 17: Protection for Privacy of Home and Other Property

1. Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.
2. Nothing contained in or done under the authority of any law shall be held to be 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 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 that Government, authority, or body corporate, as the case may be; or

d. that authorises, for the purpose of enforcing the judgement 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 justified in a democratic society.

Article 18: Provisions to Secure Protection of Law

• Right to fair trial
• Judicial independence
• Right to speedy trial

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—

• Presumption of innocence in trials

a. shall be presumed to be innocent until he is proved or has pleaded guilty;

• Trial in native language of accused

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;

• Right to counsel

c. shall be given adequate time and facilities for the preparation of his defence;

• Right to counsel

d. shall unless legal aid is granted 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;

• Right to examine evidence/witnesses

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

• Trial in native language of accused

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

• Protection from ex post facto laws
• Principle of no punishment without law

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

• Prohibition of double jeopardy

5. No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

• Prohibition of double jeopardy

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

• Protection from self-incrimination

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

• Principle of no punishment without law

8. No person shall 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 written law and the penalty therefore is not so prescribed.

9. Any court or other adjudicating authority prescribed by law for the 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.

• Right to public trial

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 interest 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 eighteen 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 (c) 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 a 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 (2) and clause (3) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in detention.
14. In its application to a body corporate clause (2) shall have effect as if the 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.

Article 19: Protection of Freedom of Conscience

• Freedom of religion
• Freedom of opinion/thought/conscience

1. Except with his own consent, no person shall 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, no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.
3. No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by the community or denomination or from establishing and maintaining institutions to provide social services for such persons.
4. No person shall 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 justified in a democratic society.

• Freedom of expression
• Freedom of press

Article 20: Protection of Freedom of Expression

1. Except with his own consent, no person shall 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 no law shall 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

• Right to protect one's reputation
• Radio
• Telecommunications
• Television

   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 disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating educational institutions in the interests of persons receiving instruction therein, or the registration of, or regulating the technical administration or the technical operation of, newspapers and other publications, telephony, telegraphy, posts, wireless broadcasting or television; or

   c. that imposes restrictions on public officers;

   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.

• Freedom of assembly
• Freedom of association
• Right to join trade unions
• Right to form political parties

Article 21: Protection of Freedom of Assembly and Association

1. Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of his interests.
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 or public health;

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

   c. that imposes restrictions upon public officers; or

d. for the registration of political parties or trade unions in a register established by or under a law and for imposing reasonable conditions relating to the procedure for entry on such register including conditions as to the minimum number of persons necessary to constitute a trade union qualified for registration;

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.

- Freedom of movement

Article 22: Protection of Freedom of Movement

1. Subject to the other provision of this Article and except in accordance with any other written law, no citizen shall be deprived of his freedom of movement, and for the purposes of this Article freedom of movement means—

   a. the right to move freely throughout Zambia;

   b. the right to reside in any part of Zambia; and

   c. the right to leave Zambia and to return to Zambia.

- Restrictions on entry or exit

2. Any restrictions on a person's freedom of movement that relates to his lawful detention shall not be held to be inconsistent with or in contravention of this Article.
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. for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or public health or the imposition or restrictions on the acquisition or use by any person of land or other property in Zambia, and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not be reasonably justifiable in a democratic society;

   b. for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Zambia;

   c. for the imposition of restrictions upon the movement or residence within Zambia of public officers; or

- Extradition procedure

   d. for the removal of a person from Zambia to be tried outside Zambia for a criminal offence or to undergo imprisonment in some other country 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.

- General guarantee of equality
- Equality regardless of gender
- Equality regardless of skin color
- Equality regardless of creed or belief
- Equality regardless of tribe or clan
- Equality regardless of political party
- Equality regardless of origin
- Equality regardless of race

Article 23: Protection from Discrimination on the Ground of Race, etc

1. Subject to clauses (4), (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

2. Subject to clauses (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.
3. In this Article the expression "discriminatory" mean, affording different treatment to different persons attributable, wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinions colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.
4. Clause (1) shall not apply to any law so far as that law makes provision—

    a. for the appropriation of the general revenues of the Republic;

    b. with respect to persons who are not citizens of Zambia;

    c. with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;

    d. for the application in the case of members of a particular race or tribe, of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or

    e. whereby persons of any such description as is mentioned in clause (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.
5. Nothing contained in any law shall be held to be inconsistent with or in contravention of clause (1) to the extent that it is shown that it makes reasonable provision with respect to qualifications for service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established directly by any law.
6. Clause (2) shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision or law as is referred to in clause (4) or (5).
7. No thing 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 whereby persons of any such description as is mentioned in clause (3) may be subjected to any restriction on the rights and freedoms guaranteed by Articles 17, 19, 20, 21 and 22, being such a restriction as is authorised by clause (2) of Article 17, clause (5) of Article 19, clause (2) of Article 20, clause (2) of Article 21 or clause (3) of Article 22, as the case may be.
8. Nothing in clause (2) shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

• Rights of children

• Limits on employment of children

Article 24: Protection of Young Persons from Exploitation

1. No young person shall be employed and shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental or moral development:

   Provided that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions.
2. All young persons shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.
3. No young person shall be the subject of traffic in any form.
4. In this Article "young person" means any person under the age of fifteen years.

• Emergency provisions

Article 25: Derogation from Fundamental Rights and Detention

Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Articles 13, 16, 17, 19, 20, 21, 22, 23, or 24 to the extent that it is shown that the law in question authorises the taking, during any period when the Republic is at war or when a declaration under Article 30 is in force, of measures for the purpose of dealing with any situation existing or arising during that period; and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions if it is shown that the measures taken were, having due regard to the circumstances prevailing at the time, reasonably required for the purpose of dealing with the situation in question.

Article 26: Provisions Relating to Restriction and Detention

1. Where a person's freedom of movement is restricted, or he is detained, under the authority of any such law as is referred to in Article 22 or 25, as the case may be, the following provisions shall apply—

   a. he shall, as soon as reasonably practicable and in any case not more than fourteen days after the commencement of his detention or restriction, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is restricted or detained;

• Prison registry

   b. not more than fourteen days after the commencement of his restriction or detention a notification shall be published in the Gazette stating that he has been restricted or detained and giving particulars of the place of detention and the provision of law under which his restriction or detention is authorised;

   c. if he so requests at any time during the period of such restriction or detention not earlier than three months after the commencement thereof or after he last made such a request during that period, as the case may be, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person, appointed by the Chief Justice, who is or is qualified to be a judge of the High Court;

d. he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the authority by which the restriction or detention was ordered or to any tribunal established for the review of his case; and

e. at the hearing of his case by such tribunal he shall be permitted to appear in person or by a legal representative of his own choice.

2. On any review by a tribunal under this Article, the tribunal shall advise the authority by which it was ordered on the necessity or expediency of continuing his restriction or detention and that authority shall be obliged to act in accordance with any such advice.
3. The President may at any time refer to the tribunal the case of any person who has been or is being restricted or detained pursuant to any restriction or detention order.
4. Nothing contained in paragraph (d) or (e) of clause (1) shall be construed as entitling a person to legal representation at public expense.
5. Parliament may make or provide for the making of rules to regulate the proceedings of any such tribunal including but without derogating from the generality of the foregoing, rules as to evidence and the admissibility thereof, the receipt of evidence including written reports in the absence of the restricted or detained person and his legal representative, and the exclusion of the public from the whole or any portion of the proceedings.
6. Clauses (11) and (12) or Article 18 shall be read and construed subject to the provisions of this Article.

• Constitutionality of legislation

Article 27: Reference of Certain Matters to Special Tribunal

1. Whenever—

a. a request is made in accordance with clause (2) for a report on a bill or statutory instrument; or

b. the Chief Justice considers it necessary for the purpose of determining claims for legal aid in respect of proceedings under Article 30 or 31;

the Chief Justice shall appoint a tribunal which shall consist of two persons selected by him from amongst persons who hold or have held the office of a judge of the Supreme Court or the High Court.

2. A request for a report on a bill or a statutory instrument may be made by not less than thirty members of the National Assembly by notice in writing delivered—

a. in the case of a bill, to the Speaker within three days after the final reading of the bill in the Assembly.

b. in the case of a statutory instrument, to the authority having power to make the instrument within fourteen days of the publication of the instrument in the Gazette.

3. Where a tribunal is appointed under this Article for the purpose of reporting on a bill or a statutory instrument, the tribunal shall, within the prescribed period, submit a report to the President and to the Speaker of the National Assembly stating—

   a. in the case of a bill, whether or not in the opinion of the tribunal any, and if so which, provisions of the bill are inconsistent with this Constitution;

   b. in the case of a statutory instrument, whether or not in the opinion of the tribunal any, and if so which, provisions of the instrument are inconsistent with this Constitution;

   and, if the tribunal reports that any provision would be or is inconsistent with this Constitution, the grounds upon which the tribunal has reached that conclusion.

   Provided that if the tribunal considers that the request for a report on a bill or statutory instrument is merely frivolous or vexatious, it may so report to the President without entering further upon the question whether the bill or statutory instrument would be or is inconsistent with this Constitution.

4. In determining any claim for legal aid as referred to in clause (2), the tribunal may grant to any person who satisfies it that—

   a. he intends to bring or is an applicant in proceedings under clause (1) or (4) of Article 28;

   b. he has reasonable grounds for bringing the application; and

   c. he cannot afford to pay for the cost of the application;

   a certificate that the application is a proper case to be determined at public expenses:

   Provided that paragraph (c) shall not apply in any case where the application relates to the validity or a provision of law in respect of which the tribunal has reported that it would be or is inconsistent with this Constitution or where it appears to the tribunal that issues are or will be raised in the application which are of general importance.

5. Where a certificate is granted to any person by the tribunal in pursuance of clause (4), there shall be paid to that person out of the general revenues of the Republic such amount as the tribunal, when hearing the application, may assess as the costs incurred by that person in connection with the application; and the sums required for making such payment shall be a charge on the general revenue of the Republic.

6. For the purposes of clause (5)—

   a. the costs incurred in an application shall include the cost of obtaining the advice of a legal representative and, if necessary, the cost of representation by a legal representative in any court in steps preliminary or incidental to the application;

   b. in assessing the costs reasonably incurred by a person in an application regard shall be had to costs awarded against that person or recovered by him in those proceedings.

7. In this Article, "prescribed period" means—

   a. in relation to a bill, the period commencing from the appointment of the tribunal to report upon the bill and ending thirty days thereafter or if the Speaker, on the application of the tribunal considers that owing to the length or complexity of the bill thirty days is insufficient for consideration of the bill, ending on such later day as the Speaker may determine;

   b. in relation to a statutory instrument, the period of forty days commencing with the day on which the instrument is published in the Gazette.

8. Nothing in clause (1), (2) or (3) shall apply to a bill for the appropriation of the general revenues of the Republic or a bill containing only proposals for expressly altering this Constitution or the Constitution of Zambia Act, 1991.

• Protection from false imprisonment
• Ultra-vires administrative actions

Article 28: Enforcement of Protective Provisions

1. Subject to clause (5), if any person alleges that any of the provisions of Articles 11 to 26 inclusive has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the High Court which shall—

   a. hear and determine any such application;

   b. determine any question arising in the case of any person which is referred to it in pursuance of clause (2);

   and which may, make such order, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of Articles 11 to 26 inclusive.

2.

   a. If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of Articles 11 to 26 inclusive, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion the raising of the question is merely frivolous or vexatious.

• Right to appeal judicial decisions

   b. Any person aggrieved by any determination of the High Court under this Article may appeal therefrom to the Supreme Court:

   Provided that no appeal shall lie from a determination of the High Court under this Article dismissing an application on the ground that it is frivolous and vexatious.

3. No application shall be brought under clause (1) on the grounds that the provisions of Articles 11 to 26 (inclusive) are likely to be contravened by reason of proposals contained in any bill which, at the date of the application, has not become a law.

4. Parliament may confer upon the Supreme Court or High Court such jurisdiction or powers in addition to those conferred by this Article as may appear to be necessary or desirable of the purpose of enabling that Court more effectively to exercise the jurisdiction conferred upon it by this Article or of enabling any application for redress to be more speedily determined.

• Power to declare/approve war

Article 29: Declaration of War

1. The President may, in consultation with Cabinet, at any time, by Proclamation published in the Gazette declare war.
2. A declaration made under clause (1) shall continue in force until the cessation of hostilities.
3. An Act of Parliament shall provide for the conditions and circumstances under which a declaration may be made under clause (1).

• Emergency provisions

Article 30: Declaration of Public Emergency

1. The President may, in consultation with Cabinet, at any time, by Proclamation published in the Gazette declare that a State of public emergency exists.
2. A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker.
3. In reckoning any period of seven days for the purposes of clause (2) no account shall be taken of any time during which Parliament is dissolved.
4. A declaration made under clause (1) may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette.
5. Subject to clause (6) a resolution of the National Assembly under clause (2) will continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked at such earlier date of its being so approved or until such earlier date as may be specified in the resolution.

   Provided that the National Assembly may, by majority of all the members thereof, not counting the Speaker extend the approval of the declaration for periods of not more than three months at a time.
6. The National Assembly may, by resolution, at any time revoke a resolution made by it under this Article.
7. Whenever an election to the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days commencing with that day.
8. The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.

• Emergency provisions

Article 31: Declaration Relating to Threatened Emergency

1. The President may at any time by the Proclamation published in the Gazette declare that a situation exists which, if it is allowed to continue may lead to a state of public emergency.
2. A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker.
3. In reckoning any period of seven days for the purpose of clause (2) no account shall be taken of any time during which Parliament is dissolved.

4. A declaration made under clause (1), may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette.
5. Subject to clause (6) a resolution of the National Assembly under clause (2) shall continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked on an earlier date of its being so approved or until such earlier date as may be specified in the resolution.
6. The National Assembly may by resolution, at any time revoke a resolution made by it under this Article.
7. Whenever an election to the office of President results in a change in the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office, shall cease to have effect on the expiration of seven days commencing with that day.
8. The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.

Article 32: Interpretation and Savings

1. In this Part, unless the context otherwise requires—

    - "contravention", in relation to any requirement, includes a failure to comply with that requirement and cognate expressions shall be construed accordingly;

    - "court" means any court of law having jurisdiction in Zambia, other than a court established by a disciplinary law, and in Articles 12 and 14 includes a court established by a disciplinary law;

    - "disciplinary law" means a law regulating the disciplined force;

    - "disciplined force" means—

        a. a naval, military or air force;

        b. the Zambia Police Force; or

        c. any other force established by or under an Act of Parliament;

    - "legal representative" means a person entitled to practise in Zambia as an advocate;

    - "member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force is subject to that discipline.

2. In relation to any person who is a member of a disciplined force raised under the law of Zambia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Part other than Articles 12, 14, and 15.

3. In relation to any person who is a member of a disciplinary force raised otherwise than as aforesaid and lawfully present in Zambia, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this part.

PART IV: CITIZENSHIP

• Requirements for birthright citizenship

Article 33: Existing citizenship

A person who was a citizen of Zambia, immediately before the commencement of this Constitution, shall continue to be a citizen of Zambia and shall retain the same citizenship category from the date the citizenship was acquired.

Article 34: Categories of citizenship

Citizenship may be acquired by birth, descent, registration or adoption in accordance with this Part.

• Requirements for birthright citizenship

Article 35: Citizenship by birth

1. A person born in Zambia is a citizen by birth if, at the date of that person's birth, at least one parent of that person is or was a citizen.
2. A child found in Zambia who is, or appears to be, of not more than eight years of age and whose nationality and parents are not known, shall be presumed to be a citizen by birth.
3. For the purposes of this Part, a person born aboard—

    a. a registered ship or aircraft of a country, shall be deemed to have been born in the country of registration of the ship or aircraft; or

    b. an unregistered ship or aircraft of a country, shall be deemed to have been born in that country.

• Requirements for birthright citizenship

Article 36: Citizenship by descent

A person born outside Zambia is a citizen by descent if, at the date of that person's birth, at least one parent of that person is or was a citizen by birth or descent.

• Requirements for naturalization

Article 37: Citizenship by registration

1. Subject to clause (2), a person is entitled to apply to the Citizenship Board of Zambia to be registered as a citizen if that person has attained the age of eighteen years and—

    a. was born in Zambia and has been ordinarily resident in Zambia for a period of at least five years;

    b. was born outside Zambia, has or had an ancestor who is, or was, a citizen and has been ordinarily resident in Zambia for a period of at least five years; or

c. has been ordinarily resident in Zambia for a continuous period of at least ten years;

immediately preceding that person's application for registration, as prescribed.

2. Notwithstanding clause (1), a person who is, or was married to a citizen, for a period of at least five years, is entitled to apply to the Citizenship Board of Zambia, to be registered as a citizen, as prescribed.

• Requirements for birthright citizenship

Article 38: Citizenship by adoption

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

Article 39: Dual citizenship

1. A citizen shall not lose citizenship by acquiring the citizenship of another country.
2. A citizen who ceased to be a citizen, before the commencement of this Constitution as a result of acquiring the citizenship of another country, shall be entitled to apply, as prescribed, to the Citizenship Board of Zambia, for citizenship and the Citizenship Board of Zambia shall bestow citizenship on that person.

Article 40: Renunciation and deprivation of citizenship

1. A citizen—

• Right to renounce citizenship

a. may renounce citizenship as prescribed; or

• Conditions for revoking citizenship

b. shall be deprived of citizenship if that citizenship was acquired by means of fraud, false representation or concealment of a material fact.

2. The process and procedures to be followed by the Citizenship Board of Zambia when granting or depriving a person of citizenship shall be prescribed.

Article 41: Citizenship Board of Zambia

1. There is established the Citizenship Board of Zambia.
2. The composition, appointment and tenure of office of members of, and procedures to be followed by, the Citizenship Board of Zambia shall be prescribed.

Article 42: Entitlements of citizen

A citizen is entitled to—

a. the rights, privileges and benefits of citizenship as provided in this Constitution or as prescribed; and

b. a document of identification issued by the State to citizens.

Article 43: Responsibilities of citizen

1. A citizen shall —

   a. be patriotic to Zambia and promote its development and good image;

• Duty to pay taxes

   b. pay taxes and duties lawfully due and owing to the State;

• Protection of environment

   c. protect and conserve the environment and utilise natural resources in a sustainable manner;

• Protection of environment

   d. maintain a clean and healthy environment;

• Duty to serve in the military

   e. provide national, defence and military service when called upon by the State; and

   f. co-operate with law enforcement agencies for the maintenance and enforcement of law and order.

2. A citizen shall endeavour to—

   a. acquire basic understanding of this Constitution and promote its ideals and objectives;

• Referenda

   b. register and vote, if eligible, in national and local government elections and referenda;

   c. develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;

   d. foster national unity and live in harmony with others; and

   e. understand and enhance Zambia's place in the international community.

Article 44: Reference to citizenship of parent

A reference in this Part to the citizenship of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of that person's parent, be construed as a reference to the citizenship of the parent at the time of the parent's death.

PART V: REPRESENTATION OF THE PEOPLE

Electoral Systems and Process

Article 45: Principles of electoral systems and process

• Head of state selection
• First chamber selection

1. The electoral systems provided for in Article 47 for the election of President, Member of Parliament or councillor shall ensure—

   a. that citizens are free to exercise their political rights;

• Claim of universal suffrage

   b. universal adult suffrage based on the equality of a vote;

   c. fair representation of the various interest groups in society; and

• First chamber representation quotas

   d. gender equity in the National Assembly or council.

2. The electoral process and system of administering elections shall ensure—

   a. that elections are free and fair;

   b. that elections are free from violence, intimidation and corruption;

   c. independence, accountability, efficiency and transparency of the electoral process;

   d. a simple and practical system of voting and tabulating votes; and

   e. timely resolution of electoral disputes.

Article 46: Franchise

• Secret ballot
• Restrictions on voting

A citizen who has attained the age of eighteen years is entitled to be registered as a voter and vote in an election by secret ballot.

Article 47: Electoral systems

• Head of state selection

1. Elections to the office of President shall be conducted directly, under a majoritarian electoral system, where the winning candidate must receive more than fifty percent of the valid votes cast, and in accordance with Article 101.

• First chamber selection

2. Elections to the National Assembly shall be conducted under a first-past-the-post electoral system in accordance with Article 68.

• Municipal government

3. Elections to councils shall be conducted under a first-past-the-post electoral system, and in accordance with Articles 153 and 154.

• First chamber selection
• Municipal government

4. A constituency and a ward shall return only one member to the National Assembly and council, respectively.

Article 48: Electoral process

The electoral process for electing a President, Member of parliament or councillor shall be prescribed.

Article 49: System for administering elections

The system for administering elections shall be prescribed

Article 50: Access to media

A political party and a candidate contesting an election shall have access to the media, especially during election campaigns.

• Eligibility for first chamber

Article 51: Independent candidates

A person is eligible for election as an independent candidate for a National Assembly seat if the person—

a. is not a member of a political party and has not been a member of a political party for at least two months immediately before the date of the election; and

b. meets the qualifications specified in Article 70 for election as a Member of Parliament.

Article 52: Nominations

1. A candidate shall file that candidate's nomination paper to a returning officer, supported by an affidavit stating that the candidate is qualified for nomination as President, Member of Parliament or councillor, in the manner, on the day, and at the time and place set by the Electoral Commission by regulation.
2. A returning officer shall, immediately on the filing of a nomination paper, in accordance with clause (1), duly reject the nomination paper if the candidate does not meet the qualifications or procedural requirements specified for election to that office.
3. The information contained in a nomination paper and affidavit shall be published by the Electoral Commission, as prescribed.
4. A person may challenge, before a court or tribunal, as prescribed, the nomination of a candidate within seven days of the close of nomination and the court shall hear the case within twenty-one days of its lodgement.
5. The processes specified in clauses (1) to (4) shall be completed at least thirty days before a general election.
6. Where a candidate dies, resigns or becomes disqualified in accordance with Article 70, 100 or 153 or a court disqualifies a candidate for corruption or malpractice, after the close of nominations and before the election date, the Electoral Commission shall cancel the election and require the filing of fresh nominations by eligible candidates and elections shall be held within thirty days of the filing of the fresh nominations.

• Head of state selection
• First chamber selection

Article 53: Unopposed candidates

1. Where only one candidate is nominated for election as President, Member of Parliament or councillor, by the date and time set by the Electoral Commission for receiving nominations and at the close of the nomination period, that candidate shall be declared duly elected.
2. A person may, within seven days of a declaration made in accordance with clause (1), challenge the declaration, as prescribed.
3. The processes specified in clauses (1) and (2) shall be completed at least thirty days before a general election.

Article 54: Electoral code of conduct

A candidate and a political party shall comply with a prescribed electoral code of conduct.

Article 55: Losing candidate not eligible for certain appointments

A candidate who loses an election as a President, Vice-President, Member of Parliament or councillor is not eligible, during the term of that National Assembly or council, for appointment as—

a. Minister; or

b. Provincial Minister.

• Scheduling of elections

Article 56: Election date for general elections

1. A general election shall be held, every five years after the last general election, on the second Thursday of August.
2. The day on which a general election is held shall be a public holiday.

• Replacement of legislators

Article 57: By-elections

1. Where a vacancy occurs in the office of Member of Parliament, mayor, council chairperson or councillor, a by-election shall be held within ninety days of the occurrence of the vacancy.
2. A by-election shall not be held within the one hundred-and-eighty day period that precedes a general election.
3. The Electoral Commission shall, by regulation, set the place where, and the date and time when, a by-election is to be held.

Constituencies Wards and Delimitation

• Electoral districts

Article 58: Constituencies, wards and delimitation

1. Zambia shall be divided into constituencies and wards for purposes of elections to the National Assembly and councils, respectively.
2. The number of constituencies shall be equal to the number of seats of elected members in the National Assembly.
3. The number of wards in a district shall be prescribed.

4. The Electoral Commission shall determine the names and boundaries of constituencies and wards.
5. The Electoral Commission shall, at intervals of not more than ten years, review the names and boundaries of constituencies and wards.
6. The names and details of the boundaries of constituencies and wards shall be published in the Gazette and shall come into effect on the next dissolution of Parliament or councils.
7. A person may apply to the Constitutional Court for review of a decision of the Electoral Commission made under this Article.

Article 59: Matters to take into account when delimiting constituencies and wards

The Electoral Commission shall, in delimiting the boundaries of constituencies and wards—

a. take into account the history, diversity and cohesiveness of the constituency or ward;

b. have regard to population density, trends and projections;

c. ensure that the number of inhabitants in each constituency or ward is reasonable, taking into account the means of communication and geographical features;

d. ensure that constituencies and wards are wholly within districts; and

e. seek to achieve an approximate equality of constituency and ward population, subject to the need to ensure adequate representation for urban and sparsely populated areas.

Political Parties

Article 60: Political parties

1. A political party has the right to—

a. disseminate information on social and economic programmes of a national character and of its political ideology;

b. sponsor candidates for election or nomination to a State office in respect of which elections are required to be held; and

c. conduct primary elections for the selection of candidates.

• Restrictions on political parties

2. A political party shall—

a. promote the values and principles specified in this Constitution;

b. have a national character;

c. promote and uphold national unity;

d. promote and practice democracy through regular, free and fair elections within the party;

e. respect the right of its members to participate in the affairs of the political party;

f. respect the right of its members to seek redress from a court or tribunal when aggrieved by a decision of the political party; and

g. subscribe to and observe the code of conduct for political parties, as prescribed.

• Prohibited political parties
• Restrictions on political parties

3. A political party shall not—

a. be founded on a religious, linguistic, racial, ethnic, tribal, gender, sectoral or provincial basis or engage in propaganda based on any of these factors;

b. engage in or encourage violence or intimidate its members, supporters, opponents or other persons;

c. engage in corrupt practices; and

d. except as prescribed, use public resources to promote its interest or that of its members.

• Campaign financing
• Restrictions on political parties

4. The following shall be prescribed with regard to political parties:

a. the establishment and management of a Political Parties' Fund to provide financial support to political parties with seats in the National Assembly;

b. the accounts of political parties which are funded under the Political Parties' Fund and the submission of audited accounts by political parties;

c. the sources of funds for political parties;

d. the maximum amount of money to be used for campaigns during elections; and

e. matters incidental to matters specified in this clause.

PART VI: LEGISLATURE

Legislative Authority

Article 61: Principles of legislative authority

The legislative authority of the Republic derives from the people of Zambia and shall be exercised in a manner that protects this Constitution and promotes the democratic governance of the Republic.

Article 62: Parliament, vesting of legislative authority and Members of Parliament

• Structure of legislative chamber(s)

1. There is established the Parliament of Zambia which consists of the President and the National Assembly.
2. The legislative authority of the Republic is vested in and exercised by Parliament.
3. A person or body, other than Parliament, shall not have power to enact legislation, except as conferred by this Constitution.
4. A member of the National Assembly shall be referred to as a Member of Parliament.

Article 63: Functions of Parliament and National Assembly

1. Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.
2. The National Assembly shall oversee the performance of executive functions by—

    a. ensuring equity in the distribution of national resources amongst the people of Zambia;

    b. appropriating funds for expenditure by State organs, State institutions, provincial administration, local authorities and other bodies;

    c. scrutinising public expenditure, including defence, constitutional and special expenditure;

    d. approving public debt before it is contracted; and

• International law
• Treaty ratification

    e. approving international agreements and treaties before these are acceded to or ratified.

Article 64: Introduction of Bills in National Assembly

• Initiation of general legislation

1. A Member of Parliament or Minister may introduce a Bill in the National Assembly.
2. The expenses of drafting and introducing a Bill in the National Assembly shall be a charge on the Consolidated Fund.

• Finance bills
• Spending bills
• Tax bills

Article 65: Money Bills

1. A Money Bill shall be introduced by a Minister.
2. A Money Bill means a Bill that provides for, among other matters—

    a. the imposition, repeal, remission, alteration or regulation of taxes;

    b. the imposition of charges on the Consolidated Fund or any other public fund, or the variation or repeal of any of those charges;

    c. the appropriation, receipt, custody, investment, issue or audit of accounts of public monies;

    d. the grant of public money to a person or authority or the variation or revocation of such grant;

    e. the raising or guaranteeing of a loan or the repayment of it; or

    f. matters incidental to matters specified in this clause.
3. A Bill that confers emoluments on State officers or Constitutional office holders shall only be introduced in the National Assembly if the emoluments are recommended by the Emoluments Commission.

• Approval of general legislation

Article 66: Presidential assent and referral

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

    a. assent to the Bill; or

    b. refer the Bill to the National Assembly for reconsideration, indicating any reservation that the President has concerning the Bill.
2. Where the President refers the Bill to the National Assembly for reconsideration, in accordance with clause (1) (b), the National Assembly may—

    a. amend the Bill taking into account the President's reservation; or

• Veto override procedure

    b. pass the Bill, without amendment, by a vote supported by at least two-thirds of the Members of Parliament.
3. Where the National Assembly passes the Bill with amendments, in accordance with clause (2) (a), the Speaker shall submit the Bill to the President for assent.

• Veto override procedure

4. Where the National Assembly passes the Bill, in accordance with clause (2) (b)—

    a. the Speaker shall, within seven days of passing the Bill, resubmit the Bill to the President; and

    b. the President shall, within seven days of receipt of the Bill, assent to the Bill.

5. Where the National Assembly fails to pass the Bill, in accordance with clause (2) (b), the Bill shall not be presented to the National Assembly in that session.
6. Where the President does not assent to a Bill within the periods prescribed in clauses (1) and (4), the Bill shall be considered assented to upon the expiry of those periods.

Article 67: Statutory instruments

1. Article 62 or 63 shall not prevent Parliament from conferring on a person or authority power to make statutory instruments.
2. A statutory instrument shall be published in the Gazette—

    a. not later than twenty-eight days after it is made; or

    b. in the case of a statutory instrument which will not have the force of law unless it is approved by a person or an authority, other than a person or an authority by which it was made, not later than twenty-eight days after it is so approved;

    and if the statutory instrument is not so published, it is void from the date on which it was made.
3. A person may challenge a statutory instrument, for its constitutionality, within fourteen days of the publication of the statutory instrument in the Gazette.
4. Where the Constitutional Court considers that a challenge of a statutory instrument is frivolous or vexatious, the Constitutional Court shall dismiss the action.

• Constitutional court powers
• Constitutional interpretation

5. Where the Constitutional Court decides that a provision of a statutory instrument is inconsistent with a provision of this Constitution, that statutory instrument is void from the date on which it was made.
6. A Member of Parliament who intends to challenge a statutory instrument, on its constitutionality, shall follow the procedure laid down in the Standing Orders of the National Assembly.

Elections to National Assembly and Members of Parliament

• First chamber selection

Article 68: Election and composition of National Assembly

1. A Member of Parliament shall be elected in accordance with Article 47 (2) and this Article.

• Size of first chamber

2. The National Assembly shall consist of—

    a. one hundred and fifty-six members directly elected on the basis of a simple majority vote under the first-past-the-post system;

    b. not more than eight nominated members;

    c. the Vice-President;

    d. the Speaker; and

    e. the First and Second Deputy Speakers.

• First chamber selection

Article 69: Nominated Members of Parliament

1. The President may nominate a person referred to in Article 68 (2) (b) where the President considers it necessary to enhance the representation of special interests, skills or gender in the National Assembly.

• Eligibility for first chamber

2. A person may be nominated as a Member of Parliament if the person qualifies to be elected as such under Article 70.
3. A person who was a candidate for election in the last preceding general election or a subsequent by-election is not eligible to be nominated as a Member of Parliament

• Eligibility for first chamber

Article 70: Qualifications and disqualifications of Members of Parliament

1. Subject to clause (2), a person is eligible to be elected as a Member of Parliament, if that person—

   a. is a citizen;

• Minimum age for first chamber

   b. is at least twenty-one years old;

   c. is a registered voter;

   d. has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent; and

• Earnings disclosure requirement

   e. declares that person's assets and liabilities, as prescribed.

• Outside professions of legislators

2. A person is disqualified from being elected as a Member of Parliament if that person—

   a. is validly nominated as a candidate in a presidential election;

   b. is a public officer or Constitutional office holder;

   c. is a judge or judicial officer;

   d. has a mental or physical disability that would make the person incapable of performing the legislative function;

   e. is an undischarged bankrupt;

   f. is serving a sentence of imprisonment for an offence under a written law;

   g. has, in the immediate preceding five years, served a term of imprisonment of at least three years;

   h. has, in the immediate preceding five years, been removed from public office on grounds of gross misconduct; or

i. holds or is acting in an office, as prescribed, the functions of which involve or are connected with the conduct of elections.

Article 71: Nominations for election to National Assembly

A nomination for election to the National Assembly is valid if the candidate—

a. has paid a prescribed election fee to the Electoral Commission;and

b. is supported by at least fifteen persons registered as voters in the constituency in which the candidate is standing for election.

• Removal of individual legislators

Article 72: Vacation of office as Member of Parliament and dissolution of political party

1. A Member of Parliament shall, except the Speaker and the First Deputy Speaker, vacate the seat in the National Assembly upon a dissolution of Parliament.
2. The office of Member of Parliament becomes vacant if the member—

a. resigns by notice, in writing, to the Speaker;

b. becomes disqualified for election in accordance with Article 70;

c. acts contrary to a prescribed code of conduct;

d. resigns from the political party which sponsored the member for election to the National Assembly;

e. is expelled from the political party which sponsored the member for election to the National Assembly;

f. ceases to be a citizen;

g. having been elected to the National Assembly, as an independent candidate, joins a political party;

• Constitutional court powers

h. is disqualified as a result of a decision of the Constitutional Court; or

i. dies.

3. The office of a nominated Member of Parliament becomes vacant if the member—

a. resigns by notice, in writing, to the speaker;

b. is disqualified under Article 70;

c. acts contrary to a prescribed code of conduct;

d. ceases to be a citizen;

e. dies; or

f. has the member's nomination revoked by the President.

4. A person who causes a vacancy in the National Assembly due to the reasons specified under clause (2) (a), (b), (c), (d), (g) and (h) shall not, during the term of that Parliament—

a. be eligible to contest an election; or

b. hold public office.

5. Where a Member of Parliament is expelled as provided in clause (2)(e), the member shall not lose the seat until the expulsion is confirmed by a court, except that where the member does not challenge the expulsion in court and the period prescribed for challenge lapses, the member shall vacate the seat in the National Assembly.

6. Where a court determines that an expulsion of a member, as provided in clause (2)(e), was not justified, there shall be no by-election for that seat and the member shall opt to—

a. remain a member of the political partyand retain the seat; or

b. resign from the political party and retain the seat as an independent member.

7. Where a court determines that an expulsion of a member, as provided in clause (2)(e), was justified, the member shall vacate the seat in the National Assembly.

• Replacement of legislators

8. Where a vacancy occurs in the National Assembly, the Speaker shall, within seven days of the occurrence of the vacancy, inform the Electoral Commission of the vacancy, in writing, and a by-election shall be held in accordance with Article 57.

9. If a political party is dissolved, a Member of Parliament shall retain the member's seat as an independent member.

Article 73: Petition of election of Member of Parliament

1. A person may file an election petition with the High Court to challenge the election of a Member of Parliament.
2. An election petition shall be heard within ninety days ofthe filing of the petition.
3. A person may appeal against the decision of the High Court to the Constitutional Court.
4. A Member of Parliament whose election is petitioned shall hold the seat in the National Assembly pending the determination of the election petition.

Article 74: Leader of Government Business and Leader of Opposition

1. The President shall appoint the Vice-President to be the Leader of Government Business in the National Assembly.

2. The opposition political party with the largest number of seats in the National Assembly shall elect a Leader of the Opposition from amongst the Members of Parliament who are from the opposition.

Proceedings of National Assembly

Article 75: Sittings of National Assembly

1. The Speaker shall, within thirty days after a general election, by notice in the Gazette, appoint a date for the first sitting of the National Assembly for that term.
2. There shall be at least three sittings of the National Assembly in a session of Parliament which shall be held at such times and on such days as the Speaker appoints.

• Extraordinary legislative sessions

3. Notwithstanding clause (2), the President, or two-thirds of the Members of Parliament, may, in writing, request the Speaker to summon a sitting of the National Assembly, as prescribed.

• Immunity of legislators

Article 76: Freedom of speech powers, privilegs and immunities

1. A Member of Parliament has freedom of speech and debate in the National Assembly and that freedom shall not be ousted or questioned in a court or tribunal.
2. A Member of Parliament shall have the powers, privileges and immunities, as prescribed.

Article 77: Procedure of National Assembly

1. Subject to this Article and Article 78, the National Assembly shall regulate its own procedure and make Standing Orders for the conduct of its business.
2. The proceedings of the National Assembly shall not be invalid due to—

    a. a vacancy in its membership; or

    b. the presence or participation of a person not entitled to be present at, or to participate in, the proceedings of the National Assembly.

• Leader of first chamber

3. There shall preside at a sitting of the National Assembly—

    a. the Speaker;

    b. in the absence of the Speaker, the First Deputy Speaker;

    c. in the absence of the First Deputy Speaker, the Second Deputy Speaker; or

    d. in the absence of the Second Deputy Speaker, another Member of Parliament as the members may elect for that sitting.

• Quorum for legislative sessions

4. The quorum for a meeting of the National Assembly shall be one-third of the Members of Parliament.

Article 78: Voting in National Assembly

1. Except as otherwise provided in this Constitution, a question proposed for decision in the National Assembly shall be determined by a majority of the Members of Parliament present and voting.
2. On a question proposed for decision in the National Assembly—

    a. the Speaker shall have no vote; and

    b. in the case of a tie, the question shall be lost.

• Constitution amendment procedure

Article 79: Alteration of Constitution

1. Subject to the provisions of this Article, Parliament may alter this Constitution or the Constitution of Zambia Act, 1991.
2. Subject to cause (3) a bill for the alteration of this Constitution or the Constitution of Zambia Act, 1991 shall not be passed unless—

    a. not less than thirty days before the first reading of the bill in the National Assembly the text of the bill is published in the Gazette; and

    b. the bill is supported on second and third readings by the votes of not less than two thirds of all the members of the Assembly.

• Referenda

3. A bill for the alteration of Part III of this Constitution or of this Article shall not be passed unless before the first reading of the bill in the National Assembly it has been put to a National referendum with or without amendment by not less than fifty percent of persons entitled to be registered as voters for the purposes of Presidential and parliamentary elections.

• Referenda

4. Any referendum conducted for the purposes of clause (3) shall be so conducted and supervised in such manner as may be prescribed by or under an Act of Parliament.
5. In this Article—

    a. references to this Constitution or the Constitution of Zambia Act, 1991 include reference to any law that amends or replaces any of the provisions of this Constitution or that Act; and

    b. references to the alteration of this Constitution or the Constitution of Zambia Act, 1991 or of any Part or Article include references to the amendment, modification or reenactment with or without amendment or modification, of any provision for the time being contained in this Constitution, that Act, Part or Article, the suspension or repeal or any such provision and the making of different provision in lieu of such provision, and the addition of new provisions, to this Constitution, that Act, Part or Article.

6. Nothing in this Article shall be so construed as to require the publication of any amendment to any such bill as is referred to in clause (2) proposed to be moved in the National Assembly.

• Legislative committees

Article 80: Committees of National Assembly

1. The National Assembly may establish parliamentary committees.

2. Parliamentary committees shall be established at the first sitting of the National Assembly after a general election and after the election of the Speaker and the Deputy Speakers.
3. The National Assembly shall, in selecting members of a parliamentary committee, ensure that there is equitable representation of the political parties holding seats in the National Assembly and independent Members of Parliament.
4. The Standing Orders shall provide for the categories, functions and procedures of parliamentary committees.

Article 81: Term and prorogation of Parliament

• Term length for first chamber

1. The term of Parliament shall be five years commencing from the date that the Members of Parliament are sworn into office after a general election and ending on the date that Parliament is dissolved.
2. The National Assembly may, when the Republic is at war, by resolution supported by a simple majority vote of the Members of Parliament, extend the term of Parliament for not more than twelve months at a time.
3. Parliament shall stand dissolved ninety days before the holding of the next general election.

• Dismissal of the legislature

4. Subject to clauses (5), (6) and (7), the President may dissolve Parliament if the Executive cannot effectively govern the Republic due to the failure of the National Assembly to objectively and reasonably carry out its legislative function.

• Constitutional court powers
• Dismissal of the legislature

5. Where the President intends to dissolve Parliament in accordance with clause (4), the President shall inform the public and refer the matter, within seven days, to the Constitutional Court.

• Constitutional court powers
• Dismissal of the legislature

6. The Constitutional Court shall hear the matter, referred to it in accordance with clause (5), within seven days of receipt of the matter.

• Constitutional court powers
• Dismissal of the legislature

7. The Constitutional Court shall, where it decides that the situation in clause (4) exists, inform the President and the President shall dissolve Parliament.

• Head of state removal
• Head of state replacement

8. Where Parliament is dissolved under clauses (3) and (4), the President shall, until the President-elect assumes office, continue to perform the executive functions, in accordance with Article 104.

• Head of state replacement
• Replacement of legislators

9. Where Parliament is dissolved under clauses (3) and (4), general elections shall be held within ninety days of the dissolution.

• Emergency provisions

10. The President may, due to a state of war, state of public emergency or threatened state of public emergency, after the dissolution of Parliament and before the holding of general elections, recall the National Assembly that was dissolved.
11. The President may, in consultation with the Speaker, prorogue Parliament by proclamation.

Speaker Deputy Speakers and Officers of National Assembly

• Leader of first chamber

Article 82: Speaker and Deputy Speakers of National Assembly

1. The Members of Parliament shall elect, by secret ballot, a Speaker of the National Assembly from a list of names of persons, who are qualified to be elected as Members of Parliament, but are not Members of Parliament, submitted to the National Assembly by—

    a. the President; and

    b. political parties holding seats in the National Assembly.

2. A person is qualified to be elected as Speaker of the National Assembly if that person—

    a. is a citizen by birth or descent;

    b. does not have dual citizenship;

    c. has been ordinarily resident in Zambia;

    d. is at least thirty-five years old;

    e. has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent;

    f. declares that person's assets and liabilities, as prescribed;

    g. has paid that person's taxes or made arrangements satisfactory to the appropriate tax authority for the payment of the taxes; and

    h. is not a Member of Parliament.

3. There shall be two Deputy Speakers of the National Assembly who are not members of the same political party and of the same gender.
4. The Members of Parliament shall elect, by secret ballot, the First Deputy Speaker from a list of three names, selected by the political parties represented in the National Assembly, from among persons who are qualified to be elected as Members of Parliament but are not Members of Parliament.
5. The Members of Parliament shall elect, by secret ballot, the Second Deputy Speaker from among their number.
6. The Members of Parliament shall elect a Speaker and the Deputy Speakers—

    a. when the National Assembly first sits after a general election; and

    b. if the office of Speaker or Deputy Speaker becomes vacant.

7. The office of Speaker or Deputy Speaker shall become vacant if the Speaker or Deputy Speaker—

   a. becomes disqualified under Article 70 (2);

   b. resigns by notice, in writing, to the President;

   c. is removed from office in accordance with Article 83; or

   d. dies.

8. When the office of Speaker or Deputy Speaker becomes vacant, business shall not be transacted in the National Assembly, other than an election to the office of Speaker or Deputy Speaker.

• Legislative committees

Article 83: Removal of Speaker on specified grounds

1. A Member of Parliament, supported by at least one-third of the Members of Parliament, may move a motion for the removal of the Speaker or a Deputy Speaker, alleging that the Speaker or Deputy Speaker has—

   a. violated this Constitution;

   b. a mental or physical disability that makes the Speaker or Deputy Speaker incapable of performing the functions of the office of Speaker or Deputy Speaker; or

   c. committed gross misconduct.

2. The motion shall specify the particulars of the allegation.
3. Where a motion is supported by a resolution of two-thirds of the Members of Parliament, the Speaker or Deputy Speaker shall be suspended from office and the National Assembly shall refer the matter to a parliamentary committee.
4. The parliamentary committee, to which the matter has been referred in accordance with clause (3), shall, within seven days of the reference—

   a. investigate the matter, and the Speaker or Deputy Speaker has the right to appear, be heard and be represented before the parliamentary committee; and

   b. report to the National Assembly whether or not the particulars of the allegations specified in the motion have been substantiated.

5. Where the parliamentary committee reports that the particulars of the allegation against the Speaker or Deputy Speaker—

   a. are not substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of the Members of Parliament, taken by secret ballot, resolve that the Speaker or Deputy Speaker—

      i. did not commit the violations specified in the motion; and

      ii. be reinstated; or

b. are substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of the Members of Parliament, taken by secret ballot, resolve that the Speaker or Deputy Speaker has committed the violations specified in the motion and that the Speaker or Deputy Speaker cease to hold office forthwith.

6. Where a resolution is made, in accordance with clause (5) (b), an election of Speaker or Deputy Speaker shall be conducted within seven days of the resolution, in accordance with Article 82.

Article 84: Clerk of National Assembly

1. There shall be a Clerk of the National Assembly who shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.
2. A person shall not be appointed Clerk of the National Assembly unless that person has the academic qualifications, experience and skills prescribed.
3. Subject to clause (5), the Clerk of the National Assembly shall retire on attaining the age of sixty-five years.
4. The Clerk of the National Assembly may retire, with full benefits, on attaining the age of sixty years.
5. The National Assembly may, by a resolution supported by the votes of not less than two-thirds of the Members of Parliament, remove the Clerk of the National Assembly on the same grounds and procedure that apply to the removal of a judge.
6. The Clerk of the National Assembly may resign from office by three months' notice, in writing, to the Speaker.

Article 85: Officers of National Assembly

There shall be appointed such officers in the department of the Clerk of the National Assembly, as prescribed.

General Parliamentary Matters

• Legislative oversight of the executive

Article 86: Presidential address to National Assembly and presidential messages

1. The President shall, at least twice in every year, attend and address the National Assembly.
2. The President may, at any time during the term of Parliament, send a message to the National Assembly which shall be read by the Leader of Government Business or by a Minister designated by the President.

• Cabinet removal
• Subsidiary unit government

Article 87: Vote of censure

1. The National Assembly may censure a Minister or Provincial Minister where the Members of Parliament are dissatisfied with the conduct or performance of the Minister or Provincial Minister.
2. The proceedings to censure a Minister or Provincial Minister shall be commenced by a notice of motion, submitted to the Speaker, signed by at least one-third of the Members of Parliament, stating the grounds in support of the motion.

3. The Speaker shall, on receipt of the notice of motion submitted in accordance with clause (2), cause a copy of the notice of motion to be given to the Minister or Provincial Minister.
4. The notice of motion to censure a Minister or Provincial Minister shall not be debated until after the expiry of seven days from the date the notice of motion is submitted to the Speaker.
5. The National Assembly may pass a vote of censure on a Minister or Provincial Minister by resolution supported by two-thirds of the votes of the Members of Parliament.

Article 88: Right to petition and make comments

• Legislative initiatives by citizens

1. A citizen may petition the National Assembly to initiate the enactment, amendment or repeal of legislation.
2. A citizen may comment on a deliberation, statement or decision of the National Assembly.
3. The manner of petitioning and commenting referred to in this Article shall be prescribed.

Article 89: Public access and participation

1. The National Assembly shall facilitate public involvement in the legislative process.

• Legislative committees
• Public or private sessions

2. The National Assembly or a parliamentary committee shall not exclude the public or media from its sittings, unless there are justifiable reasons for the exclusion and the Speaker informs the public or media of the reasons.

PART VII: EXECUTIVE

Executive Authority

Article 90: Principles of executive authority

The Executive authority derives from the people of Zambia and shall be exercised in a manner compatible with the principles of social justice and for the people's well-being and benefit.

Article 91: Presidency and vesting of executive authority

• Designation of commander in chief
• Name/structure of executive(s)

1. There shall be a President of the Republic who shall be the Head of State and Government and Commander-in-Chief of the Defence Force.
2. The executive authority of the State vests in the President and, subject to this Constitution, shall be exercised directly by the President or through public officers or other persons appointed by the President.
3. The President shall, in exercise of the executive authority of the State—

• Duty to obey the constitution

a. respect, uphold and safeguard this Constitution;

b. safeguard the sovereignty of the Republic;

c. promote democracy and enhance the unity of the Nation;

d. respect the diversity of the different communities of Zambia;

e. promote and protect the rights and freedoms of a person; and

f. uphold the rule of law.

Article 92: Executive functions of President

1. The President shall perform, with dignity, leadership and integrity, the acts that are necessary and expedient for, or reasonably incidental to, the exercise of the executive authority.

• Head of state powers

2. Without limiting the other provisions of this Constitution, the President shall—

• Foreign affairs representative

a. appoint ambassadors, high commissioners, plenipotentiaries, diplomatic representatives and consuls;

• Foreign affairs representative
• International organizations

b. receive and accredit foreign ambassadors, high commissioners, plenipotentiaries, diplomatic representatives, consuls and heads of international organisations;

• International law
• Treaty ratification

c. negotiate and sign international agreements and treaties and, subject to the approval of the National Assembly, ratify or accede to international agreements and treaties;

d. establish, merge and dissolve Government ministries, subject to the approval of the National Assembly;

e. appoint persons as are required by this Constitution or any other law to be appointed by the President;

f. appoint persons as are required to perform special duties for the Executive;

g. confer honours;

h. sign and promulgate proclamations as specified in this Constitution or as prescribed;

• Initiation of general legislation

i. initiate Bills for submission to, and consideration by, the National Assembly; and

j. perform other functions specified by this Constitution or as prescribed.

Article 93: Confirmation of presidential decisions and instructions

1. A decision or instruction of the President shall be in writing under the President's signature.

2. The signature of the President on an instrument shall be under Public Seal.

• Constitutional court powers

Article 94: Approval of appointments and measures by National Assembly

1. Where the performance of an executive function is expressed by this Constitution to be subject to approval by the National Assembly, the National Assembly shall, in the sitting next after receipt of the request for approval, give the approval within twenty-one days of the commencement of the sitting.
2. Where an approval is not given within the period specified in clause (1) or the National Assembly unreasonably refuses to give an approval as requested, the President shall refer the matter to the Constitutional Court for hearing and the decision of the Constitutional Court is final.
3. Where the Constitutional Court decides that the refusal or delay by the National Assembly was justified, the President shall comply with the order of the Court.
4. Where the Constitutional Court decides that the refusal or delay by the National Assembly was unreasonable, the National Assembly shall proceed to approve the matter.

Article 95: Ratification of appointments and measures by National Assembly

1. Where in this Constitution an appointment to an office or the taking of a measure by the President is subject to ratification by the National Assembly, the National Assembly shall, in the sitting next after receipt of the request for ratification, give its ratification within twenty-one days of the commencement of the sitting.
2. Where ratification is not given within the period specified in clause (1), the President shall propose another measure or appoint another person to that office and submit that measure or appointment for ratification by the National Assembly.
3. Where the National Assembly refuses or delays the ratification for the second time, the President shall propose another measure or appoint another person to that office and shall submit that measure or appointment for ratification by the National Assembly.
4. Where the National Assembly refuses or delays the ratification of the measure or appointment for the third time, that measure or appointment shall take effect.

• Advisory bodies to the head of state

Article 96: Advisory Committee on prerogative of mercy

• Establishment of military courts

1. There shall be an Advisory Committee on the prerogative of mercy which shall consist of persons appointed by the President.
2. The Advisory Committee shall advise the President on an action or a decision to be taken in relation to a person convicted of an offence by a court or court-martial.
3. A member of the Advisory Committee shall hold office at the pleasure of the President.
4. The President may preside at a meeting of the Advisory Committee.
5. The Advisory Committee shall determine its own procedure for meetings.

• Advisory bodies to the head of state
• Power to pardon

Article 97: Prerogative of mercy

1. The President may, on the advice of the Advisory Committee—
   a. conditionally or unconditionally, pardon a person convicted of an offence;
   b. substitute a less severe form of punishment imposed on a person by a court; or
   c. remit the whole or part of a fine, penalty or forfeiture.
2. A person who is sentenced to death may request the President, either directly or through a representative, for a pardon or commutation of the sentence.

• Head of state immunity

Article 98: Protection of President from legal proceedings

1. A person shall not institute or continue civil proceedings against the President or a person performing executive functions, as provided in Article 109, in respect of anything done or omitted to be done by the President or that person in their private capacity during the tenure of office as President.
2. The President shall not, in the President's private capacity during the tenure of office as President, institute or continue civil proceedings against a person.
3. For purposes of clauses (1) and (2), where a law limits the time within which proceedings may be brought against a person, the term of office shall not be taken into account in calculating the period of time.
4. Subject to clause (9), the President or a person performing executive functions, as provided in Article 109, is immune from criminal proceedings which immunity continues after that person ceases to hold or perform the functions of that office.
5. Where there is prima facie evidence that a person who held the office of President or who performed executive functions committed an offence whilst in office or during the period that person performed executive functions, the President shall submit a report, outlining the grounds relating to the offence allegedly committed, to the National Assembly, requesting the National Assembly to remove the immunity from criminal proceedings of that person.
6. Where the National Assembly receives a report, submitted in accordance with clause (5), the National Assembly shall constitute a select committee to scrutinise the grounds submitted and determine whether or not there is a prima facie case, based on the grounds submitted, that warrants the removal of the immunity from criminal proceedings, and recommend its decision to the National Assembly.
7. The person who held the office of President or who performed executive functions has the right to appear, be represented and be heard before the select committee constituted under clause (6).
8. Where the select committee, constituted under clause (6), recommends the removal of immunity from criminal proceedings from the person who held the office of President or who performed executive functions, the National Assembly may remove the immunity in respect of the alleged offence, by a resolution supported by a vote of not less than two-thirds of the Members of Parliament.
9. Where immunity is removed, in accordance with clause (8), the person who held the office of President or who performed executive functions, shall be charged with the offence for which the immunity from criminal proceedings was removed.

10. Where a court acquits the person who held the office of President or who performed executive functions, of an offence for which that person's immunity from criminal proceedings was removed, the immunity of that person shall, for all purposes, be deemed not to have been removed, without further proceedings.
11. The process for the removal of immunity, provided for under this Article, shall not apply to an impeachable offence under Article 108.

Election of President

Article 99: Returning officer for presidential elections

The Chairperson of the Electoral Commission shall be the Returning Officer in an election to the office of President.

• Eligibility for head of state

Article 100: Qualifications and disqualifications for nomination as presidential candidate

1. A person qualifies to be nominated as a candidate for election as President if that person—

   a. is a citizen by birth or descent;

   b. has been ordinarily resident in Zambia;

• Minimum age of head of state

   c. is at least thirty-five years old;

   d. is a registered voter;

   e. has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent;

   f. is fluent in the official language;

   g. has paid that person's taxes or has made arrangements, satisfactory to the appropriate tax authority, for the payment of the taxes;

   h. declares that person's assets and liabilities, as prescribed;

   i. pays the prescribed election fee on, or before, the date fixed for the delivery of nomination papers; and

   j. is supported by at least one hundred registered voters from each Province.

2. A person is disqualified from being nominated as a candidate for election as President if that person—

   a. is a public officer;

   b. has dual citizenship;

c. is holding or acting in a Constitutional office or other public office;

d. is a judge or judicial officer;

e. was removed from public office on grounds of gross misconduct in the immediate preceding five years;

f. has a mental or physical disability that would make the person incapable of performing the executive functions;

g. is an undischarged bankrupt;

h. is serving a sentence of imprisonment; or

i. has, in the immediate preceding five years, served a term of imprisonment of at least three years.

• Head of state selection

Article 101: Election of President

1. A President shall be elected by registered voters in accordance with Article 47 (1) and this Article.
2. The Returning Officer shall declare the presidential candidate who receives more than fifty percent of the valid votes cast during the election as President-elect.
3. If at the initial ballot a presidential candidate does not receive more than fifty percent of the valid votes cast, a second ballot shall be held within thirty-seven days of the initial ballot, where the only candidates shall be the presidential candidates who obtained—

   a. the highest and second highest number of valid votes cast in the initial ballot; or

   b. an equal number of the valid votes cast in the initial ballot, being the highest votes amongst the presidential candidates that stood for election to the office of President.

• Constitutional court powers

4. A person may within seven days of the declaration made under clause (2), petition the Constitutional Court to nullify the election of a presidential candidate who took part in the initial ballot on the ground that—

   a. the person was not validly elected; or

   b. a provision of this Constitution or other law relating to presidential elections was not complied with.

• Constitutional court powers

5. The Constitutional Court shall hear an election petition filed in accordance with clause (4) within fourteen days of the filing of the petition.

• Constitutional court powers

6. The Constitutional Court may, after hearing an election petition—

   a. declare the election of the presidential candidate valid;

b. nullify the election of the presidential candidate; or

c. disqualify the presidential candidate from being a candidate in the second ballot.

7. A decision of the Constitutional Court made in accordance with clause (6) is final.
8. The presidential candidate who obtains the majority of the valid votes cast in the second ballot shall be declared President-elect.

• Head of state selection

Article 102: Disqualification for run-off

1. If a presidential candidate—

a. resigns for a reason other than health;

b. becomes disqualified as specified in Article 100; or

c. is disqualified by a decision of the Constitutional Court in accordance with Article 101;

the presidential candidate shall not take part in the second ballot and the candidate who scored the third highest number of valid votes cast in the initial ballot shall be a presidential candidate in the second ballot, together with the remaining presidential candidate that had initially qualified for the second ballot.

2. If a presidential candidate—

a. dies; or

b. resigns due to ill-health;

before the taking of a second ballot, the running mate to that presidential candidate in the initial ballot shall assume the place of that presidential candidate.

3. The presidential candidate who assumed the place of the previous presidential candidate in accordance with clause (2) shall appoint a running mate.
4. Where both presidential candidates—

a. resign;

b. become disqualified under Article 100;

c. become disqualified by a decision of the Constitutional Court under Article 101; or

d. die;

before the taking of the second ballot, fresh nominations shall be filed with the Electoral Commission, as prescribed.

• Constitutional court powers

Article 103: Election petition

1. A person may, within seven days of the declaration of a President-elect, petition the Constitutional Court to nullify the election of the President-elect on the ground that—

   a. the person was not validly elected; or

   b. a provision of this Constitution or other law relating to presidential elections was not complied with.
2. The Constitutional Court shall hear an election petition relating to the President-elect within fourteen days of the filing of the petition.
3. The Constitutional Court may, after hearing an election petition—

   a. declare the election of the President-elect valid; or

   b. nullify the election of the President-elect and Vice- President-elect.
4. A decision of the Constitutional Court under clause (3) is final.
5. Where the election of the President-elect and Vice-President-elect is nullified by the Constitutional Court, a presidential election shall be held within thirty days from the date of the nullification.

• Transitional provisions

Article 104: Transition period before assuming office

1. The President-elect shall be sworn into office and assume office in accordance with Article 105.
2. Subject to clauses (3) and (4), where the Returning Officer declares a presidential candidate as President-elect, the incumbent shall continue to perform the executive functions until the President-elect assumes office, except the power to—

   a. make an appointment; or

   b. dissolve the National Assembly.
3. Where an election petition is filed against the incumbent, under Article 103 (1), or an election is nullified, under Article 103(3) (b), the Speaker shall perform the executive functions, except the power to—

   a. make an appointment; or

   b. dissolve the National Assembly.
4. Subject to Article 105 and except where the incumbent is the President-elect, the incumbent President shall, on the assumption of office by the President-elect, begin and complete the procedural and administrative handing over of the executive functions, to the President-elect, within fourteen days from the day the President-elect assumes office.

Assumption of Office Tenure of Office and Vacancy

Article 105: Assumption of office

1. The President-elect shall assume office after being sworn in by the Chief Justice or, in the absence of the Chief Justice, the Deputy Chief Justice.
2. The President-elect shall be sworn into office on the Tuesday following—

    a. the seventh day after the date of the declaration of the presidential election results, if no petition has been filed in accordance with Article 103; or

    b. the seventh day after the date on which the Constitutional Court declares the election to be valid.
3. Subject to clause (4), where the President-elect dies, resigns or is for a reason unable to assume office, the Vice-President-elect shall be sworn into, and assume the office of President, in accordance with clause (1).
4. Subject to clause (5), where the inability of the President-elect to assume office is as a result of an event or circumstance beyond the control of the President-elect, the Vice-President-elect shall not be sworn into office.

• Constitutional court powers

5. A political party whose presidential candidate was declared President-elect or another person shall, within three days from the date on which the President-elect should have been sworn into office, petition the Constitutional Court to determine whether or not the inability of the President-elect to assume office is permanent.

• Constitutional court powers

6. Where the Constitutional Court decides that the inability of the President-elect to assume office is permanent, the Vice-President-elect shall be sworn into office as President and assume office in accordance with clause (1).
7. The Vice-President-elect who assumes office as President, in accordance with clause (3) or (6), shall appoint a person as Vice-President, subject to approval by the National Assembly, signified by a vote of not less than two-thirds of the Members of Parliament.
8. Where the Vice-President elect who is supposed to assume the office of President as specified in clause (3) or (6) dies, resigns or is for another reason unable to assume the office of President—

    a. the Speaker shall perform the executive functions; and

    b. a presidential election shall be held within sixty days of the occurrence of the vacancy.
9. The Speaker shall, perform the executive functions assumed in accordance with clause (8) except the power to make an appointment or dissolve the National Assembly.
10. The Speaker shall, when the President-elect assumes office, complete the procedural and administrative handing over process within thirty days.

Article 106: Tenure of office of President and vacancy

• Head of state term length

1. The term of office for a President is five years which shall run concurrently with the term of Parliament, except that the term of office of President shall expire when the President-elect assumes office in accordance with Article 105.

2. A President shall hold office from the date the President-elect is sworn into office and ending on the date the next President-elect is sworn into office.

• Head of state term limits

3. A person who has twice held office as President is not eligible for election as President.

• Head of state removal

4. The office of President becomes vacant if the President—

   a. dies;

   b. resigns by notice in writing to the Speaker of the National Assembly; or

   c. otherwise ceases to hold office under Article 81,107 or 108.

• Head of state replacement

5. When a vacancy occurs in the office of President, except under Article 81—

   a. the Vice-President shall immediately assume the office of President; or

   b. if the Vice-President is unable for a reason to assume the office of President, the Speaker shall perform the executive functions, except the power to—

      i. make an appointment; or

      ii. dissolve the National Assembly;

   and a presidential election shall be held within sixty days after the occurrence of the vacancy.

6. If the Vice-President assumes the office of President, in accordance with clause (5)(a), or a person is elected to the office of President as a result of an election held in accordance with clause 5(b), the Vice-President or the President-elect shall serve for the unexpired term of office and be deemed, for the purposes of clause (3)—

   a. to have served a full term as President if, at the date on which the President assumed office, at least three years remain before the date of the next general election; or

   b. not to have served a term of office as President if, at the date on which the President assumed office, less than three years remain before the date of the next general election.

• Head of state removal

Article 107: Removal of President on grounds of incapacity

1. A Member of Parliament, supported by at least one-third of the Members of Parliament, may move a motion for the investigation of the physical or mental capacity of the President to perform executive functions.
2. The motion moved in accordance with clause (1) shall specify the particulars of the allegation.
3. Where the motion is supported in the National Assembly by a resolution of two-thirds of the Members of Parliament—

   a. the Speaker shall, within forty-eight hours of the adoption of the resolution, inform the Chief Justice of the resolution; and

b. the Chief Justice shall immediately inform the President of the resolution, whereupon the President shall cease to perform the executive functions and the Vice-President shall perform the executive functions, except the power to—

i. make an appointment; or

ii. dissolve the National Assembly.

4. The Chief Justice shall, within seven days of being informed of the resolution of the National Assembly, constitute a medical board, in consultation with the body responsible for regulating health practitioners, to inquire into the physical or mental capacity of the President.
5. A medical board shall consist of not less than three persons selected from among persons who are registered as health practitioners.
6. A medical board, constituted under clause (5), shall examine the President and report to the Chief Justice, within fourteen days of the constitution of the medical board, whether or not the President is capable of performing the executive functions.
7. Where the medical board reports that the President is capable of performing the executive functions, the Chief Justice shall, within forty-eight hours of the receipt of the medical report, cause a copy of the report to be presented to the National Assembly which shall resolve that the President should resume performing the executive functions.
8. Where the medical board reports that the President is not capable of performing the executive functions, the Chief Justice shall, within forty-eight hours of the receipt of the medical report, cause a copy of the report to be presented to the National Assembly which shall resolve that the President should cease to hold office and the Vice-President shall assume the office of President in accordance with Article 106 (5).
9. This Article applies to the Vice-President.

• Head of state removal

Article 108: Impeachment of President

1. A Member of Parliament, supported by at least one-third of the Members of Parliament, may move a motion for the impeachment of the President alleging that the President has committed—

a. a violation of a provision of this Constitution or other law;

b. a crime under international law; or

c. gross misconduct.

2. The motion, moved in accordance with clause (1), shall specify the particulars of the allegation.
3. Where a motion, moved in accordance with clause (1), is supported, in the National Assembly, by a resolution of two-thirds of the Members of Parliament—

a. the Speaker shall, within forty-eight hours of the adoption of the resolution, inform the Chief Justice of the resolution; and

b. the Chief Justice shall immediately inform the President of the resolution, whereupon the President shall cease to perform the executive functions and the Vice-President shall perform the executive functions, except the power to—

i. make an appointment; or

ii. dissolve the National Assembly.

• Establishment of judicial council

4. The Chief Justice shall, within seven days of being informed of the resolution of the National Assembly, appoint a tribunal, in consultation with the Judicial Service Commission, which shall consist of a chairperson and not less than two other members from among persons who hold, have held or qualify to hold, the office of judge.
5. The tribunal appointed under clause (4) shall, within thirty days of its appointment—

a. investigate the matter relating to the impeachment of the President; and

b. report to the Chief Justice as to whether or not the particulars of the allegations specified in the motion have been substantiated.

6. The President has the right to appear and be represented before the tribunal during its investigation.
7. The Chief Justice shall, on receipt of the report referred to in clause (5) (b), immediately submit the report to the National Assembly.
8. Where the tribunal reports that the particulars of an allegation against the President—

a. is not substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of the Members of Parliament, taken by secret ballot, resolve that—

i. the President did not commit the violations specified in the motion; and

ii. further proceedings shall not be taken with respect to the allegation; or

b. is substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of the Members of Parliament, taken by secret ballot, resolve that the President has committed the violations specified in the motion and that the President should cease to hold office forthwith.

9. The President shall, on the passing of a resolution in accordance with—

a. clause (7) (a), resume to perform the executive functions; or

b. clause (7) (b), cease to hold office and be amenable to prosecution without the need to lift the immunity under Article 98.

10. Where a motion is moved in accordance with clause (1), the President shall not dissolve Parliament.

11. This Article applies to the Vice-President.

Article 109: Performance of executive functions during absence of President

1. If the President leaves Zambia or is absent from office, the Vice-President shall perform the executive functions specified, in writing, by the President until the President returns to office or revokes the authority.
2. Where the Vice-President is incapable of performing the executive functions, as specified under clause (1), the President shall appoint a member of the Cabinet to perform the executive functions until the—
    a. Vice-President is able to perform those functions;
    b. President returns to office; or
    c. President revokes the authority.
3. Where the President is unable to appoint a member of Cabinet to perform the executive functions, in accordance with clause (2), Cabinet may elect one of its members to perform the executive functions until the—
    a. Vice-President is able to perform those functions;
    b. President returns to office; or
    c. President revokes the authority.

• Deputy executive

Vice-President

Article 110: Vice-President, election to office and swearing in

1. There shall be a Vice-President for the Republic who shall be the running mate to a presidential candidate in a presidential election.
2. The qualifications and disqualifications applying to a presidential candidate apply to the person selected by the presidential candidate to be the running mate.
3. An election to the office of Vice-President shall be conducted at the same time as that of an election to the office of President so that a vote cast for a presidential candidate is a vote cast for the running mate, and if the presidential candidate is elected, the running mate shall be considered to have been elected.
4. A Vice-President-elect shall be sworn into office by the Chief Justice or, in the absence of the Chief Justice, the Deputy Chief Justice.
5. The Vice-President shall assume office on the same day that the President assumes office.

Article 111: Tenure of office fo Vice-President and vacancy

1. The term of office for a Vice-President is five years.

2. A Vice-President shall hold office from the date the Vice-President-elect is sworn into office and ending on the date the next President-elect is sworn into office.
3. A person who has twice held the office of Vice-President shall not be selected as a running mate.
4. The office of Vice-President becomes vacant if the Vice-President—

    a. dies;

    b. resigns by notice in writing to the President;

    c. otherwise ceases to hold office under Article 81,107 or 108; or

    d. assumes the office of President.
5. Where a vacancy occurs in the office of Vice-President, except as provided under Article 81, the President shall appoint another person to be Vice-President and the National Assembly shall, by a resolution supported by the votes of not less than two-thirds of the Members of Parliament, approve the appointment of that person as Vice-President.
6. The person who assumes office as Vice-President, in accordance with clause (5), shall serve for the unexpired term of office and be deemed for the purposes of clause (3)—

    a. to have served a full term as Vice-President if, at the date on which the Vice-President assumed office, more than three years remain before the date of the next general election; or

    b. not to have served a term of office as Vice-President if, at the date on which the Vice-President assumed office, less than three years remain before the date of the next general elections.

Article 112: Functions of Vice-President

1. The Vice-President shall be answerable to the President in the performance of the functions of Vice-President.
2. The Vice-President shall—

    a. perform the functions that are assigned to the Vice-President by the President;

    b. perform the executive functions during the periods specified in this Constitution; and

    c. assume the office of President as specified in Article 106 (5).

• Establishment of cabinet/ministers

Cabinet Ministers

Article 113: Cabinet

There shall be a Cabinet consisting of the—

a. President;

b. Vice-President;

c. Ministers; and

d. Attorney-General, as ex-officio member.

Article 114: Functions of Cabinet

• Powers of cabinet

1. The functions of Cabinet are as follows:

a. approve and cause to be implemented Government policy;

• Initiation of general legislation

b. approve Government Bills for introduction to the National Assembly;

• Budget bills

c. approve and cause the national budget to be presented to the National Assembly;

• International law
• Treaty ratification

d. recommend the accession and ratification of international agreements and treaties to the National Assembly;

e. recommend, for approval of the National Assembly—

• Finance bills

i. loans to be contracted by the State; and

ii. guarantees on loans contracted by State institutions or other institutions; and

f. advise the President on matters relating to the performance of executive functions.

2. Cabinet shall take collective responsibility for Cabinet decisions.

Article 115: Proceedings of Cabinet meetings

1. Subject to this Article, Cabinet shall regulate its own procedure.
2. Cabinet shall meet at least once in every month to perform its functions as specified in Article 114.
3. The Secretary to the Cabinet shall, in consultation with the President, call for meetings of Cabinet.
4. There shall preside at meetings of Cabinet—

a. the President;

b. in the absence of the President, the Vice-President; or

c. in the absence of the Vice-President, a member of Cabinet appointed by the President.

5. Where the President is unable to appoint a member of Cabinet to preside at a meeting of Cabinet, the members of Cabinet present at the meeting may elect one of the members to preside.
6. The President may, in consultation with the Secretary to the Cabinet, invite a person whose presence is desirable to attend and participate in the deliberations of a meeting of Cabinet but that person shall have no vote.

Article 116: Ministers

• Cabinet selection

1. The President shall appoint a prescribed number of Members of Parliament as Ministers.
2. A Minister shall be responsible, under the direction of the President, for the policy and strategic direction of a Ministry, department or other State institution, as assigned by the President.

• Cabinet removal

3. The office of Minister becomes vacant if—

a. the Minister is removed from office by the President;

b. the Minister resigns, by notice in writing to the President;

c. in the case of a nominated Member of Parliament, the nomination is revoked;

d. the Minister dies;

e. another person assumes the office of President; or

f. the Minister has a mental or physical disability that makes the Minister incapable of performing the functions of that office.

• Subsidiary unit government

Article 117: Provincial Minister

1. The President shall appoint a Provincial Minister for each Province from among Members of Parliament.
2. The office of Provincial Minister becomes vacant if—

a. the Provincial Minister is removed from office by the President;

b. the Provincial Minister resigns, by notice in writing to the President;

c. the Provincial Minister dies;

d. another person assumes the office of President;

e. the Provincial Minister has a mental or physical disability that makes the Provincial Minister incapable of performing the functions of that office; or

f. in the case of a nominated Member of Parliament, the nomination is revoked.

3. A Provincial Minister shall—

a. be the head of Government in the Province;

b. ensure that national policies are implemented in all districts in the Province; and

c. ensure that the concurrent functions of the Province and the exclusive functions of the local authorities are performed in accordance with this Constitution and other laws.

PART VIII: JUDICIARY

Judicial Authority System of Courts and Independence

Article 118: Principles of judicial authority

1. The judicial authority of the Republic derives from the people of Zambia and shall be exercised in a just manner and such exercise shall promote accountability.
2. In exercising judicial authority, the courts shall be guided by the following principles:

a. justice shall be done to all, without discrimination;

b. justice shall not be delayed;

c. adequate compensation shall be awarded, where payable;

d. alternative forms of dispute resolution, including traditional dispute resolution mechanisms, shall be promoted, subject to clause (3);

e. justice shall be administered without undue regard to procedural technicalities; and

f. the values and principles of this Constitution shall be protected and promoted.

3. Traditional dispute resolution mechanisms shall not—

a. contravene the Bill of Rights;

b. be inconsistent with other provisions of this Constitution or other written law; or

c. be repugnant to justice and morality.

Article 119: Vesting of judicial authority and performance of judicial function

1. Judicial authority vests in the courts and shall be exercised by the courts in accordance with this Constitution and other laws.
2. The courts shall perform the following judicial functions:

   a. hear civil and criminal matters; and

   b. hear matters relating to, and in respect of, this Constitution.
3. Except as otherwise provided in this Constitution, other law or as ordered by a court, the proceedings of a court shall be in public.

Article 120: System of court

• Structure of the courts

1. The Judiciary shall consist of the superior courts and the following courts:

   a. subordinate courts;

   b. small claims courts;

• Municipal government

   c. local courts; and

   d. courts, as prescribed.
2. The courts shall be courts of record, except that local courts shall progressively become courts of record.
3. The following matters shall be prescribed:

   a. processes and procedures of the courts;

• Establishment of labor courts

   b. jurisdiction, powers and sittings, of the Industrial Relations Court, Commercial Court, Family Court, Children's Court and other specialised courts;

   c. classification and divisions of the subordinate courts;

   d. classification and divisions of the local courts;

   e. jurisdiction and composition of subordinate courts, small claims courts, local courts and other prescribed courts; and

   f. grading of judicial officers and staff of subordinate courts, local courts and other prescribed courts.

4. The courts, except the Supreme Court and the Constitutional Court, shall be devolved to the Province and progressively to districts.
5. Superior courts shall sit as circuit courts in districts, in accordance with a circuit schedule issued by the Chief Justice.

Article 121: Ranking of Supreme and Constitutional Courts

The Supreme Court and Constitutional Court rank equivalently.

• Judicial independence

Article 122: Functional independence of Judiciary

1. In the exercise of the judicial authority, the Judiciary shall be subject only to this Constitution and the law and not be subject to the control or direction of a person or an authority.
2. A person and a person holding a public office shall not interfere with the performance of a judicial function by a judge or judicial officer.
3. The Judiciary shall not, in the performance of its administrative functions and management of its financial affairs, be subject to the control or direction of a person or an authority.
4. A person and a person holding a public office shall protect the independence, dignity and effectiveness of the Judiciary.
5. The office of a judge or judicial officer shall not be abolished while there is a substantive holder of the office.

Article 123: Financial independence of Judiciary

1. The Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.
2. The Judiciary shall be adequately funded in a financial year to enable it effectively carry out its functions.

Establishment Jurisdiction and sittings of Superior Courts

• Structure of the courts

Article 124: Establishment and composition of Supreme Court

There is established the Supreme Court which consists of—

a. the Chief Justice;

b. the Deputy Chief Justice; and

c. eleven other judges or a higher number of judges, as prescribed.

Article 125: Jurisdiction of Supreme Court

1. Subject to Article 128, the Supreme Court is the final court of appeal.
2. The Supreme Court has—

• Right to appeal judicial decisions

a. appellate jurisdiction to hear appeals from the Court of Appeal; and

b. jurisdiction conferred on it by other laws.

3. The Supreme Court is bound by its decisions, except in the interest of justice and development of jurisprudence.

Article 126: Sittings of Supreme Court

1. The Supreme Court shall be constituted by an uneven number of not less than three judges, except when hearing an interlocutory matter.
2. The Supreme Court shall be constituted by one judge when hearing an interlocutory matter.
3. The full bench of the Supreme Court shall be constituted by an uneven number of not less than five judges.
4. The Supreme Court shall be presided over by—

   a. the Chief Justice;

   b. in the absence of the Chief Justice, the Deputy Chief Justice; and

   c. in the absence of the Deputy Chief Justice, the most senior judge of the Supreme Court, as constituted.

• Establishment of constitutional court

Article 127: Establishment and composition of Constitutional Court

There is established the Constitutional Court which consists of—

a. the President of the Constitutional Court;

b. the Deputy President of the Constitutional Court; and

c. eleven other judges or a higher number of judges, as prescribed.

• Constitutional court powers

Article 128: Jurisdiction of Constitutional Court

1. Subject to Article 28, the Constitutional Court has original and final jurisdiction to hear—

• Constitutional interpretation

a. a matter relating to the interpretation of this Constitution;

• Constitutional interpretation

b. a matter relating to a violation or contravention of this Constitution;

c. a matter relating to the President, Vice-President or an election of a President;

d. appeals relating to election of Members of Parliament and councillors; and

e. whether or not a matter falls within the jurisdiction of the Constitutional Court.

2. Subject to Article 28 (2), where a question relating to this Constitution arises in a court, the person presiding in that court shall refer the question to the Constitutional Court.

• Ultra-vires administrative actions
• Constitutionality of legislation

3. Subject to Article 28, a person who alleges that—

   a. an Act of Parliament or statutory instrument;

   b. an action, measure or decision taken under law; or

   c. an act, omission, measure or decision by a person or an authority;

   contravenes this Constitution, may petition the Constitutional Court for redress.

4. A decision of the Constitutional Court is not appealable to the Supreme Court.

Article 129: Sittings of Constitutional Court

1. The Constitutional Court shall be constituted by an uneven number of not less than three judges, except when hearing an interlocutory matter.
2. The Constitutional Court shall be constituted by one judge when hearing an interlocutory matter.
3. The full bench of the Constitutional Court shall be constituted by an uneven number of not less than five judges.
4. The Constitutional Court shall be presided over by—

   a. the President of the Constitutional Court;

   b. in the absence of the President of the Constitutional Court, the Deputy-President of the Constitutional Court; and

   c. in the absence of the Deputy-President of the Constitutional Court, the most senior judge of the Constitutional Court, as constituted.

• Structure of the courts

Article 130: Establishment and composition of Court of Appeal

There is established the Court of Appeal which consists of such number of judges as prescribed.

Article 131: Jurisdiction of Court of Appeal

• Right to appeal judicial decisions

1. The Court of Appeal has jurisdiction to hear appeals from—

   a. the High Court;

   b. other courts, except for matters under the exclusive jurisdiction of the Constitutional Court; and

   c. quasi-judicial bodies, except a local government elections tribunal.

2. An appeal from a decision of the Court of Appeal shall be made to the Supreme Court with leave of the Court of Appeal.

Article 132: Sittings of Court of Appeal

1. The Court of Appeal shall be constituted by an uneven number of not less than three judges, except when hearing an appeal in an interlocutory matter.
2. The Court of Appeal shall be constituted by one judge when hearing an interlocutory matter.

Article 133: Establishment and composition of High Court

1. There is established the High Court which consists of—

    a. the Chief Justice, as an ex-officio judge; and

    b. such number of judges as prescribed.

• Establishment of labor courts

2. There are established, as divisions of the High Court, the Industrial Relations Court, Commercial Court, Family Court and Children's Court.
3. The Chief Justice may constitute, by statutory instrument, specialised courts of the High Court to hear specific matters.
4. The composition of courts specified in clauses (2) and (3) shall be prescribed.

• Structure of the courts

Article 134: Jurisdiction of High Court

The High Court has, subject to Article 128—

a. unlimited and original jurisdiction in civil and criminal matters;

• Right to appeal judicial decisions

b. appellate and supervisory jurisdiction, as prescribed; and

c. jurisdiction to review decisions, as prescribed.

Article 135: Sittings of High Court

The High Court shall be constituted by one judge or such other number of judges as the Chief Justice may determine.

Chief Justice and other Judges

Article 136: Chief Justice

1. There shall be a Chief Justice who is the head of the Judiciary.
2. The Chief Justice shall—

    a. be responsible for the administration of the Judiciary;

    b. ensure that a judge and judicial officer perform the judicial function with dignity, propriety and integrity;

    c. establish procedures to ensure that a judge and judicial officer independently exercise judicial authority in accordance with the law;

d. ensure that a judge and judicial officer perform the judicial function without fear, favour or bias; and

e. make rules and give directions necessary for the efficient and effective administration of the Judiciary.

Article 137: Deputy Chief Justice

1. There shall be a Deputy Chief Justice who shall—

   a. perform the functions of the Chief Justice, when the Chief Justice is absent or there is a vacancy in the office of Chief Justice;

   b. assist the Chief Justice in the administration of the Judiciary; and

   c. perform the functions assigned by the Chief Justice.

• Establishment of judicial council

2. The President shall, in consultation with the Judicial Service Commission, designate a judge of the Supreme Court to perform the functions of the Deputy Chief Justice where—

   a. the office of the Deputy Chief Justice is vacant;

   b. the Deputy Chief Justice is acting as Chief Justice; or

   c. the Deputy Chief Justice is for a reason unable to perform the functions of that office.

Article 138: President of Constitutional Court

1. There shall be a President of the Constitutional Court who is the head of the Constitutional Court.
2. The President of the Constitutional Court shall be responsible for the administration of the Constitutional Court under the direction of the Chief Justice.

Article 139: Deputy of President of Constitutional Court

1. There shall be a Deputy President of the Constitutional Court who shall—

   a. perform the functions of the President of the Constitutional Court, when the President of the Constitutional Court is absent or there is a vacancy in the office of President of the Constitutional Court;

   b. assist the President of the Constitutional Court in the administration of the Constitutional Court; and

   c. perform the functions assigned by the President of the Constitutional Court.

• Establishment of judicial council

2. The President shall, in consultation with the Judicial Service Commission, designate a judge of the Constitutional Court to perform the functions of the Deputy President of the Constitutional Court

where—

a. the office of the Deputy President of the Constitutional Court is vacant;

b. the Deputy President of the Constitutional Court is acting as President of the Constitutional Court; or

c. the Deputy President of the Constitutional Court is for a reason unable to perform the functions of that office.

• Constitutional court selection
• Supreme court selection
• Establishment of judicial council
• Ordinary court selection

Article 140: Appointment of judges

The President shall, on the recommendation of the Judicial Service Commission and subject to ratification by the National Assembly, appoint the—

a. Chief Justice;

b. Deputy Chief Justice;

c. President of the Constitutional Court;

d. Deputy President of the Constitutional Court; and

e. other judges.

Article 141: Qualification for appointment as judge

1. A person qualifies for appointment as a judge if that person is of proven integrity and has been a legal practitioner, in the case of the—

• Eligibility for supreme court judges

a. Supreme Court, for at least fifteen years;

• Eligibility for const court judges

b. Constitutional Court, for at least fifteen years and has specialised training or experience in human rights or constitutional law;

• Eligibility for ordinary court judges

c. Court of Appeal, for at least twelve years; or

• Eligibility for ordinary court judges

d. High Court, for at least ten years.

2. A person appointed as judge to a specialised court shall have the relevant expertise, as prescribed.

Article 142: Tenure of office of judge

• Mandatory retirement age for judges

1. A judge shall retire from office on attaining the age of seventy years.

• Mandatory retirement age for judges

2. A judge may retire, with full benefits, on attaining the age of sixty-five years.

• Constitutional court term length
• Supreme court term length

3. The Chief Justice and President of the Constitutional Court shall hold office for not more than ten years and may, thereafter, continue as a judge of the Supreme Court or Constitutional Court, subject to clause (1).
4. A judge who has retired is not eligible for appointment as a judge.
5. A judge may resign from the office of judge by notice, in writing, to the President.
6. Where a judge is appointed or assigned to an office, which is not an office in the judiciary and that judge wishes to take up the appointment, the judge shall resign from the office of judge.

• Supreme/ordinary court judge removal

Article 143: Removal of judge from office

A judge shall be removed from office on the following grounds:

a. a mental or physical disability that makes the judge incapable of performing judicial functions;

b. incompetence;

c. gross misconduct; or

d. bankruptcy.

• Supreme/ordinary court judge removal

Article 144: Procedure for removal of judge

1. The removal of a judge may be initiated by the Judicial Complaints Commission or by a complaint made to the Judicial Complaints Commission, based on the grounds specified in Article 143.
2. The Judicial Complaints Commission shall, where it decides that a prima facie case has been established against a judge, submit a report to the President.
3. The President shall, within seven days from the date of receiving the report, submitted in accordance with clause (2), suspend the judge from office and inform the Judicial Complaints Commission of the suspension.
4. The Judicial Complaints Commission shall, within thirty days of the judge being suspended from office, in accordance with clause (3)—

   a. hear the matter against the judge on the grounds specified in Article 143 (b), (c) and (d); or

   b. constitute a medical board, in consultation with the body responsible for regulating health practitioners, to inquire into the matter against the judge based on the ground specified in Article 143(a).
5. Where the Judicial Complaints Commission decides that an allegation based on a ground specified in Article 143(b), (c) and (d) is—

   a. not substantiated, the Judicial Complaints Commission shall recommend, to the President, the revocation of the judge's suspension and the President shall immediately revoke the suspension; or

   b. substantiated, the Judicial Complaints Commission shall recommend, to the President, the removal of the judge from office and the President shall immediately remove the judge from office.

6. The proceedings under clause (4) (a) shall be held in camera and the judge is entitled to appear, be heard and be represented by a legal practitioner or other person chosen by the judge.
7. The medical board, constituted in accordance with clause (4)(b), shall consist of not less than three registered health practitioners.
8. The medical board shall, within thirty days of being constituted, examine the judge and report to the Judicial Complaints Commission on the judge's capacity to perform the judicial functions.
9. Where the medical board recommends to the Judicial Complaints Commission that the judge is—

    a. physically or mentally capable of performing the judicial functions, the Judicial Complaints Commission shall recommend to the President the revocation of the judge's suspension and the President shall immediately revoke the suspension; or

    b. not physically or mentally capable of performing the judicial functions, the Judicial Complaints Commission shall recommend to the President the removal of the judge from office and the President shall immediately remove the judge from office.
10. A judge who refuses to submit to an examination, in accordance with clause (8), shall immediately be removed from office by the President.

Judicial Officers and Chief Administrator

Article 145: Appointment and retirement of judicial officers

• Establishment of judicial council

1. The Judicial Service Commission shall appoint judicial officers, as prescribed.
2. The qualification for appointment as judicial officer shall be prescribed.
3. A judicial officer shall retire on attaining the age of sixty-five years.
4. A judicial officer may retire, with full benefits, on attaining the age of fifty-five years.

Article 146: Chief Administrator of Judiciary

• Establishment of judicial council

1. There shall be a Chief Administrator for the Judiciary who shall be appointed by the Judicial Service Commission.
2. The functions and qualifications of the Chief Administrator for the Judiciary shall be prescribed.

PART IX: GENERAL PRINCIPLES OF DEVOLVED GOVERNANCE

System of Devolved Governance

Article 147: System of devolved governance

1. The management and administration of the political, social, legal and economic affairs of the State shall be devolved from the national government level to the local government level.
2. The concurrent and exclusive functions of the national, provincial and local government levels are as listed in the Annex and as prescribed.
3. The different levels of government shall observe and adhere to the following principles:

    a. good governance, through democratic, effective and coherent governance systems and institutions;

    b. respect for the constitutional jurisdiction of each level of government;

    c. autonomy of the sub-structures; and

    d. equitable distribution and application of national resources to the sub-structures.

Article 148: Sub-structures of local government

1. Local governance shall be undertaken through sub-structures.
2. The Government shall provide adequate resources for the performance of the functions of the sub-structures.

PART X: PROVINCES, DISTRICTS, WARDS AND PROVINCIAL ADMINISTRATION

• Head of state powers

Article 149: Provinces, districts and wards

1. The President may, subject to the approval of the National Assembly, create or divide a Province or merge two or more Provinces, as prescribed.
2. A Province shall consist of such number of districts, as prescribed.
3. A district shall consist of such number of wards, as prescribed.
4. A Province, district and ward shall be delimited, as prescribed.

• Legislative initiatives by citizens

5. Without prejudice to clause (1), sixty percent or more of the registered voters in a Province may petition the President to—

    a. merge a Province with another Province; or

b. divide a Province into two or more Provinces.

6. Where the President receives a petition under clause (5), and after due inquiry, the President may, by statutory order, declare the merger of the Province with another Province or the division of the Province into two or more Provinces, subject to ratification by the National Assembly.

• Electoral commission

7. Where the National Assembly ratifies the establishment of a new Province under this Article, the Electoral Commission shall delineate the boundaries of the Province created.

Provincial Administration

• Subsidiary unit government

Article 150: Provincial administration

1. There shall be established for each Province an administrative secretariat, which shall consist of—

   a. a Provincial Minister;

   b. a provincial Permanent Secretary; and

   c. other staff, as prescribed.

2. The provincial secretariat shall have overall responsibility of the Province and perform other functions as prescribed.

PART XI: LOCAL GOVERNMENT

• Municipal government

System of Local Government

Article 151: System of local government

1. There is established a local government system where—

   a. functions, responsibilities and resources from the national Government and provincial administration are transferred to the local authorities in a co-ordinated manner;

   b. the people's participation in democratic governance is promoted;

   c. co-operative governance with the national Government, provincial administration and local authorities is promoted to support and enhance the developmental role of local government;

   d. the capacity of local authorities to initiate, plan, manage and execute policies in respect of matters that affect the people within their respective districts is enhanced;

e. social, spatial, financial and economic planning, at the district level, is developed, prioritised and promoted;

f. a sound financial base is established for each local authority with reliable and predictable sources of revenue;

g. the performance of persons employed by the national Government and provincial administration to provide services in the sub-structures is overseen by local authorities;

h. the provision of Government services is monitored and projects are implemented in sub-structures;

i. accountability of local authorities is ensured; and

j. the right of local authorities to manage their affairs and to form partnerships, networks and associations to assist in the management of their respective districts and further their development is recognised.

2. The local government system shall—

a. be based on democratically elected councils;

b. promote democratic and accountable exercise of power;

c. foster national unity;

d. ensure that services are provided to sub-structures in an equitable and sustainable manner;

e. promote social and economic development;

f. promote a clean, safe and healthy environment; and

g. encourage the involvement of communities and community organisations in matters of local government.

Article 152: Local authorities

1. A local authority shall—

a. administer the district;

b. oversee programmes and projects in the district;

c. make by-laws; and

d. perform other prescribed functions.

2. The national Government and the provincial administration shall not interfere with or compromise a local authority's ability or right to perform its functions.
3. There shall be a council for each local authority.
4. There shall be a Town Clerk or Council Secretary for each local authority and other staff of the local authority, as prescribed.

Article 153: Election of councillors, composition of councils and tenure

1. A councillor shall be elected in accordance with Article 47(3) by registered voters resident within the district.
2. A council shall consist of the following councillors—
    a. persons elected in accordance with clause (1);
    b. a mayor or council chairperson elected in accordance with Article 154; and
    c. not more than three chiefs representing chiefs in the district, elected by the chiefs in the district.
3. The system of electing chiefs specified in clause (2) (b) shall be prescribed.
4. A person qualifies to be elected as a councillor, excluding councillors specified under clause (2) (b), if that person—
    a. is not a Member of Parliament;
    b. is not less than nineteen years of age;
    c. has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent;
    d. is a citizen or a holder of a resident permit, resident in the district; and
    e. has a certificate of clearance showing the payment of council taxes, where applicable.
5. A council may invite a person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the council but that person shall have no vote.
6. The term of a council shall be five years commencing from the date the councillors are sworn into office after a general election and ending on the date Parliament is dissolved.

Article 154: Mayor, deputy mayor, council chairperson and deputy council chairperson

1. There shall be a mayor and deputy mayor or council chairperson and deputy council chairperson for every council, as prescribed.
2. A mayor and council chairperson shall be elected—
    a. directly, in accordance withArticle 47 (3) during elections for councillors, as prescribed; and

b. for a term of five years and may be re-elected for one further term of five years.

3. A deputy mayor and a deputy council chairperson shall be elected by the councillors from amongst themselves.

Article 155: Conduct of councillor

A councillor shall act in a manner that is consistent with a councillor's civic duties and responsibilities, as prescribed.

Article 156: Accountability of councillors

Councillors shall be collectively and individually accountable to the national Government and residents in their wards and districts, for the performance of their functions.

Article 157: Vacation of office of councillor and vacancies

1. A councillor shall vacate office on dissolution of a council.
2. The office of councillor becomes vacant if—

a. the councillor ceases to be a resident of the district;

b. the councillor resigns by one month's notice, in writing, to the mayor or council chairperson;

c. the councillor becomes disqualified for election under Article 153;

d. the result of an election for that councillor is nullified by a local government elections tribunal established in accordance with Article 159;

e. the councillor acts contrary to the code of ethics provided for in Article 155;

f. the councillor has a mental or physical disability that makes the councillor incapable of performing the functions of councillor; or

g. the councillor dies.

3. Where a councillor resigns in accordance with clause (2) (b), (c), (d) and (e)the councillor shall not be eligible for re-election as councillor for the duration of the term of that council.

Article 158: By-election for council

1. Where a vacancy occurs in the office of mayor, council chairperson or councillor—

a. the Town Clerk or Council Secretary of the local authority shall, within seven days of the occurrence of the vacancy, inform the Electoral Commission, in writing, of the vacancy; and

b. a by-election shall be held in accordance with Article 57.

2. If a person is elected to the office of mayor, council chairperson or councillor in a by-election, that mayor, council chairperson or councillor shall serve for the unexpired term of the council and be deemed—

a. to have served a full term as mayor, council chairperson or councillor if, at the date on which the councillor assumed office, at least three years remain before the date of the next general election; or

b. not to have served a term of office as mayor, council chairperson or councillor, if, at the date on which the councillor assumed office, less than three years remain before the date of the next general election.

Article 159: Local government elections tribunals and petitions

1. The Chief Justice shall establish such number of ad hoc local government elections tribunals as are necessary to hear whether—

a. a person has been validly elected as a councillor; or

b. the office of a councillor has become vacant.

2. A local government elections tribunal shall be presided over by a magistrate of competent jurisdiction sitting with two legal practitioners appointed by the Chief Justice.
3. A person may file an election petition with a local government elections tribunal to challenge the election of a councillor.
4. An election petition shall be heard within thirty days of the filing of the petition.

• Constitutional court powers

5. A person may appeal a decision of a local government elections tribunal to the Constitutional Court.
6. A councillor whose election is petitioned shall hold the seat in the council pending the determination of the election petition.
7. The Chief Justice shall make rules for the functions, composition, appointment of members, tenure of office of members, procedures and jurisdiction of a local government elections tribunal.

Article 160: Enforcement of judgment against local authority

A person who obtains a judgment against a local authority may enforce the judgment against the local authority after one year from the date of the delivery of the judgment.

Article 161: Revenue of local authorities

A local authority is competent to levy, impose, recover and retain local taxes, as prescribed.

Article 162: Constituency Development Fund

1. There is established the Constituency Development Fund.

2. The appropriation of monies to the Constituency Development Fund and the management, disbursement, utilisation and accountability of the Constituency Development Fund shall be prescribed.

Article 163: Local Government Equalisation Fund and funds for local authorities

1. There is established the Local Government Equalisation Fund.
2. Parliament shall annually appropriate monies to the Local Government Equalisation Fund which shall be disbursed by the Ministry responsible for finance to local authorities.
3. The Government may provide additional funds and grants to a local authority, as prescribed.

Article 164: Legislation on local authorities

The following shall be prescribed:

a. regulation of local authorities;

b. sub-structures and their relationships;

c. financial control and accountability of a local authority;

d. raising of loans, grants and other financial instruments by local authorities;

e. election of councillors; and

f. the effective implementation of this Part.

PART XII: CHIEFTAINCY AND HOUSE OF CHIEFS

• Right to culture

Article 165: Institution of chieftaincy and traditional institutions

1. The institution of chieftaincy and traditional institutions are guaranteed and shall exist in accordance with the culture, customs and traditions of the people to whom they apply.
2. Parliament shall not enact legislation which—

a. confers on a person or authority the right to recognise or withdraw the recognition of a chief; or

b. derogates from the honour and dignity of the institution of chieftaincy.

Article 166: Status of institution of chieftaincy

The institution of chieftaincy—

a. is a corporation sole with perpetual succession and capacity to sue and be sued; and

b. has capacity to hold property in trust for its subjects.

Article 167: Rights and privileges of chiefs

A chief—

a. may own property in a personal capacity; and

b. shall enjoy privileges and benefits—

i. bestowed on the office of chief by or under culture, custom and tradition; and

ii. attached to the office of chief, as prescribed.

Article 168: Participation of chiefs in public affairs

1. Subject to clause (2), a chief may seek and hold a public office.
2. A chief who seeks to hold office in a political party or election or appointment to a State office, except that of councillor, shall abdicate the chief's throne.
3. The role of a chief in the management, control and sharing of natural and other resources in the Chiefdom shall be prescribed.

• Indigenous right to self governance

Article 169: House of Chiefs and function

1. There is established a House of Chiefs.
2. The House of Chiefs shall consist of five chiefs from each province, elected by the chiefs in a Province, as prescribed.
3. The members of the House of Chiefs shall annually elect a Chairperson and Vice-Chairperson of the House of Chiefs, from amongst themselves.
4. Notwithstanding clause (3), the assumption of office as Chairperson and Vice-Chairperson of the House of Chiefs shall rotate annually amongst the chiefs from each province.
5. The functions of the House of Chiefs are to —

a. consider and discuss a Bill relating to custom or tradition referred to it by the President, before the Bill is introduced into the National Assembly;

b. initiate, discuss and make recommendations to the National Assembly regarding socio-economic development in the Province;

c. initiate, discuss and decide on matters relating to customary law and practice;

d. initiate, discuss and make recommendations to a local authority regarding the welfare of communities in a local authority;

e. make proposals on areas in customary law that require codification;

f. advise the Government on traditional and customary matters; and

g. perform other functions as prescribed.

Article 170: Tenure of office and vacancy

1. A Member of the House of Chiefs—

   a. shall hold office for a term of five years and is eligible for election for a further term of five years; and

   b. may resign by one month's notice, in writing, to the Chairperson.

2. The office of a member of the House of Chiefs becomes vacant if the Chief—

   a. dies;

   b. ceases to be a chief;

   c. resigns;

   d. is convicted of an offence;

   e. is an undischarged bankrupt; or

   f. has a mental or physical disability that makes the chief incapable of performing the functions of a member of the House of Chiefs.

Article 171: Staff of House of Chiefs

1. There shall be a Clerk of the House of Chiefs and other staff, as prescribed.
2. The office of the Clerk of the House of Chiefs and other staff of the House of Chiefs are offices in the public service.

Article 172: Legislation on House of Chiefs

The following matters shall be prescribed—

a. the procedures and processes of the House of Chiefs;

b. the emoluments of the Clerk and other staff of the House of Chiefs;

c. the application of the privileges and immunities of a Member of Parliament to a member of the House of Chiefs; and

d. other matters necessary for the better carrying out of the purposes of this Part.

PART XIII: Public Service

Values and Principles

Article 173: Values and principles of public service

1. The guiding values and principles of the public service include the following—

   a. maintenance and promotion of the highest standards of professional ethics and integrity;

   b. promotion of efficient, effective and economic use of national resources;

   c. effective, impartial, fair and equitable provision of public services;

   d. encouragement of people to participate in the process of policy making;

   e. prompt, efficient and timely response to people's needs;

   f. commitment to the implementation of public policy and programmes;

   g. accountability for administrative acts;

   h. proactively providing the public with timely, accessible and accurate information;

• Civil service recruitment

   i. merit as the basis of appointment and promotion;

   j. adequate and equal opportunities for appointments, training and advancement of members of both gender and members of all ethnic groups; and

   k. representation of persons with disabilities in the composition of the public service at all levels.

2. The values and principles specified in clause (1) apply to service—

   a. at national, provincial and local government levels; and

   b. to all State organs and State institutions.

3. A public officer shall not be—

   a. victimised or discriminated against for having performed functions in good faith in accordance with this Constitution or other law; or

   b. removed from office, reduced in rank or otherwise punished without just cause and due process.

Constituting Offices for Public Service

• Head of state powers

Article 174: Constituting offices for public service

1. Subject to the recommendations of the relevant Service Commission, the power to constitute offices for the public service and to abolish those offices vests in the President.
2. The President shall not abolish an office in the public service while there is a substantive holder of the office.
3. The President may, by statutory instrument, declare that an office constituted by the President shall not be an office in the public service.
4. Appointment to an office declared by the President not to be an office in the public service shall be made by the President.

Article 175: Holding of office in public service

For the purposes of this Constitution, a person shall not be considered as holding an office in the public service by reason only that the person is in receipt of emoluments in respect of service under or for the Government.

Constitutional Office Holders

Article 176: Secretary to Cabinet

1. There shall be a Secretary to the Cabinet who shall be appointed by the President, in consultation with the Civil Service Commission, subject to ratification by the National Assembly.
2. The Secretary to the Cabinet shall—

   a. be chief advisor to the President on the management of the public service;

   b. be the head of the public service and responsible to the President for securing the general efficiency and effectiveness of the public service;

   c. ensure that public services are delivered to the public efficiently;

   d. in accordance with instructions of the President—

      i. arrange the affairs of Cabinet;

      ii. attend meetings of Cabinet;

iii. cause to be written and kept minutes of meetings of Cabinet; and

iv. convey decisions made by Cabinet to appropriate authorities;

e. monitor the implementation of Government policies and Cabinet decisions; and

f. perform other functions as prescribed.

3. A person qualifies to be appointed as Secretary to the Cabinet if that person has or had at least ten years experience as a permanent secretary or equivalent rank.
4. The term of office of the Secretary to the Cabinet shall be five years, subject to renewal for further terms.
5. The Secretary to the Cabinet may resign from office by giving three months' notice, in writing, to the President.

• Attorney general

Article 177: Attorney-General

1. There shall be an Attorney-General, who shall be appointed by the President, subject to ratification by the National Assembly.
2. The Attorney-General shall not hold another public office.
3. The Attorney-General shall be a person qualified to be appointed as a judge.
4. The Attorney-General shall not be subject to the direction or control of a person or an authority in the performance of the Attorney-General's functions.
5. The Attorney-General is the chief legal adviser to the Government and shall—

a. be head of the Attorney-General's Chambers;

b. sign Government Bills to be presented to the National Assembly;

c. represent the Government in civil proceedings to which Government is a party;

• International law
• Treaty ratification

d. give advice on an agreement, treaty or convention to which Government intends to become a party or in respect of which the Government has an interest before they are concluded, except where the National Assembly otherwise directs, and subject to conditions as prescribed; and

e. perform other functions, as prescribed.

6. The Attorney-General's Chambers shall be devolved to the Provinces and progressively to districts.

Article 178: Vacancy in office of Attorney-General

1. The office of the Attorney-General becomes vacant if—

a. the Attorney-General is removed from office by the President;

b. another person assumes the office of President;

c. the Attorney-General dies; or

d. the Attorney-General has a mental or physical disability that makes the Attorney-General incapable of performing the functions of that office.

2. The Attorney-General may resign from office by giving three months' notice, in writing, to the President.

Article 179: Solicitor-General

1. There shall be a Solicitor-General who shall be appointed by the President, subject to ratification by the National Assembly.
2. A person qualifies for appointment as Solicitor-General if that person is qualified for appointment as a judge.
3. The Solicitor-General shall not hold another public office.
4. The office of Solicitor-General becomes vacant if—

a. the Solicitor-General is removed from office by the President;

b. another person assumes the office of President;

c. the Solicitor-General dies; or

d. the Solicitor-General has a mental or physical disability that makes the Solicitor-General incapable of performing the functions of that office.

5. The Solicitor-General shall assist the Attorney-General in the performance of the Attorney- General's functions.
6. A function conferred on the Attorney-General by this Constitution or other law shall be performed by the Solicitor-General when the Attorney-General is unable to act owing to illness or absence from office for a reason.
7. The Solicitor-General may resign from office by giving three months' notice, in writing, to the President.

- Attorney general

Article 180: Director of Public Prosecutions

1. There shall be a Director of Public Prosecutions who shall be appointed by the President, subject to ratification by the National Assembly.
2. A person qualifies for appointment as Director of Public Prosecutions if that person—

a. has experience in undertaking criminal trials; and

b. is qualified to be appointed as a judge.

3. The Director of Public Prosecutions is the chief prosecutor for the Government and head of the National Prosecutions Authority.
4. The Director of Public Prosecutions may—

a. institute and undertake criminal proceedings against a person before a court, other than a court-martial, for an offence alleged to have been committed by that person;

b. take over and continue criminal proceedings instituted or undertaken by another person or authority; and

c. discontinue, at any stage before judgment is delivered, criminal proceedings instituted or undertaken by the Director of Public Prosecutions or another person or authority.

5. For the purposes of clause (4), an appeal from a judgment, a case stated or to a question of law reserved shall be part of the criminal proceedings.
6. The power conferred on the Director of Public Prosecutions under clause (4)(c) shall not be exercised in relation to an appeal by a convicted person, a case stated or a question of law reserved at the instance of that person.
7. The Director of Public Prosecutions shall not be subject to the direction or control of a person or an authority in the performance of the functions of that office, except that the Director of Public Prosecutions shall have regard to the public interest, administration of justice, the integrity of the judicial system and the need to prevent and avoid abuse of the legal process.
8. The functions of the Director of Public Prosecutions may be exercised in person or by a public officer or legal practitioner, authorised by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.
9. The National Prosecutions Authority shall be established as prescribed and shall devolve to the provinces and progressively to the districts.

Article 181: Performance of functions of Director of Public Prosecutions during absence, illness or other cause

Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office due to illness or other cause, the President shall appoint a person qualified to perform the functions of Director of Public Prosecutions to perform those functions until that appointment is revoked or until the Director of Public Prosecutions returns to office.

Article 182: Tenure of office of Director of Public Prosecutions

1. Subject to this Article, the Director of Public Prosecutions shall retire from office on attaining the age of sixty years.
2. The Director of Public Prosecutions may retire, with full benefits, on attaining the age of fifty-five years.
3. The Director of Public Prosecutions may be removed from office on the same grounds and procedure as apply to a judge.
4. The Director of Public Prosecutions may resign from office by three months' notice, in writing, to the President.

Article 183: Secretary to Treasury

1. There shall be a Secretary to the Treasury who shall be appointed by the President, in consultation with the Civil Service Commission, subject to ratification by the National Assembly.
2. The Secretary to the Treasury shall be the chief controlling officer of the Government.

3. The Secretary to the Treasury shall—

   a. be responsible and accountable for—

      i. the proper financial management and expenditure of public monies appropriated to a State organ, Province, local authority, State institution or other prescribed body; and

      ii. monies raised from sources within or outside Zambia by a Province, local authority, State institution or other prescribed body;

   • Economic plans

   b. oversee the formulation and implementation of the macro-economic frameworks and socio-economic plans of the Republic;

   c. provide a regulatory framework for sound financial management;

   • Budget bills

   d. cause to be prepared annual estimates of revenue and expenditure, supplementary estimates of expenditure and the budget; and

   e. carry out other prescribed functions.

4. A person qualifies to be appointed as Secretary to the Treasury if that person qualifies for appointment as Governor of the Bank of Zambia.
5. The term of office of the Secretary to the Treasury shall be five years, subject to renewal for further terms.
6. The Secretary to the Treasury may resign from office by three months' notice, in writing, to the President.

Article 184: Permanent Secretaries

1. The President shall, on the advice of the Civil Service Commission, appoint a Permanent Secretary for a Province, ministry or department.
2. A Permanent Secretary shall—

   a. carry out or cause to be carried out the portfolio functions of the provincial administration, ministry or department;

   b. advise the Minister or provincial Minister with respect to the activities, projects and programmes of the Province, ministry or department;

   c. cause to be implemented the policies of the Government and decisions of Cabinet;

   d. be responsible and accountable for the proper financial management and expenditure of public monies appropriated to the Province, ministry or department; and

   e. be responsible and accountable for the management of human resources in the provincial secretariat, ministry or department.

Public Officers

Article 185: Appointment of public officers

• Head of state powers

1. The President has, in accordance with and subject to the other provisions of this Constitution, the power to—
    a. appoint and confirm public officers;
    b. exercise disciplinary control over public officers; and
    c. terminate the employment of a public officer.
2. The President's functions, as specified in clause (1), shall be exercised by the relevant Service Commission as specified in this Constitution and as prescribed.
3. A person shall not be regarded as disqualified for appointment to an office to which a public officer is qualified to be appointed by reason only that the office is held by a person who is on leave of absence pending relinquishment of that office.
4. A function of a service commission may be delegated to a public officer, as prescribed.

Article 186: Participation in politics

1. A public officer who seeks election, or is appointed, to a State office shall resign.
2. Clause (1) applies to a Constitutional office holder.

PART XIV: PENSION BENEFIT

Article 187: Pension benefit

1. An employee, including a public officer and Constitutional office holder, has a right to a pension benefit.
2. A pension benefit shall not be withheld or altered to that employee's disadvantage.
3. The law to be applied with respect to a pension benefit–
    a. before the commencement of this Constitution, shall be the law that was in force immediately before the date on which the pension benefit was granted or the law in force at a later date that is not less favourable to that employee; and
    b. after the commencement of this Constitution, shall be the law in force on the date on which the pension benefit was granted or the law in force at a later date that is not less favourable to that employee.

Article 188: Review of pension benefit and tax exemption

1. A pension benefit shall be reviewed periodically to take into account actuarial assessments.

2. A pension benefit shall be exempt from tax.

Article 189: Payment of pension benefits

1. Apension benefit shall be paid promptly and regularly.
2. Where a pension benefit is not paid on a person's last working day, that person shall stop work but the person's name shall be retained on the payroll, until payment of the pension benefit based on the last salary received by that person while on the payroll.

PART XV: DEFENCE AND NATIONAL SECURITY

Article 190: Principles relating to Defence Force and national security services

1. The Defence Force and national security services shall—

    a. be nationalistic, patriotic, professional, disciplined and competent;

    b. be non-partisan;

    c. not further the interests or cause of a particular organisation; and

    d. not act against a political interest or cause permitted in this Constitution or as prescribed.

2. Clause (1) shall not prevent a member of the Defence Force and national security services from registering as a voter or voting in an election or a referendum.

Article 191: Status of Defence Force and national security services

The Defence Force and national security services shall be—

a. subordinate to civilian authority, as vested in the State organs; and

b. adequately and properly equipped to enable themeffectively perform their functions.

Article 192: Establishment of Defence Force and functions

1. There is established the Defence Force of Zambia consisting of—

    a. the Zambia Army;

    b. the Zambia Air Force;

c. the Zambia National Service, as an auxiliary unit; and

d. other units, as prescribed.

2. The Defence Force shall—

a. preserve and defend the sovereignty and territorial integrity of the Republic;

b. foster harmony and understanding between the Zambia Army, Zambia Air Force, an auxiliary unit and members of society; and

c. co-operate with State organs and State institutions in times of public emergencies and national disasters.

Article 193: Establishment of national security services and functions

1. There are established the following national security services—

a. the Zambia Police Service;

b. the Zambia Security Intelligence Service;

c. the Zambia Correctional Service; and

d. any other national security service, as prescribed.

2. The Zambia Police Service shall—

a. protect life and property;

b. preserve peace and maintain law and order;

c. ensure the security of the people;

d. detect and prevent crime;

e. uphold the Bill of Rights;

f. foster and promote good relationships with the Defence Force, other national security services and members of society; and

g. perform other functions as prescribed.

3. The Zambia Security Intelligence Service shall—

a. ensure national security by undertaking security intelligence and counter intelligence;

b. prevent a person from suspending, overthrowing or illegally abrogating this Constitution; and

c. perform other functions as prescribed.

4. The Zambia Correctional Service shall—

a. manage, regulate and ensure the security of prisons and correctional centres; and

b. perform other functions as prescribed.

Article 194: Qualification to serve in Defence Force and national security service

A person is qualified to serve as a member of the Defence Force and national security services if the person is—

a. a citizen who does not hold dual citizenship; and

b. qualified as prescribed.

Article 195: Deployment outside Republic

1. The President may deploy personnel of the Defence Force outside the Republic.
2. Where the President deploys personnel of the Defence Force outside the Republic, the President shall, as soon as is reasonably practicable, inform the National Assembly of the deployment.

Article 196: Prohibition of activities relating to defence and national security

Except as provided in this Constitution, a person shall not—

a. raise or participate in the raising of an armed force;

b. establish or participate in the establishment of a defence force or national security service; or

c. establish or participate in the establishment of a unit of the Defence Force or national security service.

Article 197: Legislation on Defence Force and national security services

The following shall be prescribed:

a. the regulation of the Defence Force and national security services;

b. the organs and structures of the Defence Force and national security services;

c. the operations and administration of the Defence Force and national security services;

d. the recruitment of persons into the Defence Force and national security services, which shall reflect the regional diversity of the people of Zambia;

e. the appointment, qualifications, placement, transfer, discipline and retirement of defence and security chiefs and other personnel of the Defence Force and national security services;

f. the emoluments of personnel and members of the Defence Force and national security services;

g. the procedures and processes for deployment of the personnel of the Defence Force; and

h. other functions as prescribed.

PART XVI: PUBLIC FINANCE AND BUDGET

Article 198: Principles relating to public finance

The guiding principles of public finance include the following:

• Economic plans

a. transparency and accountability in the development or formulation of macro-economic frameworks, socio-economic plans and the budget;

b. promotion of a public finance system that ensures that—

i. the burden of taxation is shared fairly;

• Municipal government
• Subsidiary unit government

ii. revenue raised nationally is shared equitably among the different levels of government; and

iii. expenditure promotes the equitable development of the country;

c. sustainable public borrowing to ensure inter-generational equity; and

d. prudent and responsible use of public resources.

Article 199: Imposition of tax

1. A tax shall not be imposed, except as prescribed.

2. Where legislation confers power on a person or an authority to waive or vary a prescribed tax the power shall be exercised through a statutory instrument.
3. A report explaining the waiver or variation of a tax shall be submitted to the National Assembly within twenty-one days of the publication of the statutory instrument.

Article 200: Consolidated Fund

1. There is established a Consolidated Fund to which shall be credited the revenues and other monies accruing to the Treasury.
2. Clause (1) does not apply to monies—

    a. prescribed for a public fund established for a specific purpose; or

    b. that a State organ or State institution may retain for the purpose of defraying the expenses of the State organ or State institution, as prescribed.

Article 201: Withdrawal from Consolidated Fund

1. Monies shall not be withdrawn from the Consolidated Fund except—

    a. to meet expenditure charged on the Consolidated Fund by this Constitution or as prescribed; or

    b. where the issuance of those monies has been authorised by a warrant signed by the President, an Appropriation Act or a Supplementary Appropriation Act in accordance with Article 203.
2. The investment or lending of monies forming part of the Consolidated Fund, in accordance with Articles 206 and 207, respectively, shall not be considered a withdrawal from the Consolidated Fund.

• Budget bills

Article 202: Annual financial estimates of revenue and expenditure

1. The Minister responsible for finance shall prepare and lay before the National Assembly in each financial year, not later than ninety days before the commencement of the next financial year, estimates of revenue and expenditure for the Republic.
2. The Minister responsible for finance shall, when presenting the estimates of revenue and expenditure, in accordance with clause (1), specify the maximum limits that the Government intends to borrow or lend in that financial year.
3. In a year where a general election is held, the Minister responsible for finance shall cause to be prepared and laid before the National Assembly, within ninety days of the swearing in of the President, estimates of revenue and expenditure for the Republic for the next financial year.
4. The National Assembly may vary estimates of revenue and expenditure but shall not amend the total amount of estimates of revenue and expenditure.
5. The National Assembly shall, by a resolution of the Members of Parliament, approve the financial estimates of revenue and expenditure for the next financial year.

• Spending bills

Article 203: Appropriation Act, Supplementary Appropriation Act and Excess Expenditure Appropriation Act

1. Where estimates of revenue and expenditure have been approved by the National Assembly in accordance with Article 202, the Minister responsible for finance shall lay, before the National Assembly for enactment, an Appropriation Bill in respect of the approved estimates of expenditure.
2. The Minister responsible for finance shall, where the amount appropriated in an AppropriationAct for a financial year is insufficient to meet expenditure in that financial year, lay before the National Assembly for approval, in accordance with Article 202 (5), a supplementary estimate of expenditure.
3. Where a supplementary estimate of expenditure has been approved by the National Assembly, the Minister responsible for finance shall lay, before the National Assembly for enactment, a Supplementary Appropriation Bill in respect of the approved supplementary estimate of expenditure.
4. Where there is an urgent need to incur expenditure for a purpose that has not been appropriated under the Appropriation Act for that financial year and it would not be in the public interest to delay the appropriation of the expenditure until a supplementary estimate is approved by the National Assembly, in accordance with clauses (2) and (3), the President may, subject to Article 204, issue a warrant authorising the expenditure and withdrawal from the Consolidated Fund.

• Legislative committees

5. The Minister responsible for finance shall present the warrant referred to in clause (4) to the relevant parliamentary committee for approval.

• Legislative committees

6. The parliamentary committee shall consider the warrant within forty-eight hours of its presentation by the Minister responsible for finance.
7. Where expenditure is incurred in accordance with clause (4), the Minister responsible for finance shall, in that financial year, lay an Excess Expenditure Appropriation Bill before the National Assembly for enactment.
8. Where it is not practicable to lay an Excess Expenditure Appropriation Bill before the National Assembly, in accordance with clause (7), the Minister responsible for finance shall lay the Excess Expenditure Appropriation Bill before the National Assembly during the first sitting of the National Assembly after the end of the preceding financial year.

Article 204: Limitation and conditions of warrant

1. The issuance of a warrant, in accordance with Article 203 (4), shall be subject to limitations and conditions, as prescribed.
2. The President shall, immediately after signing a warrant in accordance with Article 203 (4), cause a copy of the warrant to be transmitted to the Auditor-General and Parliament.

Article 205: Budget and planning legislation

The following shall be prescribed:

a. the financial management and regulation of public funds;

b. the preparation of medium and long-term financing frameworks and development plans;

c. the budget preparation process;

d. public participation, at all levels of government, in the formulation of financing frameworks, development plans and preparation of annual budgets;

e. the content of the financial report of the Republic provided for in Article 211; and

f. the control and disbursement of appropriated funds.

Article 206: Investment of public funds

1. Monies forming part of the Consolidated Fund may be invested into readily marketable securities and deposits or other secure investments, with a financial institution approved by the Minister responsible for finance.
2. The investment of monies made in accordance with clause (1) shall be prescribed.

• Finance bills

Article 207: Borrowing and lending by Government

1. The Government may, as prescribed—

   a. raise a loan or grant on behalf of itself, a State organ, State institution or other institution;

   b. guarantee a loan on behalf of a State organ, State institution or other institution; or

   c. enter into an agreement to give a loan or grant out of the Consolidated Fund, other public fund or public account.
2. Legislation enacted under clause (1) shall provide—

   a. for the category, nature and other terms and conditions of a loan, grant or guarantee, that will require the approval by the National Assembly before the loan, grant or guarantee is executed; and

   b. that any monies received in respect of a loan or grant approved by the National Assembly shall be paid into the Consolidated Fund, or other public fund or public account.

Article 208: Public debt

1. A public debt shall be a charge on the Consolidated Fund or other public fund.
2. For the purposes of this Article, "public debt" includes the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Article 209: Compensation Fund

1. There is established a Compensation Fund for the purpose of settling claims against the State.
2. The management of the Compensation Fund shall be prescribed.

Article 210: Public procurement and disposal of State assets

1. A State organ, State institution and other public office shall procure goods or services, in accordance with a system that is fair, equitable, transparent, competitive and cost-effective, as prescribed.
2. A major State asset shall be sold, transferred or otherwise disposed of, as prescribed, subject to the approval of the National Assembly signified by a vote of at least two-thirds of the Members of Parliament.
3. For the purposes of this Article, "major State asset" includes a parastatal and equity held by the Government, as prescribed.

Article 211: Financial report of Republic

1. The Minister responsible for finance shall, within three months after the end of each financial year, prepare and submit to the Auditor-General the financial report of the Republic in respect of the preceding financial year.
2. The Auditor-General shall, within two months of receipt of the financial report, examine the financial report and express an opinion on the report.
3. The Minister responsible for finance shall, within one month after the receipt of the Auditor-General's opinion, lay the financial report, with the Auditor-General's opinion, before the National Assembly.
4. The financial report shall include information on—

    a. revenue received by the Republic during that financial year;

    b. the expenditure of the Republic during that financial year;

    c. gifts, donations and aid-in-kind received on behalf of the Republic in that financial year, their value and how they were disposed of;

    d. debt repayments;

    e. payments made in that financial year for purposes other than expenditure;

    f. the financial position of the Republic at the end of that financial year; and

    g. other information as prescribed.

Article 212: Auditor-General's report

The Auditor-General shall, not later than nine months after the end of a financial year, submit an audit report to the President and the National Assembly, on the accounts of the Republic audited in respect of the preceding financial year.

PART XVII: CENTRAL BANK

• Central bank

Article 213: Bank of Zambia(1) There is established the Bank of Zambia which shall be the central bank of the Republic

2. The functions of the Bank of Zambia are to—

    a. issue the currency of the Republic;

    b. determine monetary policy; and

    c. regulate banking and financial services, banks, financial and non-banking institutions, as prescribed.

3. There is constituted a Board of Directors for the Bank of Zambia whose composition shall be prescribed.
4. The functions of the Bank of Zambia vest in the Board of Directors and shall be performed as prescribed.
5. The Bank of Zambia shall not be subject to the direction or control of a person or an authority in the performance of its functions.

Article 214: Governor of Bank of Zambia

1. There shall be a Governor of the Bank of Zambia who shall be appointed by the President, subject to ratification by the National Assembly, and who shall be—

    a. a citizen;

    b. a person who has specialised training and experience in economics, finance, accounting, banking, law or other field relevant to banking, as prescribed; and

    c. a person of proven integrity.

2. The Governor shall be the Chairperson of the Board of Directors.

Article 215: Legislation on Bank of Zambia

The following shall be prescribed:

a. additional functions, operations and management of the Bank of Zambia;

b. appointment, qualifications and tenure of office of the Board of Directors;

c. election of a Vice-Chairperson of the Board of Directors;

d. tenure of office and emoluments of the Governor;

e. appointment, qualifications, tenure of office, functions and emoluments of the Deputy-Governor;

f. recruitment, and emoluments of members of staff of the Bank of Zambia; and

g. other matters necessary for the performance of the functions of the Bank of Zambia.

PART XVIII: SERVICES, COMMISSIONS AND OTHER INDEPENDENT OFFICES

Article 216: Principles relating to commissions

A commission shall—

a. be subject only to this Constitution and the law;

b. be independent and not be subject to the control of a person or an authority in the performance of its functions;

c. act with dignity, professionalism, propriety and integrity;

d. be non-partisan; and

e. be impartial in the exercise of its authority.

Parliamentary Service Commission

Article 217: Parliamentary Service

1. There is established the Parliamentary Service.
2. The office of the Clerk of the National Assembly, members of staff of the Parliamentary Service Commission and members of staff of the office of the Clerk, as prescribed, are offices in the Parliamentary Service.

Article 218: Parliamentary Service Commission

1. There is established the Parliamentary Service Commission.
2. The Parliamentary Service Commission shall—

a. appoint the Clerk of the National Assembly;

b. constitute offices in the Parliamentary Service;

c. appoint, confirm, promote and hear appeals from officers of the Parliamentary Service;

d. ensure efficient and effective functioning of the National Assembly;

e. have financial oversight of the Parliamentary Service and the National Assembly; and

f. perform such other functions as prescribed.

Judicial Service Commission

Article 219: Judicial Service

1. There is established the Judicial Service.
2. The office of judge, judicial officer, the members of staff of the Judicial Service Commission and such other officers as prescribed, are offices in the Judicial Service.

• Establishment of judicial council

Article 220: Judicial Service Commission

1. There is established the Judicial Service Commission.
2. The Judicial Service Commission shall—

a. constitute offices in the Judicial Service;

b. make recommendations to the President on the appointment of judges;

c. appoint, confirm, promote and hear appeals from judicial officers; and

d. carry out a function provided for in this Constitution, or as prescribed.

Civil Service Commission

Article 221: Civil Service

1. There is established the Civil Service.
2. The office of the Secretary to the Cabinet, Secretary to the Treasury, Deputy Secretary to the Cabinet, civil servants, the members of staff of the Civil Service Commission and other public officers as prescribed, are offices in the Civil Service.

Article 222: Civil Service Commission

1. There is established the Civil Service Commission.
2. The Civil Service Commission shall—

a. constitute offices in the Civil Service;

b. appoint, confirm, promote and hear appeals from officers in the Civil Service, excluding a Constitutional office holder; and

c. perform such other functions as prescribed.

Teaching Service Commission

Article 223: Teaching Service

1. There is established the Teaching Service.
2. The teachers serving as public officers excluding civil servants, the members of staff of the Teaching Service Commission and other public officers, as prescribed, are offices in the Teaching Service.

Article 224: Teaching Service Commission

1. There is established the Teaching Service Commission.
2. The Teaching Service Commission shall—

a. constitute offices in the Teaching Service;

b. appoint, confirm, promote and hear appeals from officers of the Teaching Service; and

c. perform such other functions as prescribed.

Zambia Correctional Service Commission

Article 225: Zambia Correctional Service Commission

1. There is established the Zambia Correctional Service Commission for the Zambia Correctional Service established in Article 193.
2. The office of Commissioner-General of Correctional Service, Deputy Commissioners-General of Correctional Service, Commissioners of Correctional Service, Assistant Commissioners of Correctional Service, Correctional officers and wardens, members of staff of the Zambia Correctional Service Commission and such other public officers as prescribed, are offices in the Zambia Correctional Service.
3. The Zambia Correctional Service Commission shall—

a. constitute offices in the Zambia Correctional Service;

b. appoint, confirm, promote and hear appeals from officers of the Zambia Correctional Service; and

c. perform such other functions as prescribed.

Zambia Police Service Commission

Article 226: Zambia Police Service Commission

1. There is established the Zambia Police Service Commission for the Zambia Police Service established in Article 193.
2. The office of the Inspector-General of Police, the Deputy Inspector-General of Police, police officers, the members of staff of the Zambia Police Service Commission and other public officers as prescribed, are offices in the Zambia Police Service.
3. The Zambia Police Service Commission shall—

    a. constitute offices in the Zambia Police Service;

    b. appoint, confirm, promote and hear appeals from officers of the Zambia Police Service; and

    c. perform such other functions as prescribed.

Local Government Service Commission

Local Government Service Commission

Article 227: Local Government Service

1. There is established the Local Government Service.
2. The office of the Town Clerk, Council Secretary, members of staff of the Local Government Service Commission, the members of staff of local authorities and other local government staff, as prescribed, are offices in the Local Government Service.

Article 228: Local Government Service Commission

1. There is established the Local Government Service Commission.
2. The Local Government Service Commission shall—

    a. appoint the Town Clerk and Council Secretary of a local authority;

    b. constitute offices in the Local Government Service;

    c. appoint, confirm, promote and hear appeals from officers of the Local Government Service;

    d. ensure efficient and effective functioning of local authorities; and

    e. perform such other functions as prescribed.

• Electoral commission

Electoral Commission of Zambia: Electoral Commission of Zambia

Article 229: Electoral Commission of Zambia

1. There is established the Electoral Commission of Zambia which shall have offices in Provinces and progressively in districts.
2. The Electoral Commission shall—

   a. implement the electoral process;

• Referenda

   b. conduct elections and referenda;

   c. register voters;

   d. settle minor electoral disputes, as prescribed;

   e. regulate the conduct of voters and candidates;

   f. accredit observers and election agents, as prescribed;

• Electoral districts

   g. delimit electoral boundaries; and

   h. perform such other functions as prescribed.

• Human rights commission

Human Rights Commission

Article 230: Human Rights Commission

1. There is established the Human Rights Commission which shall have offices in the Provinces and progressively in districts.
2. The Human Rights Commission shall ensure that the Bill of Rights is upheld and protected.
3. The Human Rights Commission shall—

   a. investigate and report on the observance of rights and freedoms;

   b. take necessary steps to secure appropriate redress where rights and freedoms are violated;

   c. endeavour to resolve a dispute through negotiation, mediation or conciliation;

   d. carry out research on rights and freedoms and related matters;

   e. conduct civic education on rights and freedoms; and

f. perform such other functions as prescribed.

Gender Equity and Equality Commission

Article 231: Gender Equity and Equality Commission

1. There is established the Gender Equity and Equality Commission which shall have offices in the Provinces and progressively in districts.
2. The Gender Equity and Equality Commission shall promote the attainment and mainstreaming of gender equality.
3. The Gender Equity and Equality Commission shall—

   a. monitor, investigate, research, educate, advise and report on issues concerning gender equality;

   b. ensure institutions comply with legal requirements and other standards relating to gender equality;

   c. take steps to secure appropriate redress to complaints relating to gender inequality, as prescribed; and

   d. perform such other functions as prescribed.

Emoluments Commission

Article 232: Emoluments Commission

1. There is established the Emoluments Commission.
2. The Emoluments Commission shall determine, on the recommendation of the relevant authority or commission, the emoluments of public officers, chiefs and members of the House of Chiefs, as provided in this Constitution or as prescribed.

Lands Commission

Article 233: Lands Commission

1. There is established the Lands Commission which shall have offices in all Provinces and progressively in districts.
2. The Lands Commission shall administer, manage and alienate land, on behalf of the President, as prescribed.

State Audit Commission

Article 234: State Audit Commission

1. There is established the State Audit Commission.

2. The State Audit Commission shall—

   a. subject to Article 249 (2) oversee the operations of the office of the Auditor-General, as prescribed;

   b. make recommendations to the President on the appointment of the Auditor-General; and

   c. perform such other functions as prescribed.

Investigative Commissions

Article 235: Investigative Commissions

There is established the following investigative commissions:

• Counter corruption commission

   a. the Anti-Corruption Commission;

   b. the Drug Enforcement Commission; and

   c. the Anti-Financial and Economic Crimes Commission.

Judicial Complaints Commission

Article 236: Judicial Complaints Commission

1. There is established the Judicial Complaints Commission.
2. The Judicial Complaints Commission shall—

   a. enforce the Code of Conduct for judges and judicial officers;

   b. ensure that judges and judicial officers are accountable to the people for the performance of their functions;

   c. receive complaints lodged against a judge or judicial officer, as prescribed;

   d. hear a complaint against a judge or judicial officer, as prescribed;

   e. make recommendations to the appropriate institution or authority for action; and

   f. perform such other functions as prescribed.

Police Public Complaints Commission

Article 237: Police Public Complaints Commission

1. There is established the Police Public Complaints Commission.

2. The Police Public Complaints Commission shall—

   a. receive and investigate complaints against police actions;

   b. investigate complaints against police actions which result in serious injury or death of a person;

   c. make recommendations to the appropriate institution or authority for action; and

   d. perform such other functions as prescribed.

General Provisions Relating to Commissions

Article 238: Financial independence of commissions

1. A commission shall be a self-accounting institution which deals directly with the Ministry responsible for finance in matters relating to its finances.
2. A commission shall be adequately funded in a financial year to enable it to effectively perform its functions.

Article 239: Expenses of commissions

The expenses of a commission, including emoluments payable to, or in respect of, persons serving with that commission, shall be a charge on the Consolidated Fund.

Article 240: Qualifications of members of commissions

A person qualifies to be appointed as a member of a commission if that person—

   a. is a citizen;

   b. is permanently resident in Zambia;

   c. has not, in the immediate preceding five years, served a term of imprisonment of at least three years;

   d. declares that person's assets and liabilities, as prescribed;

   e. has paid that person's taxes or has made arrangements satisfactory to the appropriate tax authority for the payment of the taxes;

   f. does not have a mental or physical disability that would make the person incapable of performing the functions of office;

   g. is not serving a sentence of imprisonment for an offence under a law; and

   h. has other qualifications, as prescribed.

Article 241: General powers of commissions

A commission—

a. shall appoint its staff;

b. may refer matters within its mandate to appropriate State organs or State institutions for action;

c. may initiate its own investigations and receive complaints from a person on matters within its mandate;

d. shall take measures to ensure that State institutions and other persons comply with its decisions; and

e. shall submit annual reports to the National Assembly on its accounts and activities as prescribed.

Article 242: Legislation on commissions

The functions, composition, appointment of members, tenure of office of members, processes and procedures, operations, administration, structures, finances and financial management of a commission shall be prescribed.

Other Independent Offices

• Ombudsman

Public Protector

Article 243: Public Protector

1. There shall be a Public Protector who shall be appointed by the President, on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.
2. A person qualifies for appointment as Public Protector if that person—

   a. is qualified to be appointed as a judge; and

   b. does not hold a State office or Constitutional office.
3. The office of Public Protector shall be decentralised to the Provinces and progressively to districts, as prescribed.
4. The procedures, staff, finances, financial management, administration and operations of the office of the Public Protector shall be prescribed.

Article 244: Functions of Public Protector

1. The Public Protector may investigate an action or decision taken or omitted to be taken by a State institution in the performance of an administrative function.

2. For purposes of clause (1), an action or decision taken or omitted to be taken is an action or decision which is—
    a. unfair, unreasonable or illegal; or
    b. not compliant with the rules of natural justice.
3. For purposes of clauses (1) and (2), the Public Protector may—
    a. bring an action before a court;
    b. hear an appeal by a person relating to an action or decision taken or omitted to be taken in respect of that person; and
    c. make a decision on an action to be taken against a public officer or Constitutional office holder, which decision shall be implemented by an appropriate authority.
4. The Public Protector shall not be subject to the direction or control of a person or an authority in the performance of the functions of office.
5. The Public Protector has the same powers as those of the High Court in—
    a. enforcing the attendance of witnesses and examining them on oath;
    b. examining witnesses outside Zambia;
    c. compelling the production of documents;
    d. enforcing decisions issued by the Public Protector; and
    e. citing a person or an authority for contempt for failure to carry out a decision.
6. A person summoned to give evidence or to produce a document before the Public Protector is entitled, in respect of that evidence or the production of the document, to the same privileges and protection as those that a person would be entitled to before a court.
7. An answer by a person to a question put by the Public Protector is not admissible in evidence against that person in civil or criminal proceedings, except for perjury.

Article 245: Limitation of powers of Public Protector

The Public Protector shall not investigate a matter which—

a. is before a court, court martial or a quasi-judicial body;
b. relates to an officer in the Parliamentary Service or Judicial Service;
c. involves the relations or dealings between the Government and foreign government or an international organisation;

International organizations

d. relates to the exercise of the prerogative of mercy; or

e. is criminal in nature.

Article 246: Performance of functions of Public Protector during absence, illness or other cause

Where the Public Protector is absent from Zambia or is unable to perform the functions of office due to illness or other cause, the President shall appoint a person qualified to perform the functions of the Public Protector until that appointment is revoked or until the Public Protector returns to office.

Article 247: Tenure of office of Public Protector

1. Subject to this Article, the Public Protector shall retire from office on attaining the age of sixty years.
2. The Public Protector may retire, with full benefits, on attaining the age of fifty-five years.
3. The Public Protector may be removed from office on the same grounds and procedure as apply to a judge.
4. The Public Protector may resign from office by three months' notice, in writing, to the President.

Article 248: Report to National Assembly

The office of the Public Protector shall report to the National Assembly on matters concerning its affairs.

Auditor-General

Article 249: Auditor-General

1. There shall be an Auditor-General who shall be appointed by the President, on the recommendation of the State Audit Commission, subject to ratification by the National Assembly.
2. The office of Auditor-General shall be decentralised to the Provinces and progressively to districts, as prescribed.
3. The following shall be prescribed:

    a. the qualifications of the Auditor-General;

    b. the operations and management of the office of the Auditor-General;

    c. the recruitment, supervision, grading, promotion and discipline of the staff of the Auditor-General; and

    d. the finances of the office of the Auditor-General.

Article 250: Functions of Auditor-General

1. The Auditor-General shall—
    a. audit the accounts of—
        i. State organs, State institutions, provincial administration and local authorities; and
        ii. institutions financed from public funds;
    b. audit the accounts that relate to the stocks, shares and stores of the Government;
    c. conduct financial and value for money audits, including forensic audits and any other type of audit, in respect of a project that involves the use of public funds;
    d. ascertain that money appropriated by Parliament or raised by the Government and disbursed—
        i. has been applied for the purpose for which it was appropriated or raised;
        ii. was expended in conformity with the authority that governs it; and
        iii. was expended economically, efficiently and effectively; and
    e. recommend to the Director of Public Prosecutions or a law enforcement agency any matter within the competence of the Auditor-General, that may require to be prosecuted.
2. The Auditor-General shall not be subject to the direction or control of a person or an authority in the performance of the functions of office.

Article 251

Performance of functions of Auditor-General during absence, illness or other cause<title.

Where the Auditor-General is absent from Zambia or is unable to perform the functions of office due to illness or other cause, the President shall appoint a person qualified to perform the functions of the Auditor-General until that appointment is revoked or until the Auditor-General returns to office.

Article 252: Tenure of office of Auditor-General

1. Subject to this Article, the Auditor-General shall retire from office on attaining the age of sixty years.
2. The Auditor-General may retire, with full benefits, on attaining the age of fifty-five years.
3. The Auditor-General may be removed from office on the same grounds and procedure as apply to a judge.

4. The Auditor-General may resign from office by three months' notice, in writing, to the President.

PART XIX: LAND, ENVIRONMENT AND NATURAL RESOURCES

Land

Article 253: Principles of land policy

1. Land shall be held, used and managed in accordance with the following principles:

   a. equitable access to land and associated resources;

   b. security of tenure for lawful land holders;

   c. recognition of indigenous cultural rites;

   d. sustainable use of land;

   e. transparent, effective and efficient administration of land;

   f. effective and efficient settlement of land disputes;

   g. river frontages, islands, lakeshores and ecologically and culturally sensitive areas—

      i. to be accessible to the public;

      ii. not to be leased, fenced or sold; and

      iii. to be maintained and used for conservation and preservation activities;

   h. investments in land to also benefit local communities and their economy; and

   i. plans for land use to be done in a consultative and participatory manner.

• Protection of environment

• Ownership of natural resources

Article 254: Classification and alientation of land and land tenure

1. Land shall be delimited and classified as State land, customary land and such other classification, as prescribed.

2. The President may, through the Lands Commission, alienate land to citizens and non-citizens, as prescribed.
3. Land shall be held for a prescribed tenure.

Environment and Natural Resources

• Protection of environment

Article 255: Principles of environmental and natural resources management and development

The management and development of Zambia's environment and natural resources shall be governed by the following principles:

a. natural resources have an environmental, economic, social and cultural value and this shall be reflected in their use;

b. the person responsible for polluting or degrading the environment is responsible for paying for the damage done to the environment;

• Reference to science

c. where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

d. the conservation and protection of ecologically sensitive areas, habitats, species and other environment shall be done in a sustainable manner;

e. respect for the integrity of natural processes and ecological communities;

f. benefits accruing from the exploitation and utilisation of the environment and natural resources shall be shared equitably amongst the people of Zambia;

g. saving of energy and the sustainable use of renewable energy sources shall be promoted;

h. reclaiming and rehabilitation of degraded areas and those prone to disasters shall be promoted;

i. unfair trade practices in the production, processing, distribution and marketing of natural resources shall be eliminated;

j. origin, quality, methods of production, harvesting and processing of natural resources shall be regulated;

k. equitable access to environmental resources shall be promoted;

l. effective participation of people in the development of relevant policies, plans and programmes; and

m. access to environmental information to enable people preserve, protect and conserve the environment.

• Protection of environment

Article 256: Protection of environment and natural resources

A person has a duty to co-operate with State organs, State institutions and other persons to—

a. maintain a clean, safe and healthy environment;

b. ensure ecologically sustainable development and use of natural resources;

c. respect, protect and safeguard the environment; and

d. prevent or discontinue an act which is harmful to the environment.

• Protection of environment

Article 257: Utilisation of natural resources and management of environment

The State shall, in the utilisation of natural resources and management of the environment—

a. protect genetic resources and biological diversity;

b. implement mechanisms that minimise waste;

c. promote appropriate environment management systems and tools;

d. encourage public participation;

• Provisions for intellectual property

e. protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of local communities;

f. ensure that the environmental standards enforced in Zambia are of essential benefit to citizens; and

g. establish and implement mechanisms that address climate change.

PART XX: GENERAL PROVISIONS

Article 258: Official language and use and satus of local languages

• Official or national languages

1. The official language of Zambia is English.

2. A language, other than English, may be used as a medium of instruction in educational institutions or for legislative, administrative or judicial purposes, as prescribed.

• Protection of language use

3. The State shall respect, promote and protect the diversity of the languages of the people of Zambia.

Article 259: Nominations and appointments

1. Where a person is empowered to make a nomination or an appointment to a public office, that person shall ensure—

   a. that the person being nominated or appointed has the requisite qualification to discharge the functions of the office, as prescribed or specified in public office circulars or establishment registers;

   b. that fifty percent of each gender is nominated or appointed from the total available positions, unless it is not practicable to do so; and

   c. equitable representation of the youth and persons with disabilities, where these qualify for nomination or appointment.

2. A person empowered to make a nomination or appointment to a public office shall, where possible, ensure that the nomination or appointment reflects the regional diversity of the people of Zambia.

Article 260: Oath of office and prescribed oaths

A person assuming a public office, member of the House of Chiefs, and presidential appointee, shall take an Oath of Office and such other oath, as prescribed, before carrying out the duties of office.

Article 261: Code of conduct and ethics

A person holding a public office shall act in accordance with a code of conduct and ethics, as prescribed for that office.

Article 262: Conflict of interest

A person holding a public office shall not act in a manner, or be in a position, where the personal interest of that person conflicts, or is likely to conflict, with the performance of the functions of office.

• Earnings disclosure requirement

Article 263: Declaration of assets

A person holding a public office shall, before assuming office or leaving office, make a declaration of their assets and liabilities, as prescribed.

Article 264: Emoluments payable under Constitution

1. A public officer, chief and member of the House of Chiefs, shall be paid such emoluments as recommended by the relevant authority or commission and determined by the Emoluments Commission.
2. The emoluments of a State officer, councillor, Constitutional office holder and a judge shall be determined by the Emoluments Commission, as prescribed.

3. The emoluments of a person holding a public office, chief and member of the House of Chiefs shall not be altered to the disadvantage of that person during that person's tenure of office.
4. A person holding a public office shall not, while in office, hold another office which pays emoluments.

Article 265: Funding, expenses and emoluments charge on Consolidated Fund

1. A public office shall be adequately funded to enable it to effectively perform its functions.
2. The expenses of a State organ, State institution and public office shall be a charge on the Consolidated Fund.
3. The emoluments payable under this Constitution or as prescribed, shall be a charge on the Consolidated Fund.

Article 266: Definitions

In this Constitution, unless the context otherwise requires—

- "adult" means a person who has attained, or is above, the age of nineteen years;
- "Bill" means a draft of a proposed law to be enacted by Parliament;
- "Bill of Rights" means the human rights and fundamental freedoms set out in Part III, and includes their status, application, interpretation, limitations, derogations, non-derogations and enforcement;
- "by-election" means an election to fill a vacancy in the office of a Member of Parliament or councillor;
- "candidate" means a person contesting a presidential, parliamentary or local government election;
- "chief" means a person bestowed as chief and who derives allegiance from the fact of birth or descent, in accordance with the customs, traditions, usage or consent of the people in a chiefdom;
- "child" means a person who has attained, or is below, the age of eighteen years;
- "circuit schedule" means a table showing dates, districts, time and place where a court is to sit and hear matters in any period of twelve months;
- "citizen" means a citizen of Zambia;
- "civil servant " means a public officer appointed by the Civil Service Commission;
- "civil society" means a group of persons, who are not part of the Government, who associate for the purpose of advancing or protecting particular interests;
- "commission" means a commission established under Part XVIII of this Constitution;
- "constituency" means an area into which Zambia is divided for purposes of elections to the National Assembly;
- "Constitutional Court" means the Constitutional Court established in this Constitution;
- "Constitutional office" means the office of the Attorney-General, Solicitor-General, Director of Public Prosecutions, Public Protector, Auditor-General, Secretary to the Cabinet, Secretary to the Treasury and Permanent Secretary;

- "Constitutional office holder" means a person holding or acting in a Constitutional office;
- "council" includes a city, municipal or town council;
- "council chairperson" means a person elected chairperson of a town council in accordance with Article 154;
- "councillor" means a member of a council elected in accordance with Article 153;
- "court" means a court of competent jurisdiction established by or under this Constitution;
- "Court of Appeal" means the Court of Appeal established in this Constitution;
- "devolution" means a form of decentralisation where there is a transfer of rights, functions and powers or an office from the central government or State institution to a sub-national authority or the bringing of a service that is provided at central government level to, or opening of a branch of a public office or institution at, a sub- national level, and the word "devolved" shall be construed accordingly;
- "disability" means a permanent physical, mental, intellectual or sensory impairment that alone, or in combination with social or environmental barriers, hinders the ability of a person to fully or effectively participate in an activity or perform a function as specified in this Constitution or as prescribed;
- "discrimination" means directly or indirectly treating a person differently on the basis of that person's birth, race, sex, origin, colour, age, disability, religion, conscience, belief, culture, language, tribe, pregnancy, health, or marital, ethnic, social or economic status;
- "district" means an administrative unit of a Province as provided inArticle 149;
- "election" means an election to the office of President, National Assembly or a council;
- "Electoral Commission" means the Electoral Commission of Zambia established in this Constitution;
- "emoluments" include salaries, allowances, benefits and rights that form an individual's remuneration for services rendered, including pension benefits or other benefits on retirement;
- "Emoluments Commission" means the Emoluments Commission established in this Constitution;
- "executive authority" means the power and the right to execute executive functions;
- "executive functions" means the functions of the President set out in this Constitution;
- "ex-officio" means a person who is appointed as a member by virtue of office;
- "First Deputy Speaker" means the person elected as First Deputy Speaker in accordance with Article 82 (4);
- "freedom fighter" means a person who fought for the independence of the former protectorate of Northern Rhodesia to become the Republic of Zambia;
- "function" includes powers and duties;
- "gender" means female or male and the role individuals play in society as a result of their sex and status;
- "general election" means Presidential, National Assembly and local government elections when held on the same day;

- "gross misconduct" means—

  a. behaviour which brings a public office into disrepute, ridicule or contempt;

  b. behaviour that is prejudicial or inimical to the economy or the security of the State;

  c. an act of corruption; or

  d. using or lending the prestige of an office to advance the private interests of that person, members of that person's family or another person;
- "health practitioner" means a person registered as a health practitioner as prescribed;
- "High Court" means the High Court established in this Constitution;
- "individual" means a natural person;
- "judge" means a person appointed as a judge of a superior court;
- "judgment" includes a decision, an order or decree of a court or an authority, as prescribed;
- "judicial authority" means the power and right to perform judicial functions;
- "judicial function" means the functions of the Judiciary set out in this Constitution;
- "judicial officer" includes a magistrate, local court magistrate, registrar and such officers as prescribed;
- "legislative authority" means the power and right to perform legislative functions;
- "legislative functions" means the functions of the legislature set out in this Constitution;
- "local authority" means a council and it's secretariat consisting of persons appointed by the Local Government Service Commission;
- "local government" means governance at the local level;
- "local government elections tribunal" means a tribunal established in accordance with Article 159;
- "Local Government Equalisation Fund" means a fund established in accordance with Article 163;
- "mayor" means a person elected mayor of a city or municipal council in accordance with Article 154;
- "Member of Parliament" means a person who is member of the National Assembly;
- "Minister" means a Cabinet Minister; " oath " includes an affirmation;
- "older member of society" means a person who has attained, or is above, the age of sixty years;
- "opposition" means a political party which is not the political party in government;
- "ordinarily resident" means residing in a place for a prescribed period of time;
- "Parliament" means the President and the National Assembly;
- "parliamentary committee" means a committee established in accordance with Article 80;

- "pension benefit" includes a pension, compensation, gratuity or similar allowance in respect of a person's service;
- "person" means an individual, a company or an association of persons, whether corporate or unincorporate;
- "person with disability" means a person with a permanent physical, mental, intellectual or sensory impairment;
- "political party" means an association whose objectives include the contesting of elections in order to form government or influence the policy of the national or local government;
- "power" includes privilege, authority and discretion;
- "prescribed" means provided for in an Act of Parliament;
- "President-elect" means the presidential candidate who has been declared by the Returning Officer as having won the presidential election;
- "presidential candidate" means a person nominated to stand for election as President in accordance with Article 52 (1);
- "presidential election" means an election to the office of President, and includes the election of a Vice-President as a running mate to the President;
- "property" includes a vested or contingent right to, or interest in, or arising from—

  a. land, permanent fixtures on, or improvements to, land;

  b. goods or personal property;

• Provisions for intellectual property

  c. intellectual property; or

  d. money, choses in action or negotiable instruments;
- "provincial administration" means the administrative secretariat established in accordance with Article 150;
- "Provincial Minister" means a person appointed Provincial Minister by the President;
- "public media" means media owned, operated or controlled by the Government;
- "public office" means an office whose emoluments and expenses are a charge on the Consolidated Fund or other prescribed public fund and includes a State office, Constitutional office and an office in the public service, including that of a member of a commission;
- "public officer" means a person holding or acting in a public office, but does not include a State officer, councillor, a Constitutional office holder, a judge and a judicial officer;
- "public service" means service in the Civil Service, the Teaching Service, Defence Force and National Security Service, the Zambia Correctional Service, the Zambia Police Service, Emoluments Commission, State Audit Commission, Lands Commission, Electoral Commission, Human Rights Commission, Gender Equity and Equality Commission, the Anti-Corruption Commission, Drug EnforcementCommission, theAnti-Financial and Economic Crimes Commission, the Police and Public Complaints Commission, and service as a constitutional office holder, service in other offices, as prescribed;
- "rights and freedoms" means the human rights and fundamental freedoms provided for in the Bill of Rights;

- "republic" means the Republic of Zambia;
- "returning officer" means a person who is a returning officer for a parliamentary or local authority election and "Returning Officer" means the Chairperson of the Electoral Commission in a presidential election;
- "running mate" means a person who is selected by a presidential candidate to stand with the presidential candidate in a presidential election so that the person becomes the Vice-President if that presidential candidate is elected as President;
- "Second Deputy Speaker" means the person elected as Second Deputy Speaker in accordance with Article 82 (5);
- "Service Commission" means a commission established under Articles 218, 220, 222, 224, 225, 226, and 228;
- "session" means a period not exceeding twelve months, within the term of the National Assembly, of sittings of the National Assembly, which commence on the first day of sitting after a general election or prorogation of Parliament and ends with a prorogation or dissolution of Parliament;
- "sitting" means a meeting of the National Assembly, within a session, which concludes with an adjournment, and includes a parliamentary committee meeting;
- "Speaker" means the person elected Speaker of the National Assembly in accordance with Article 82 (1);
- "State institution" includes a ministry or department of the Government, a public office, agency, institution, statutory body, commission or company in which the Government or local authority has a controlling interest, other than a State organ;
- "State office" includes the office of President, Vice-President, Speaker, Deputy Speaker, Member of Parliament, Minister and Provincial Minister;
- "State officer" means a person holding or acting in a State office;
- "State organ" means the Executive, Legislature or Judiciary;
- "statutory instrument" means a proclamation, regulation, rule, by-law, order or other similar legal instrument made under a power conferred by this Constitution or an Act of Parliament;
- "subordinate court" means a court subordinate to the High Court;
- "sub-national" means an administrative division of government at provincial or district level;
- "sub-structure" includes a district, ward and village;
- "superior court" means the Supreme Court, Constitutional Court, Court of Appeal and High Court established in accordance with this Constitution;
- "Supreme Court" means the Supreme Court established in this Constitution;
- "tax" includes rates, levies, charges, tariffs, fees, tolls and duties;
- "term" means a period of five years commencing when the National Assembly first sits, after a general election, and ending when Parliament is dissolved;
- "Treasury" means the office, in the Ministry responsible for finance, which receives, keeps, receipts, manages and disburses public funds;
- "Vice-President-elect" means the person declared as having been duly elected as a Vice-President after a presidential election;
- "ward" means a unit into which a district is divided for purposes of electing councillors;
- "young person" means a person who has attained the age of fifteen years, but is below the age of nineteen years; and

- "youth" means a person who has attained the age of nineteen years, but is below the age of thirty-five years.

Article 267: Interpretation of Constitution

1. This Constitution shall be interpreted in accordance with the Bill of Rights and in a manner that—

   a. promotes its purposes, values and principles;

   b. permits the development of the law; and

   c. contributes to good governance.

2. If there is a conflict between the English version of this Constitution and a different language version, the English version shall prevail.

3. A provision of this Constitution shall be construed according to the doctrine that the law is continuously in force and accordingly—

   a. a function may be performed, as occasion requires, by the person holding the office to which the function is assigned;

   b. a reference to a person holding an office includes a reference to the person lawfully performing the functions of that office at a particular time;

   c. a reference to an office, State organ, State institution or locality shall be read with any modification necessary to make it applicable in the circumstances;

   d. a reference in a provision applying that provision to another provision shall be read with any modification necessary to make it applicable in the circumstances and any reference to the modified provision shall apply as modified; and

   e. a reference to an office, body or organisation, where that office, body or organisation has ceased to exist, is a reference to its successor or to the equivalent office, body or organisation performing the functions.

4. A provision of this Constitution to the effect that a person, an authority or institution is not subject to the direction or control of a person or an authority in the performance of a function, does not preclude a court from exercising jurisdiction in relation to a question as to whether that person, authority or institution has performed the function in accordance with this Constitution or other laws.

Article 268: Grammatical variation

In this Constitution, unless the context otherwise requires—

   a. a word in the singular includes the plural and a word in the plural includes the singular; and

   b. a word or expression defined, shall be read with any grammatical variation or similar expression of that word or expression.

Article 269: Computation of time

For the purposes of this Constitution, in computing time, unless a contrary intention is expressed—

a. a period of days from the happening of an event or the doing of an act shall be considered to be exclusive of the day on which the event happens or the act is done;

b. if the last day of the period is a Saturday, Sunday or public holiday ("excluded day"), the period shall include the next day;

c. where an act or a proceeding is directed or allowed to be done or taken on a specified day and that day is an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken the next day; and

d. where an act or a proceeding is directed or allowed to be done or taken within a time not exceeding six days, an excluded day shall not be counted in the computation of the time.

Article 270: Power to appoint includes power to remove

In this Constitution, unless a contrary intention is expressed, power to appoint a person to hold or act in an office includes the power to confirm appointments, to exercise disciplinary control over the person holding or acting in the office and to remove that person from office.

Article 271: Implied power

In this Constitution, a power given to a person or an authority to do or enforce the doing of an act, includes the necessary and ancillary powers to enable that person or authority to do or enforce the doing of the act.

Article 272: Legislation to give effect to Constitution

Parliament may enact legislation to give effect to an Article or a provision in this Constitution which—

a. confers a function or jurisdiction on a person, office, institution, council or commission;

b. provides for a process or procedure to be taken, followed or prescribed;

c. requires an action, a measure or decision to be taken or provided;

d. requires a remedy or compensation to be given;

e. prohibits an action or measure;

f. deals with a specific subject-matter or general matter that would require to be legislated on in order to give effect to the Constitution; or

g. generally requires something to be prescribed.

Article 273: Power to make statutory instrument, resolutio nor direction

In this Constitution, a power conferred on a person or an authority to make a statutory instrument, a resolution or direction, includes the power to amend or revoke the statutory instrument, resolution or direction.

Article 274: Time for performance of function

A function conferred in this Constitution may be performed as occasion requires.

Article 275: Exercise of power between publication and commencement of Acts

Where an Article provides for a power exercisable by making a statutory instrument to—

a. make an appointment; or

b. do any other thing for the purposes of the Article;

the power may be exercised at any time on or after the date of publication of the statutory instrument in the Gazette.

ANNEX: FUNCTIONS OF NATIONAL, PROVINCIAL AND LOCAL LEVELS OF DEVOLVED GOVERNMENT (Article 147(2))

A. Exclusive national functions

Elections

Foreign and international affairs

Budget

Taxation including customs and excise

Airports, other than district airports

Casinos, racing, gambling and wagering, excluding lotteries and sports pools

Disaster management and public emergency

National parks, national botanical gardens and resources

National forests

passports and National Registration
Prisons
Refugees
Registration of Births and Deaths
Wildlife
Water resources management
Energy and hydro electricity
Petroleum and lubricants
Public roads
Defence, security, maintenance of law and order
Citizenship and immigration
Public enterprises
Regulation of commerce and manufacturing
Road traffic regulation
Land, mines, minerals and natural resources
• Census
Census and statistics
Traditional leadership
National archives
National libraries
National museums
Tertiary Education

B. Concurrent national and provincial functions

administration of justice
legal affairs
Administration of forests
Agriculture
Animal control and diseases
Consumer protection
Cultural matters
Customary law
Education at all levels, excluding tertiary education
Environmental management
Health services
Housing
Industrial promotion
Language policy and the regulation of official languages
• Protection of environment
Nature conservation
Parliamentary Business

legislative procedures and processess

• Protection of environment — Pollution control

Population development

Property transfer tax

Public procurement

Public transport

Public works only in respect of the needs of provincial administration

Provincial spatial planning and development

• Protection of environment — Soil conservation

Tourism, trade and commerce

Urban and rural development

Welfare services

Industrial and labour relations

Resettlement

Investment

• Telecommunications — Telecommunication

C. Local Authorities exclusive functions

• Protection of environment — Pollution control

Building regulations

Child-care facilities

Electricity

Fire fighting services

Local tourism

District airports, Aerodromes and Airships

District planning

District health services

District public transport

District public works only in respect of the needs of Districts in the discharge of councils responsibilities to administer functions specifically assigned to them under this Constitution or other law

Levies, tariffs and tolls

Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto

Storm water management systems in built-up areas

Trading

Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems

Veterinary services, excluding regulation of the veterinary profession

Vehicle licensing

Abattoirs
Ambulance services
Archives
Libraries
Liquor licencing
Museums
Local spatial planning
Cultural matters
Recreation and amenities
Sport
Roads and traffic automation and maintenance
Amusement facilities
Billboards and the display of advertisements in public places
Cemeteries, funeral parlours and crematoria
Local cleansing
Control of public nuisances
Control of undertakings that sell liquor to the public
Facilities for the accommodation, care and burial of animals
Fencing and fences
Licensing of dogs
Licensing and control of undertakings that sell food to the public
Local amenities
Local sport facilities
Markets
Local parks and recreation
Local roads

• Protection of environment

Noise pollution
Pounds
Public places
Refuse removal, refuse dumps and solid waste disposal
Street trading
Street lighting
Traffic and parking
Gardens and landscaping

Topic index

A

Advisory bodies to the head of state 55, 56
Approval of general legislation 42
Attorney general 90, 91

B

Budget bills 67, 93, 99

C

Cabinet removal 52, 68
Cabinet selection 68
Campaign financing 40
Census 128
Central bank 103
Civil service recruitment 88
Claim of universal suffrage 36
Conditions for revoking citizenship 34
Constitution amendment procedure 48
Constitutional court powers 43, 45, 49, 55, 58, 60, 61, 72, 84
Constitutional court selection 76
Constitutional court term length 77
Constitutional interpretation 29, 43, 72
Constitutionality of legislation 11, 28, 73
Counter corruption commission 110

D

Deputy executive 65
Designation of commander in chief 53
Dismissal of the legislature 49
Duty to obey the constitution 11, 53
Duty to pay taxes 35
Duty to serve in the military 35

E

Earnings disclosure requirement 44, 119
Economic plans 93, 98
Electoral commission 80, 108
Electoral districts 38, 108
Eligibility for const court judges 76
Eligibility for first chamber 37, 44
Eligibility for head of state 57
Eligibility for ordinary court judges 76

Eligibility for supreme court judges 76
Emergency provisions 17, 27, 31, 49
Equality regardless of creed or belief 14, 25
Equality regardless of gender 14, 25
Equality regardless of origin 14, 25
Equality regardless of political party 14, 25
Equality regardless of race 14, 25
Equality regardless of skin color 14, 25
Equality regardless of tribe or clan 25
Establishment of cabinet/ministers 67
Establishment of constitutional court 72
Establishment of judicial council 64, 75, 76, 78, 105
Establishment of labor courts 70, 74
Establishment of military courts 55
Extradition procedure 16, 25
Extraordinary legislative sessions 47

F

Finance bills 42, 67, 101
First chamber representation quotas 36
First chamber selection 36, 38, 43, 44
Foreign affairs representative 54
Freedom of assembly 14, 24
Freedom of association 14, 24
Freedom of expression 14, 24
Freedom of movement 14, 25
Freedom of opinion/thought/conscience 14, 23
Freedom of press 24
Freedom of religion 23

G

General guarantee of equality 25
God or other deities 11

H

Head of state immunity 56
Head of state powers 54, 79, 89, 94
Head of state removal 49, 62, 63
Head of state replacement 49, 62
Head of state selection 36, 38, 58, 59
Head of state term length 61
Head of state term limits 62
Human dignity 13
Human rights commission 108

I

Immunity of legislators 47
Indigenous right to self governance 86
Initiation of general legislation 41, 54, 67
International law 14, 41, 54, 67, 90
International organizations 12, 54, 113

J

Judicial independence 20, 71

L

Leader of first chamber 47, 50
Legislative committees 48, 51, 53, 100
Legislative initiatives by citizens 53, 79
Legislative oversight of the executive 13, 52
Limits on employment of children 27

M

Mandatory retirement age for judges 76
Minimum age for first chamber 44
Minimum age of head of state 57
Motives for writing constitution 11
Municipal government 36, 70, 80, 98

N

Name/structure of executive(s) 53
National anthem 12
National flag 12
National motto 12

O

Official or national languages 118
Official religion 11
Ombudsman 112
Ordinary court selection 76
Outside professions of legislators 44
Ownership of natural resources 18, 19, 116

P

Power to declare/approve war 31
Power to deport citizens 16
Power to pardon 56
Powers of cabinet 67
Preamble 11
Presumption of innocence in trials 20

Principle of no punishment without law 21
Prison registry 27
Prohibited political parties 40
Prohibition of cruel treatment 17
Prohibition of double jeopardy 21
Prohibition of slavery 16
Prohibition of torture 17
Protection from ex post facto laws 21
Protection from expropriation 14, 17
Protection from false imprisonment 16, 30
Protection from self-incrimination 21
Protection from unjustified restraint 16
Protection of environment 18, 19, 35, 116, 117, 118, 128, 129, 130
Protection of language use 119
Provisions for intellectual property 118, 123
Public or private sessions 53

Q

Quorum for legislative sessions 47

R

Radio 24
Reference to country's history 11
Reference to science 117
Referenda 12, 35, 48, 108
Regulation of evidence collection 20
Removal of individual legislators 45
Replacement of legislators 38, 46, 49
Requirements for birthright citizenship 33, 34
Requirements for naturalization 33
Restrictions on entry or exit 16, 25
Restrictions on political parties 39, 40
Restrictions on voting 36
Right to appeal judicial decisions 30, 71, 73, 74
Right to conscientious objection 16
Right to counsel 21
Right to culture 85
Right to examine evidence/witnesses 21
Right to fair trial 20
Right to form political parties 24
Right to join trade unions 24
Right to life 14
Right to pre-trial release 16
Right to privacy 14, 20

Right to protect one's reputation 24
Right to public trial 22
Right to renounce citizenship 34
Right to speedy trial 20
Rights of children 14, 27

S

Scheduling of elections 38
Secret ballot 36
Size of first chamber 43
Source of constitutional authority 11
Spending bills 42, 100
Structure of legislative chamber(s) 41
Structure of the courts 70, 71, 73, 74
Subsidiary unit government 52, 68, 80, 98
Supreme court selection 76
Supreme court term length 77
Supreme/ordinary court judge removal 77

T

Tax bills 42
Telecommunications 24, 129
Television 24
Term length for first chamber 49
Transitional provisions 60
Treaty ratification 41, 54, 67, 90
Trial in native language of accused 16, 20, 21
Type of government envisioned 12

U

Ultra-vires administrative actions 30, 73

V

Veto override procedure 42

THE ELECTORAL PROCESS ACT, 2016

ARRANGEMNET OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Principles of electoral system and process
4. Administration, enforcement and prosecution
5. Delegation of powers and duties by Commission
6. Delegation of powers and duties by Chief Electoral Officer

PART II

REGISTRATION OF VOTERS AND REGISTER

7. Continuous voter registration
8. Qualification for registration as voters
9. Disqualification from registration as voter
10. De-registration of Voter
11. Notification by registration officer
12. Suspension of registration of voters
13. Provisional Register of Voters
14. Register of voters
15. Application to change registration details
16. Amendments to Register of Voters
17. Objections concerning details in provisional register of voters
18. Publication of register of Voters
19. Inspection of register of Voters
20. Cut off dates for registration of Voters and Register of Voters

PART III

POLLING DISTRICTS AND BOUNDARIES

21. Establishment of polling districts
22. Criteria for determining polling district boundaries
23. Inspection and copies of maps of polling district
24. Establishment of polling station
25. Division of area of councils into wards
26. 26. Election in newly created Council
27. Relocation of polling station in emergencies

Single copies of this Act may be obtained from the Government Printer, P.O. Box 30136, 10101 Lusaka, Price K144.00 each.

PART IV

NOMINATION FOR ELECTIONS

28. Election timetable
29. Electoral campaign
30. Nomination of Presidential and Vice-Presidential candidates
31. Nomination for election in constituency
32. Conduct of local government elections
33. Nomination of candidates in district or ward
34. Restriction on nomination papers
35. Appointment of election agents and polling agents
36. Powers and duties of election or polling agents

PART V

ELECTION OFFICER

37. Appointment of presiding officer
38. Powers and duties of presiding officer
39. Appointment of polling assistant
40. Powers and duties of polling assistant
41. Appointment of additional persons as election officers
42. General provisions concerning appointment of election officer
43. Immunity of election officer

PART VI

VOTING

44. Qualifications for voting
45. Identification of voter
46. One vote and secrecy
47. Disqualification from voting
48. Special vote
49. Election officers at polling stations
50. Hours of voting
51. Ballot paper
52. Design of ballot paper
53. Ballot boxes
54. Voting compartments
55. Conduct of general election
56. Postponement of voting at polling station
57. Postponement of by-election
58. Voting materials
59. Initial procedures
60. Voting procedure
61. Assistance to voters with disabilities
62. Issuance of new ballot paper

63. Spoilt ballot papers
64. Objections concerning voting
65. Sealing of full ballot boxes
66. Completion of ballot paper account form and sealing of voting materials
67. Place and time of counting of votes
68. Counting of votes and announcement of provisional results
69. Objections concerning sorting of ballot papers
70. Objections concerning counting of votes and announcement of provisional result
71. Procedure concerning provisional results and voting materials
72. Announcement and declaration of results by returning officer
73. Announcement and declaration of results in Presidential election
74. Electronic transmission of results
75. Re-voting at polling station
76. Correction of mistakes

PART VII

OBSERVERS, MONITORS AND VOTER EDUCATION

77. Accreditation of observers and monitors
78. Powers and duties of accredited observers and monitors
79. Provision of voter education generally
80. Voter education

PART VII

CORRUPT AND ILLEGAL PRACTICES AND OTHER ELECTION OFFENCES

81. Bribery
82. Impersonation
83. Undue influence
84. Illegal practice of publishing false statements in respect of candidates
85. Illegal practice in respect of nomination of candidates
86. Illegal practices in respect of public meetings
87. Illegal practices relating to the poll
88. Penalty for illegal practices
89. Other election offences
90. Property in certain election material
91. Secrecy and penalty for breach of secrecy
92. Offences by election officers
93. Offences by printers and publishers
94. Obstruction of officer
95. Attempts to commit offence

PART IX

ELECTION PETITIONS

96. Application to members and officers of Parliament
97. Avoidance of election
98. Presentation of election petition
99. Relief which may be claimed in election petition
100. Form and procedure for presentation of election petition
101. Duty of Registrar and designated person to make out list of election petition
102. Rules of practice and procedure, security for costs etc
103. Withdrawal of election petition
104. Substitution of new petitioners
105. Abatement of election petition
106. Trial of election petitions
107. Witnesses
108. Conclusion of trial of election petition
109. Costs

PART X

GENERAL PROVISIONS

110. Code of conduct
111. Appeal against decision of registration officer
112. Powers to decide objections and appeals
113. Constitution of conflict management committees
114. Printing, manufacture, use, removal etc., of election materials
115. Ownership of voting and election material and disposal
116. Effect of certain irregularities
117. Inspection and copying of documents
118. When incapacity may be removed
119. Person not required to state how person voted
120. Evidence as to holding of election
121. Validation of certain documents
122. Powers of officer
123. Power of arrest
124. General penalty
125. Regulations
126. Repeal of Act No. 12 of 2006
SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 35 of 2016

Date of Assent: 6th June, 2016

An Act to provide for a comprehensive process for a general election; provide for the conduct of elections by the Electoral Commission of Zambia and empower the Commission to make regulations in matters relating to elections; provide for the registration of voters and the keeping of voters registers; prescribe the procedures for nominations for elections; provide for the role of presiding officers, election officers and conflict management officers; prescribe the procedure for voting during an election; provide for the accreditation and roles of observers and monitors; criminalise corrupt practices and other illegal practices related to elections and provide for penalties in connection with an election; provide for election petitions and the hearing and determination of applications relating to a general election; provide for voter education; prescribe the electoral code of conduct; repeal and replace the Electoral Act, 2006; and provide for matters connected with, or incidental to, the foregoing.

[7th June, 2016

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Electoral Process Act, 2016. Short title

2. In this Act, unless the context otherwise requires— Interpretation

"area" has the meaning assigned to it in section *two* of the Local Government Act; Cap. 281

"ballot box" means a box prescribed by the Commission for the purpose of an election;

"ballot paper" means the document prescribed by the Commission in respect of an election;

"ballot paper account" means a document prescribed by the Commission for purposes of recording the ballot papers issued to a returning officer and completed by a presiding officer at the close of a poll;

Cap. 1 "by-election" has the meaning assigned to it in the Constitution;

"campaign material" means party or candidate manifestos, advertisements, billboards, posters, tshirts, cloth or other material depicting colours regarding symbols, and other designs of a party or pictural images of a candidate;

"campaign period" means a period of three months before the holding of an election;

"candidate" means a person contesting a presidential, parliamentary or local government election;

"caricature" means the exaggerated imitation of a cartoon, effigy, picture, drawing or sketch of a person or literary style for comic or satirical effect;

"casual vacancy" means a vacancy in the office of councillor as specified in the Local Government Act;

Cap. 281

"Chief Electoral Officer" has the meaning assigned to it in the Electoral Commission of Zambia Act, 2016;

Act No. 25 of 2016

"Code" means the Electoral Code of Conduct set out in the Schedule;

"Commission" means the Electoral Commission of Zambia established by the Constitution;

Cap. 1

"conflict management officer" means an officer appointed as a conflict management officer in accordance with section *one hundred* and *thirteen;*

"constituency" has the meaning assigned to it in the Constitution;

Cap. 1

"Constitutional Court" has the meaning assigned to it in the Constitution;

Cap. 1

"corrupt practice" means any conduct which is declared to be a corrupt practice in accordance with section *eighty-one;*

"costs"includes charges and expenses;

"council"has the meaning assigned to it in the Constitution;

Cap. 1

"council chairperson" has the meaning assigned to it in the Constitution; Cap. 1

"councillor" has the meaning assigned to it in the Constitution; Cap. 1

"designated person" means a person or officer appointed by the Chief Justice for the purpose of receiving election petitions filed before a tribunal and attending to such other matters regarding petitions before a tribunal as are assigned to the Registrar under this Act;

"election" has the meaning assigned to it in the Constitution; Cap. 1

"election agent" means a person appointed as an agent of a candidate for the purpose of an election and who is specified in the candidate's nomination paper;

"election officer" means a person appointed by the Commission as—

(a) a registration officer;

(b) an assistant registration officer;

(c) a district electoral officer;

(d) a returning officer;

(e) a presiding officer;

(f) an assistant presiding officer; or

(g) a polling assistant;

and includes a person appointed to assist the Chief Electoral Officer in the performance of the functions of the Chief Electoral Officer as specified in this Act;

"election petition" means an election petition related to a presidential, parliamentary or local government election as specified in the Constitution; Cap. 1

"election timetable" means a timetable for an election published by the Commission in accordance with section *twenty-eight;*

"employee" has the meaning assigned to it in section *two* of the Local Government Act; Cap. 281

"general election" has the meaning assigned to it in the Constitution; Cap. 1

"illegal practice" means an offence which is declared under this Act to be an illegal practice;

"interim period" means the period commencing at the commencement of this Act and expiring on such date as the President may prescribe by statutory order;

"media" includes publicly or privately operated print and electronic media;

"Member of Parliament" has the meaning assigned to it in the Constitution; Cap. 1

"monitor"means a person accredited as such by the Commission;

"national registration card" means a national registration card issued under and in terms of the National Registration Act; Cap. 126

"national registration number"means the serial number inserted on a national registration card issued in accordance with the National Registration Act; Cap. 126

"nomination day" means the day appointed by the Commission as the day on which a candidate files that candidate's nomination paper with the Commission;

"nomination centre" means a place prescribed by the Commission as a nominating office;

"nomination paper" means a document prescribed by the Commission for the purpose of a candidate registering that candidate's intention to contest an election under this Act;

"observer" means a person accredited as such by the Commission;

"petitioner" in relation to an election petition, means a person who signs and presents an election petition under section *ninety-eight,* and includes a person substituted for a petitioner;

"political party" has the meaning assigned to it in the Constitution; Cap. 1

"polling agent" means an agent appointed by a candidate in respect of a polling station;

"polling assistant" means a person appointed as polling assistant by the Commission;

"polling day" means—

(a) in relation to a general election, the day specified in accordance with the Constitution for the taking of the poll in a general election; and Cap. 1

(b) in relation to a by-election, a day appointed by the Commission for the taking of the poll in a by-election;

"polling district" means a district established by the Commission as a polling district under section *twenty-one;*

"polling station" means a place established as a polling station by the Commission under section *twenty-four;*

"public officer" has the meaning assigned to it in the Constitution; Cap. 1

"presidential election" has the meaning assigned to it in the Constitution; Cap. 1

"presiding officer" means a person appointed as a presiding officer by the Commission under section *thirty-seven;*

"Register of Voters" means the Register of Voters prepared and certified by the Commission under section *fourteen;*

"registration officer" means a person appointed as a registration officer by the Commission;

"Registrar" means the Chief Registrar of the High Court, and includes the Deputy Registrar, District Registrar and Assistant Registrar;

"respondent" means a person against whom an election petition is filed in accordance with section *ninety-eight;*

"Returning Officer" has the meaning assigned to it in the Constitution; Cap. 1

"returning officer" has the meaning assigned to it in the Constitution; Cap. 1

"traditional leader" means a paramount chief, senior chief, chief or village headman;

"tribunal" means a local government elections tribunal established in accordance with Article 159 of the Constitution; Cap. 1

"voter" means a person who is registered as a voter and whose name appears in the Register of Voters;

"voter's card" means a voter's card prescribed and issued by the Commission; and

"ward" means any of the divisions into which a council area is divided under section *twenty-five.*

Principles of electoral system and process

3. Subject to the Constitution, the principles applied in the electoral system and process shall ensure the following:

(a) equal and universal suffrage;

(b) no discrimination based on gender or disability when providing electoral services;

(c) transparent and credible electoral process;

(d) no special privileges accorded to a political party or social group, except for persons with special needs;

(e) no impediments to lawful inclusion in the electoral register;

(f) impartial voter-education programmes;

(g) access to polling stations for representatives of political parties, accredited local or international election monitors, observers and the media;

(h) secrecy of the vote;

(i) design of the ballot paper that promotes easy use;

(j) transparent and secure ballot boxes;

(k) impartial assistance to voters at the polling station;

(l) transparent, accurate and reliable vote counting procedure;

(m) proper management of invalid ballot papers;

(n) precautionary measures for transporting of election materials;

(o) impartial protection of polling stations;

(p) established procedures for lodging and dealing with complaints;

(q) impartial handling of election complaints;

(r) impartial delimitation of electoral boundaries; and

(s) timely resolution of electoral disputes.

Administration, enforcement and prosecution

Cap. 1

4. (1) This Act shall be administered and enforced by the Commission and the Commission shall not be subject to the direction or control of any person or authority in the exercise of its functions under the Constitution and this Act.

(2) The Commission shall, in order to ensure compliance with the provisions of this Act, appoint such number of officers as it may consider necessary for purposes of this Act.

(3) An officer appointed pursuant to subsection (2) shall be provided with a letter of appointment which shall be *prima facie* evidence of that person's appointment.

(4) An officer shall, on demand by a person affected by the exercise of the powers of that officer under this Act, produce for inspection the letter referred to in subsection (3).

(5) The Anti-Corruption Commission shall investigate and prosecute any corrupt practice committed under this Act in accordance with the Anti-Corruption Act, 2012. Act No. 3 of 2012

(6) The Zambia Police Service shall enforce law and order at polling stations and undertake any criminal proceedings, subject to subsection (2), in respect of an offence committed by any person in contravention of this Act.

Delegation of powers and duties by Commission

5. (1) The Commission may—

(a) delegate any of its powers under this Act to a member, employee or officer of the Commission excluding the power to prescribe anything under this Act or make an appointment under this Act or any other written law; and

(b) instruct a member, employee or officer of the Commission to perform any of its duties under this Act or any other written law.

(2) A delegation or instruction made under subsection (1)—

(a) shall be subject to any limitations and conditions that the Commission may impose; and

(b) does not prevent the Commission from exercising or performing the assigned power or duty.

(3) The Commission may, by statutory order, confer powers or impose duties on an officer or authority of the Government or council for the purpose of discharging its functions under this Act.

Delegation of powers and duties by Chief Electoral Officer

6. (1) The Chief Electoral Officer may—

(a) delegate any of the powers of the Chief Electoral Officer under this Act or any other law to an employee or officer of the Commission; or

(b) instruct an employee or officer of the Commission to perform any of the duties of the Chief Electoral Officer under this Act or any other written law.

(2) Subsection (2) of section *five* with the necessary modification, shall apply to a delegation or instruction of the Chief Electoral Officer under subsection (1).

PART II

REGISTRATION OF VOTERS AND REGISTERS

Continuous voter registration

7. The Commission shall conduct a continuous registration of voters.

Qualification for registration as voter

8. (1) A person qualifies for registration as a voter if that person—

(a) is a citizen of Zambia;

(b) has attained the age of eighteen years; and

(c) is in possession of a national registration card.

(2) The Commission shall register a person as a voter as prescribed.

(3) A person who has been registered in the Register of Voters shall be issued with a voter's card.

(4) A person shall not register as a voter in more than one constituency.

Disqualification from registration as voter

9. (1) The Commission shall not register a person as a voter if that person

(a) is not a citizen of Zambia;

(b) is not in possession of a national registration card;

(c) suffers from a mental disability which makes the person unable to exercise their right to vote;

Cap. 88

(d) is detained under the Criminal Procedure Code during the pleasure of the President;

(e) is disqualified from voting under section *forty-seven*;

(f) is under a sentence of death imposed by a competent court, or a sentence of imprisonment imposed by a court or substituted by a competent authority for some other sentence imposed by that court; or

(g) does not qualify to be registered as a voter as may be prescribed;

(2) In this section, the reference to a sentence of imprisonment shall not be construed as including a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment imposed in default of payment of a fine.

De-registration of voter

10. A registration officer shall de-register a voter if the registration officer is satisfied that the voter—

(a) does not qualify to be registered as a voter;

(b) no longer meets the qualifications for registration as specified in section *eight*;

(c) has been fraudulently registered; or

(d) obtained the registration through submission of false information or making of a misleading statement.

Notification by registration officer

11. (1) A registration officer shall notify a person—

(a) whose registration as a voter has been refused;

(b) whose application to have a change of name or ordinary place of residence recorded has been refused;

(c) who has been disqualified from registration as a voter under section *ten*; or

(d) whose registration details have been changed.

(2) A notification given under subsection (1) shall give reasons for the refusal or action taken.

Suspension of registration of voters

12. (1) The Commission may suspend the registration of voters whenever an election is due for the purposes of the conduct of the election.

(2) The Commission shall, where it prescribes the polling day for a byelection, immediately suspend the registration of voters in the district in which the byelection is to take place until the byelection is concluded.

Provisional Register of Voters

13. (1) The Commission shall establish a Provisional Register of Voters as prescribed.

(2) The Provisional Register of Voters shall include the details of persons entitled to vote in an election or referendum under this Act or the Referendum Act. Cap. 14

Register of Voters

14. (1) The Commission shall compile and maintain the Register of Voters as prescribed.

(2) The Register of Voters shall include the details of persons entitled to vote in an election or referendum under this Act or the Referendum Act. Cap. 14

(3) The Register of Voters shall not preclude any person from voting in a referendum in accordance with the Constitution. Cap. 1

Application to change registration details

15. A voter whose name or ordinary place of residence has changed may apply, in the prescribed manner, to have that change recorded in the Register of Voters, except that a person shall not apply when a change of name is due to change in marital status.

Amendments to Register of Voters

16. (1) A registration officer shall—

(a) change the registration details of a voter if the registration officer is satisfied that the details of a voter as reflected in the Register of Voters are incorrect or have changed;

(b) add the name and other particulars of a voter resulting from a new registration, as prescribed; or

(c) delete the name of a voter who is deceased.

(2) A registration officer shall record, in the Register of Voters, a change in a polling district for which a person is registered as a voter if that person's place of ordinary residence after a change in the boundaries of the polling district falls in another polling district.

Objections concerning details in Provisional Register of Voters

17. (1) A person whose name appears in the Provisional Register of Voters may object to an error or omission regarding the person's details, in the prescribed manner, within ninety days' of the publication of the Provisional Register of Voters.

(2) A person may object to an error or omission to the exclusion or regarding the registration details of another person.

(3) A person who objects to another person's registration details shall serve notice of the objection on that person.

(4) The Commission shall consider an objection to the Provisional Register of Voters within fourteen days from the date the objection was made and shall notify the person who made the objection and the registration officer.

(5) A registration officer shall give effect to a decision of the Commission, made under this section, within three days of the decision.

Publication of Register of Voters

18. (1) A copy of the Register of Voters, as it exists at any time, shall be available for inspection during office hours at the Commission's head office.

(2) A person who requires a copy or extract of the Register of Voters may, upon payment of a prescribed fee, obtain the copy or extract which shall be certified by the Chief Electoral Officer.

(3) A document purporting to be a copy or extract of the Register of Voters, which is duly certified by the Chief Electoral Officer, shall be received in evidence in any legal proceedings as to the matters stated in the Register of Voters.

Inspection of Register of Voters before election

19. (1) The Register of Voters or the segments of the Register of Voters that shall be used for an election shall be the register certified for the purposes of that election.

(2) The Chief Electoral Officer shall certify the Register of Voters, or segments of the Register of Voters, and publish the Register of Voters or the segments of the Register of Voters and make the Register of Voters or the segments of the Register of Voters available for inspection at the following venues:

(a) at the Commission's head office;

(b) at the polling station in each polling district; and

(c) at the office of each council.

Cut-off dates for registration of voters and Register of Voters

20. (1) The Commission may prescribe cut-off dates with respect to the registration of voters and the compilation of the Register of Voters, including the date by which—

(a) a person may apply to be registered as a voter or change the person's registration details;

(b) a registration officer shall give notice of the venue and dates on which the Provisional Register of Voters may be inspected;

(c) the Commission shall consider an objection made under section *seventeen* and notify the objector and the registration officer and a person other than the objector whose name or registration details are involved; and

(d) a registration officer shall complete the compilation of the Register of Voters and publish it.

PART III

POLLING DISTRICTS AND BOUNDARIES

Establishment of polling districts

21. (1) The Commission shall—

(a) establish polling districts for the whole of the territory of the Republic;

(b) determine the boundaries of each polling district in accordance with the criteria provided in section *twenty-two*; and

(c) keep a map of each district.

(2) The polling districts for an election shall be those polling districts which, on the date on which an election is called, are within the area in which the election is called.

Criteria for determining polling district boundaries

22. The Commission shall determine the boundaries of a polling district by taking into account any factor within the proposed polling districts that could affect the free, fair and orderly conduct of elections, including—

(a) the availability of a suitable venue for a polling station;

(b) the number and distribution of eligible voters;

(c) the accessibility of a polling station to voters given—

(i) the radius of the proposed polling district;

(ii) the availability of transport;

(iii) telecommunications facilities; and

(iv) any geographical or physical feature that may impede access to the polling station;

(d) district and provincial boundaries; and

(e) cultural diversity.

Inspection and copies of maps of polling district

23. (1) As soon as practicable after the polling districts have been established, the Chief Electoral Officer shall give notice that copies of the map of each polling district are available for inspection.

(2) The notice referred to in subsection (1) shall be published in the *Gazette* and publicised in the media so as to ensure wide publicity of the maps.

(3) The notice shall state, and the Chief Electoral Officer shall ensure, that copies of—

(a) the maps are available for inspection at the Commission's head office; and

(b) the maps of the polling districts are available for inspection at the office of the person administering the district.

(4) A person may inspect a copy of a map provided for in subsection (1).

(5) The Chief Electoral Officer shall provide a certified copy of a map of a polling district to any person who pays the prescribed fee for that purpose.

Establishment of polling station

24. (1) The Commission shall establish a polling station for an election, in each polling district, as the Commission may prescribe.

(2) The Commission shall, when determining the location of a polling station, take into account any factor that could affect the free, fair and orderly conduct of elections, including—

(a) the number and distribution of eligible voters in the polling districts;

(b) the availability of suitable venues for polling stations;

(c) the distance to be travelled to reach the polling station;

(d) access routes to the polling station;

(e) the availability of transport to the polling station;

(f) traffic density at or near the polling station;

(g) telecommunications facilities at the polling station;

(h) general facilities at the polling station;

(i) the safety and convenience of voters;

(j) any geographical or physical feature that may impede access to or at the polling station; and

(k) the accessibility of the polling station.

(3) The Commission may, before determining the location of a polling station, consult on the proposed location of that polling station with the council for the area in which that polling station shall fall.

(4) The Chief Electoral Officer shall, not later than the date stated in the election timetable, publicise a list containing the addresses of the established polling stations available for inspection.

(5) Section *twenty-three* shall apply, with the necessary modifications, to the inspection and obtaining of copies of the established polling stations.

Division of area of councils into wards

25. (1) The Commission shall, after consultation with every council, by statutory order, divide the area of each council into wards, defining the boundaries of the wards by reference to polling districts, and assigning names to the wards and polling districts.

(2) The number of wards into which the area of a council is divided shall be equal to the number of elected councillors prescribed in respect of that council by the Minister under the Local Government Act. Cap. 281

(3) The Commission shall exercise its powers under this section so that each ward comprises one or more complete polling districts.

(4) Whenever the Minister alters the area of a council or the number of councillors of a council, the Commission shall, after consultation with such council, by statutory order, make such alterations to the boundaries of the wards of such council or to the division of the area of such council into wards as may be necessary to give effect to the provisions of this section.

(5) Whenever the Commission is satisfied that there has been a material alteration in the number of registered voters in the area of a council or of any of the wards into which such area is divided, the Commission may, after consultation with the council concerned, exercise in respect of the area of that council or any part of the council the powers conferred by this section.

Election in newly created Council

26. (1) The Commission may, by statutory order, whenever—

(a) a new council is established; or

(b) an alteration is made in the division of the area of an existing council into wards or in the definition of the boundaries of any ward;

direct that an ordinary election of councillors in every ward or in any particular ward of that council shall be held on such date as may be appointed by the statutory order.

(2) A statutory order made under this section shall specify the day or days on which, and the hours within which, returning officers may receive nominations of candidates for election in any ward to which such order relates.

Relocation of polling station in emergencies

27. (1) Despite section *twenty*, the Commission may relocate a polling station if it is necessary to do so for the conduct of a free and fair election.

(2) The Chief Electoral Officer shall publicise the relocation of a polling station among voters in the polling district concerned.

PART IV

NOMINATIONS FOR ELECTIONS

Election timetable

28. (1) Subject to the Constitution, the Commission shall, before the polling day—

(a) compile an election timetable for each election to provide for the following:

(i) the closing date of the registration of voters;

(ii) the dates for inspection of the Provisional Register of Voters;

(iii) the date and method for the submission of nominations;

(iv) the date and method for the acceptance of nominations;

(v) the opening and closing dates of the campaign period;

(vi) the date of the election and voting hours for the election;

(vii) any cut-off time for any act to be performed; and

(viii) any other relevant information; and

(b) publish the election timetable in the *Gazette*.

(2) The Commission may amend the election timetable by notice in the *Gazette* if—

(a) it considers it necessary for a free and fair election; or

(b) the polling day is postponed under section *fifty-six*.

(3) The campaign period shall commence and close on such date as the Commission may determine.

Electoral campaign

29. (1) A public officer and public entity shall give equal treatment to candidates.

(2) A candidate and political party has the right to have the content of the candidate's or political party's campaign message reported in public media in a fair and balanced manner.

(3) A candidate or political party may, during an electoral campaign, publish or distribute campaign materials of such a nature and in such a manner as may be prescribed by the Commission.

(4) For the purposes of this section "campaign messages" means an activity, statement or any other form of expression aimed at promoting particular political ideas, policies and strategies for purposes of obtaining votes for a candidate or political party contesting an election.

Nomination of Presidential and Vice-Presidential candidates

30. (1) A candidate for election as President or Vice-President shall deliver to the Returning Officer—

(a) the candidate's nomination paper;

(b) the prescribed election fee, except that a candidate for election as a Vice-President shall not pay the prescribed fee;

(c) the prescribed statutory declaration of the candidate's assets and liabilities; and

(d) an affidavit attesting that the person is qualified for election as President or Vice-President, as the case may be.

(2) A person who swears or affirms falsely under this section commits an offence and is liable, upon conviction, to imprisonment for a term of seven years without the option of a fine.

(3) A candidate delivering a nomination paper, referred to in subsection (1), to the Returning Officer shall be supported by one hundred supporters from each Province who are registered voters in that Province.

Nomination for election in constituency

31. (1) A person who applies to be a candidate for election in any, constituency shall lodge with the returning officer for that constituency that person's nomination paper and an affidavit in the prescribed manner and form.

(2) A nomination submitted under subsection (1) may be withdrawn at any time, before the expiry of the period appointed for lodging nomination papers in respect of the constituency concerned, if the candidate delivers to the returning officer a written notice to that effect.

Conduct of local government elections

32. Subject to the other provisions of this Act, the Commission shall conduct local government elections.

Nomination of candidates in district or ward

33. (1) Subject to subsection (2), a candidate for election in a district or ward of a council shall be nominated by means of a nomination paper in such form as may be prescribed and such nomination paper shall be subscribed, in the presence of the returning officer for that council, by a proposer and a seconder and not less than seven other persons, each of whom shall be a voter registered in a polling district in such ward.

(2) A person appearing before a returning officer for the purpose of subscribing a nomination paper under subsection (1) shall produce a voter's card and a national registration card to the returning officer for inspection as proof of identity.

(3) A person qualifies to be a mayor or council chairperson if that person—

(a) possesses the same qualifications as those specified for a Member of Parliament in Article 70 of the Constitution; Cap. 1

(b) is not a Member of Parliament; and

(c) has a certificate of clearance showing the payment of council taxes, where applicable.

Restriction on nomination papers

34. (1) In an election, a person shall lodge nomination papers in only one constituency, district or ward.

(2) Where, upon the expiry of the period for lodging nomination papers in any constituency, district or ward a person is found to have lodged, and not withdrawn, nomination papers in more than one constituency, district or ward then every one of those nominations shall be invalid.

Appointment of election agents and polling agents

35. (1) A candidate may appoint—

(a) two polling agents for each polling station; and

(b) two election agents for each venue where counting of the votes will take place.

(2) An election or polling agent—

(a) shall be a Zambian citizen or resident permit holder; and

(b) shall not be a candidate in an election.

(3) The appointment and revocation of appointment of a person as an election or polling agent shall be effected in the prescribed manner.

Powers and duties of election or polling agents

36. (1) An election or polling agent may observe the proceedings during—

(a) voting;

(b) the counting of votes; and

(c) the announcement and declaration of the result of an election.

(2) The absence of an election or polling agent from a gazetted or prescribed place where an electoral proceeding is being conducted shall not invalidate those proceedings.

(3) An election or polling agent shall, while at a polling station or venue where the proceedings are taking place—

(a) wear the prescribed identification indicating—

(i) that the person is an election or polling agent; and

(ii) the candidate represented by that election or polling agent; and

(b) comply with any lawful order issued by—

(i) an election officer; or

(ii) a police officer acting on the instructions of an election officer.

PART V
ELECTION OFFICERS

Appointment of presiding officer

37. The Commission shall, after prescribing a date for an election, appoint a presiding officer for each polling station at which the election is conducted.

Powers and duties of presiding officer

38. (l) A presiding officer shall coordinate and supervise the voting at a polling station so as to ensure that the election at the polling station is free and fair.

(2) A presiding officer—

(a) shall exercise the powers and perform the duties assigned to a presiding officer by or under this Act;

(b) shall ensure orderly conduct at a polling station; and

(c) may order a police officer to assist in ensuring orderly conduct at that polling station and the police officer shall comply with the order.

(3) A presiding officer for a polling station or venue for the counting of votes shall coordinate and supervise the counting of votes and announcement of the result of the election at the polling station or venue.

(4) A presiding officer shall exclude from the area within the boundary of a polling station any person other than—

(a) a member, employee or officer of the Commission;

(b) an election or polling agent who is entitled under this Act to be present at a polling station;

(c) a candidate in that election;

(d) an accredited observer or monitor;

(e) a voter present for the purpose of casting a vote; and

(f) a person or category of persons authorised by the Commission to be present at the polling station.

(5) Despite subsection (4), a presiding officer may order a person referred to in paragraphs *(b)* to *(f)* of subsection (4), to leave the area within the boundary of the polling station if that person's conduct is not conducive to a free and fair election at that polling station and shall give that person the reasons for making the order.

(6) If a person refuses to comply with an order under subsection (5), a presiding officer may direct a police officer to forcibly remove that person, and the police officer shall comply with that order.

Appointment of polling assistant

39. The Commission shall appoint for each polling station as many polling assistants as it considers necessary to conduct an election.

Powers and duties of polling assistant

40. A polling assistant shall—

(a) assist the presiding officer in the exercise of the presiding officer's powers and the performance of the presiding officer's duties; and

(b) exercise the powers and perform the duties assigned to a polling assistant by or under this Act.

Appointment of additional persons as election officers

41. (1) The Commission may appoint as many additional persons as election officers as may be necessary to enable the Commission to exercise its powers and perform its duties effectively during an election.

(2) A person appointed by the Commission under this section shall exercise any power and perform any duty assigned to an election officer by or under this Act.

(3) An appeal shall not be brought against a decision by the Commission to appoint a person as an election officer or to dismiss an election officer.

(4) Despite subsection (3), a person may object to the appointment of an election officer under this section if the person appointed is disqualified under section 42 (3).

General provisions concerning appointment of election officer

42. (1) The Commission shall determine, in writing, the terms and conditions of appointment of an election officer.

(2) The assignment of a power or duty to an election officer shall not prevent the Chief Electoral Officer from exercising that power or performing that duty.

(3) A person shall not be appointed as an election officer or remain in that office if that person—

(a) is a candidate contesting an election;

(b) is an election or polling agent in an election;

(c) holds political office in a registered party or is affiliated to a political party; or

(d) was convicted of an offence or reported of any corrupt practice or illegal practice, under this Act, within a period of five years preceding an election.

(4) A person shall not be appointed as an election officer unless that person signs a prescribed undertaking which shall include an undertaking to be bound by—

(a) the Code; and

(b) a declaration of secrecy.

(5) An election officer shall exercise the powers and perform the duties assigned to that election officer subject to the direction, control and discipline of the Commission.

(6) An election officer shall not place in jeopardy that officer's independence or harm the credibility, impartiality, independence or integrity of the Commission by any membership, association, statement or conduct.

(7) An appointment as an election officer does not constitute an employment relationship.

(8) The Commission may dismiss an election officer for—

(a) misconduct, incompetence or incapacity;

(b) absence from duty without leave of the Chief Electoral Officer;

(c) a material contravention of this section;

(e) a material contravention of the declaration of secrecy; or

(f) any other consideration related to a free and fair election.

Immunity of election officer

43. An election officer shall not be liable for any loss suffered by a person as a result of an act performed or omitted in good faith in the exercise of a power or the performance of a duty under this Act.

PART VI
VOTING

Qualifications for voting

44. A voter is entitled to vote at an election held in a district, constituency or ward.

Identification of voter

45. A voter shall produce identification documents to a presiding officer as may be prescribed.

One vote and secrecy

46. (1) A voter shall not be entitled to vote more than once in the same election.

(2) A poll shall be taken by means of a secret ballot in accordance with the Constitution, this Act and as may be prescribed.

Dis-qualification from voting

47. A person shall not be entitled to vote at an election if, at the date of the election, that person is in lawful custody or the person's freedom of movement is restricted under any written law.

Special vote

48. (1) The Commission may allow a person to apply for a special vote if that person cannot vote at a polling station in the polling district in which the person is registered as a voter due to that person's—

(a) physical infirmity or disability;

(b) pregnancy;

(c) absence from that polling district while serving as an election officer in the election concerned; or

(d) while on duty as a member of the security services in connection with the election.

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/028

IN THE MATTER OF: ARTICLE 1(2), (3). AND 8(c), (e), OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA

IN THE MATTER OF: ARTICLE 45(1)(a), 2(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, AS READ TOTHER WITH SECTION 96, 97, 98 AND 99 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: SECTION 81 (1)(a), 83 (1)(a)(d), (2) AS READ TOGETHER WITH THE ELECTORAL CODE OF CONDUCT OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026

IN THE MATTER OF: AN ELECTION PETITION RELATING TO CHIRUNDU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026

BETWEEN:

NEVERS MUCHINDU — PETITION

AND

ELECTORAL COMMISSION OF ZAMBIA — 1ST RESPONDENT

JAMES K. MWAJA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

1ST RESPONDENT'S LIST OF AUTHORITIES

The following is list of authorities to be relied on by the 1st Respondent.

STATUTORY AUTHORITY:

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016
2. The Electoral process Act No. 35 of 2016

ZAMBIAN CASE LAW:

3. Kapembwa Pevious v Kachisha Martin (10 of 2021) [2021] ZMLGEL 40 (22 September 2021)
4. Zulu v Kalima (Appeal 141 of 2012) [2013] ZMSC 24 (12 December 2013)
5. Khalid Mohamed v The Attorney General (1982) Z.R. 49 (S.C.)

Dated the _____ day of _____ 2026.

Per:

Messrs. Nsapato & Co. Advocates
Sub C of Lot 1835/M
3rd Street, Ibex Hill
P.O. Box
Lusaka
Email: *info@nsapato.com*
Advocates for the 1st Respondent

To: The Petitioner & His Advocates
Kamwi Andeleki Legal Practitioners
Independence Avenue
P. O. Box 27617
Email: KamwiAndelekiLegalPractitioners@hotmail.com
Lusaka

To: The 2nd Respondent
James K. Mwaja
Chirundu