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IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/029**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Constitutional Jurisdiction)

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA

IN THE MATTER OF:	**ARTICLE 1(2),(3), AND 8(c),(d),(e) OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA**
IN THE MATTER OF:	**REQULATION 47 OF THE ELECTORAL PROCESS (GENERAL) REQULATIONS, 2016**
IN THE MATTER OF:	**ARTICLE 45(1)(a), (2)(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA AS READ TOGETHER WITH SECTION 64, 69, 70, 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) 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 KASENENGWA CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026**

BETWEEN:

ZIWA LEVISON	**PETITIONER**
AND	
TWASA PHILIMON	**1ST RESPONDENT**
THE ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

ELECTION PETITION

THE HUMBLE PETITION FOR ZIWA LEVISON (hereinafter referred to as "**Petitioner**") of House Number 4404, Libala South, Lusaka District and in the Lusaka Province of the Republic of Zambia whose address for service is Messrs. Kamwi Andeleki Legal Practitioners, 8th Floor Premium House Office, Independence Avenue, P.O. Box 37617, Lusaka **SHOWETH THAT:**

1. The Petitioner is a Zambian National.
2. The 1st Respondent is the person that was declared winner of the Kasenengwa Constituency by election held on the 13th August, 2026 by the 2nd Respondent.
3. The 2nd Respondent is an election management body constituted by Article 229 of the Constitution of Zambia and is mandated to implement Zambia's Electoral Process, conduct free and fair elections and in an accountable manner as provided in Article 45(1)(a) and 45 (2)(a)(c) of the Constitution, among other functions.
4. **YOUR PETITIONER SAYS THAT:**

FACTS IN SUPPORT OF THE PETITION

(a) The Petitioner did contest as candidate for the position of Member of Parliament in the 2026 General Elections for Kasenengwa Constituency in the Eastern Province of the Republic of Zambia under the United Party for National Development (UPND) ticket.

(b) The Petitioner contested the constituency parliamentary election against Twasa Philimon who stood under National Reconciliation Party for Unity and Proseperity, Zulu D. Joseph who stood under Zambia Must Prosper and Mwale Joseph, Phiri William, Tembo Elias, Ngoma Jaston, all stood as independent candidates.

(c) The 2nd Respondent declared the results of the election as follows:

1. TWASA PHILIMON	**NRPUP**	**14, 582**
2. ZIWA LEVISON	**UPND**	**13, 339**
3. MWALE JOSEPH	**IND**	**2, 079**
4. PHIRI WILLIAM	**IND**	**1, 042**

5. TEMBO ELIAS	**IND**	**986**
6. NGOMA JASTON	**IND**	**330**
7. ZULU D. JOSEPH	**ZMP**	**288**

(d) There were widespread threats and acts of intimidation perpetrated by the Village Headman Mulenga and Headman Malijeni and the 1st Respondent and his Agents, warning voters not to vote for the Petitioner's Party and instead directing them to vote for the 1st Respondent's Party.

(e) Your Petitioner will aver that, at Shamombo Polling Station, the Petitioner's Agents were not provided with GEN 20 Forms to verify and sign in order to authenticate the results tallied and announced.

(f) The 1st Respondent and his Agents engaged in widespread corrupt practices across all the polling stations. The 1st Respondent and his Agents were giving sausages to the voters on the voting day and paid sums of money to electorates as an inducement for a vote in favour of 1st Respondent.

(g) Your Petitioner shall aver that the 2nd Respondent's Presiding Officers at all Polling Stations assisted and, in fact, voted on behalf of illiterate voters despite protests from the Petitioner's Agents.

(h) Your Petitioner shall aver that the 2nd Respondent's Presiding Officers used the mobile phones touches for light to count the votes despite solar lights being available provided by 2nd Responded, and the Petitioner's Agents raised objections to the irregularities observed in the sorting, counting and announcement of results at various Polling Stations.

(i) Your Petitioner shall aver that the objections raised by the Petitioner's Agents were widespread and arose from specific irregularities witnessed during the sorting, counting and announcement of results at various Polling Stations.

(j) Your Petitioner shall aver that during the sorting and counting of the ballot papers, the Petitioner's Agents observed the 2nd Respondent's Presiding

Officers adding rejected ballot papers to the 1st Respondent's valid votes cast.

(k) Your Petitioner shall aver that at various Polling Stations; the votes were counted so hastily that the Petitioner's Agents could not properly verify the sorting and counting of the ballot papers.

(l) During the sorting and counting of votes, the Petitioners agents raised objections to the sorting, counting and announcement of votes in the following polling stations:

(a) Chankhanga; (b) Chikungu; (c) Champhundu Community School; (d) Mpunza (e) Chizuzu School; (f) Mkowe (g) Kadama Community School; (h) Kafupa Primary School; (j) Kawawa School; (k) Chawa (l) Shamombo School; (m) Vungulumwe Community School; (n) Vuze School; (o) Kwenje; (p) Chiparamba; (q) Kapoko; (r) Masamba; and (r) Mkowe Polling Stations.

(m) Your Petitioner shall aver that the 2nd Respondent's Presiding Officers rejected the objections raised by the Petitioner's Agents and refused to order a recount contrary to the provisions of the Electoral Process Act, thereby denying the stakeholders an opportunity to verify the results to their satisfaction.

(n) Your Petitioner shall aver that the Petitioner's Agents appealed to the 2nd Respondent's Returning Officer before the final tally, tabulation and declaration of the results. Despite the appeal, the Returning Officer proceeded to announce and declare the final results.

(o) Your Petitioner shall aver that, further to the foregoing, the Petitioner lodged a written complaint dated 14th August 2026, setting out the objections raised at various Polling Stations and requesting the Returning Officer to address and determine the said objections.

(p) Your Petitioner shall aver that the failure by the 2nd Respondent to address the objections by subjecting the ballot boxes to verification and recount was materially irregular and continues to prejudice the Petitioner.

(q) As a result of the 2nd Respondent's failure to adhere to the strict guidelines as provided by the law, the Petitioner has been highly prejudiced

ALLEGED CONTRAVENTION OF THE LAW

(r) By virtue of paragraph 4(d) to 4(h) the 2nd Respondent contravened Section 83 of the Electoral Process Act No. 35 of 2016 and the 2nd Respondent failed to carry out its duty by ensuring that campaign period and election was free from violence caused by the 1st Respondent.

(s) By virtue of what is stated in paragraph 4 (i) to (q) the 2nd Respondent contravened the provisions of Section 64, 69 and 70 of the Electoral Process Act No. 35 of 2016.

(t) By virtue of what is stated in paragraph 4 (i) to (q) the 2nd Respondent failed to carry out their mandate of ordering for a recount of the votes in accordance with the provisions of section 69 and 70 of the Electoral Process Act in light of the vital objections raised by the agents of the Petitioner.

(u) By virtue of the foregoing the 2nd Respondent was in breach of its constitutional mandate to ensure and maintain free and fair elections.

RELIEFS SOUGHT BY THE PETITIONER

YOUR PETITIONER, therefore, prays that remedies hereunder be given:

1. **An order for a recount of votes for the declared election results.**
2. **A Declaration that the Petitioner was duly elected; or**
3. **A declaration that the 1st Respondent was not duly elected in the Kasenengwa Constituency parliamentary election;**
4. **Costs**
5. **Any other relief that the Court may deem fit**

YOUR PETITIONER WILL FOREVER PRAY.

Dated at Lusaka this..... day of 2026

PETITIONER

This Petition was settled by: .....

Messrs Kamwi Andeleki Legal Practitioners
Stand No.7431, 8th Floor, Suite 801B Premium House,
Independence Avenue,
P.O. Box 37617,
Email:
KamwiAndelekiLegalPractitoners@hotmail.com
Cell: +260977924606 & +26097953838
LUSAKA
ADVOCATES FOR THE PETITIONER

To: The 1st Respondent

Twasa Levison

To: The 2nd Respondent

Electoral Commission of Zambia

P.O Box 50274

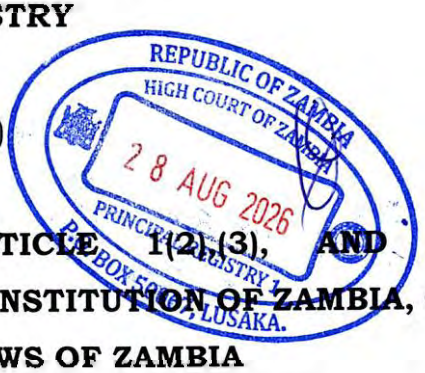
Lusaka Zambia

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/.....029**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Constitutional Jurisdiction)



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THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

PETITIONER'S LIST OF AUTHORITIES

The following is a list of authorities to be relied on by the Petitioner:

1. The Constitution of Zambia, Chapter 1 of the Laws of Zambia;
2. Electoral Process Act No. 35 of 2016;
3. The Electoral Process (General) Regulations, 2016;
4. The High Court (Election Petition) Rules, 2026.

Dated at Lusaka this day of 2026

Drawn by: .....

Messrs Kamwi Andeleki Legal Practitioners
Stand No.7431, 8th Floor, Suite 801B Premium House,
Independence Avenue,
P.O. Box 37617,
Email:
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Cell: +260977924606 & +26097953838
LUSAKA
ADVOCATES FOR THE PETITIONER

GOVERNMENT OF ZAMBIA

ACT

No. 2 of 2016

Date of Assent: 5th January, 2016

An Act to amend the Constitution of Zambia.

[5th January, 2016

ENACTED by the Parliament of Zambia. Enactment

1. This Act may be cited as the Constitution of Zambia (Amendment) Act, 2016, and shall be read as one with the Constitution of Zambia, in this Act referred to as the Constitution. Short title

Cap. 1

2. The Constitution is amended by the repeal of the Preamble and the substitution therefor of the following: Repeal and replacement of Preamble

PREAMBLE

WE, THE PEOPLE OF ZAMBIA:

ACKNOWLEDGE the supremacy of God Almighty;

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

UPHOLD the human rights and fundamental freedoms of every person;

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

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

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

Single copies of this Act may be obtained from the Government Printer P.O. Box 30136, 10101 Lusaka. Price K220.00

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

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

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

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

DO HEREBY SOLEMNLY ADOPT AND GIVE TO OURSELVES THIS CONSTITUTION:

Repeal and replacement of Parts I and II

3. The Constitution is amended by the repeal of Parts I and II and the substitution therefor of the following Parts:

PART I

SUPREMACY OF CONSTITUTION

Supremacy of Constitution

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

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

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

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

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

Defence of Constitution

2. 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.

Continuous effect of Constitution

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

Republic of Zambia

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

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

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

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

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

Sovereign authority

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

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

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

National symbols

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

(a) National Flag;

(b) National Anthem;

(c) Coat of Arms;

(d) Public Seal; and

(e) National Motto.

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

Laws of Zambia

7. 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

National values and principles

8. The national values and principles are—

(a) morality and ethics;

(b) patriotism and national unity;

(c) democracy and constitutionalism;

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

(e) good governance and integrity; and

(f) sustainable development.

Application of national values and principles

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

(a) interpretation of this Constitution;

(b) enactment and interpretation of the law; and

(c) development and implementation of State policy.

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

Basis of economic policies

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

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

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

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

Repeal and replacement of Part IV

4. The Constitution is amended by the repeal of Part IV and the substitution therefor of the following Part:

PART IV

CITIZENSHIP

Existing citizenship

33. 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.

Categories of citizenship

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

Citizenship by birth

35. (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.

Citizenship by descent

36. 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.

Citizenship by registration

37. (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.

Citizenship by adoption

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

Dual citizenship

39. (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.

Renunciation and deprivation of citizenship

40. (1) A citizen—

(a) may renounce citizenship as prescribed; or

(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.

Citizenship Board of Zambia

41. (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.

Entitlements of citizen

42. 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.

Responsibilities of citizen

43. (1) A citizen shall —

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

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

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

(d) maintain a clean and healthy environment;

(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;

(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.

Reference to citizenship of parent

44. 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

Principles of electoral systems and process

45. (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;

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

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

(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.

Franchise

46. 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.

Electoral systems

47. (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.

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

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

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

Electoral process

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

System for administering elections

49. The system of administering elections shall be prescribed.

Access to media

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

Independent candidates

51. 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.

Nominations

52. (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.

Unopposed candidates

53. (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.

Electoral code of conduct

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

Losing candidate not eligible for certain appointments

55. 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.

Election date for general elections

56. (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.

By-elections

57. (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

Constituencies, wards and delimitation

58. (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.

Matters to take into account when delimiting constituencies and wards

59. 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

Political parties

60. (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.

(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.

(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.

(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.

Renumbering and renaming of Part V

5. The Constitution is amended by the renumbering of Part V as Part VI, and the deletion of the heading to that Part and the substitution therefor of the following heading and sub-heading:

LEGISLATURE

Legislative Authority

Repeal and replacement of Articles 62 to 78

6. The Constitution is amended by the repeal of Articles 62 to 78 inclusive and the substitution therefor of the following:

Principles of legislative authority

61. 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.

Parliament, vesting of legislative authority and Members of Parliament

62. (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.

Functions of Parliament and National Assembly

63. (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

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

Introduction of Bills in National Assembly

64. (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.

Money Bills

65. (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.

Presidential assent and referral

66. (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

(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.

(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.

Statutory instruments

67. (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.

(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

Election and composition of National Assembly

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

(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.

Nominated Members of Parliament

69. (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.

(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

Qualifications and disqualifications of Members of Parliament

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

(a) is a citizen;

(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

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

(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.

Nominations for election to National Assembly

71. 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.

Vacation of office as Member of Parliament and dissolution of political party

72. (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;

(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 party and 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.

(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.

Petition of election of Member of Parliament

73. (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 of the 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.

Leader of Government Business and Leader of Opposition

74. (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

Sittings of National Assembly

75. (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.

(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.

Freedom of speech, powers, privileges and immunities

76. (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.

Procedure of National Assembly

77. (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.

(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.

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

Voting in National Assembly

78. (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.

Repeal and replacement of Articles 80 to 90

7. The Constitution is amended by the repeal of Articles 80 to 90 inclusive and the substitution therefor of the following:

Committees of National Assembly

80. (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.

Term and prorogation of Parliament

81. (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.

(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.

(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.

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

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

(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.

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

(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

Speaker and Deputy Speakers of National Assembly

82. (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.

Removal of Speaker on specified grounds

83. (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.

Clerk of National Assembly

84. (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.

Officers of National Assembly

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

General Parliamentary Matters

Presidential address to National Assembly and presidential messages

86. (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.

Vote of censure

87. (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.

Right to petition and make comments

88. (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.

Public access and participation

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

(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.

Repeal and replacement of Parts VI to XIV

8. The Constitution is amended by the repeal of Parts VI to XIV inclusive and the substitution therefor of the following:

PART VII

EXECUTIVE

Executive Authority

Principles of executive authority

90. 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.

Presidency and vesting of executive authority

91. (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—

(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.

Executive functions of President

92. (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.

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

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

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

(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;

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

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

Confirmation of presidential decisions and instructions

93. (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.

Approval of appointments and measures by National Assembly

94. (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.

Ratification of appointments and measures by National Assembly

95. (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 Committee on prerogative of mercy

96. (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.

Prerogative of mercy

97. (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.

Protection of President from legal proceedings

98. (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 Article108.

Election of President

Returning officer for presidential elections

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

Qualifications and disqualifications for nomination as presidential candidate

100. (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;

(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.

Election of President

101. (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.

(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.

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

(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.

Disqualification for run-off

102. (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.

Election petition

103. (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.

Transition period before assuming office

104. (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

Assumption of office

105. (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.

(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.

(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.

Tenure of office of President and vacancy

106. (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.

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

(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.

(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.

Removal of President on grounds of incapacity

107. (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.

Impeachment of President

108. (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.

(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.

Performance of executive functions during absence of President

109. (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.

Vice-President

Vice-President, election to office and swearing in

110. (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.

Tenure of office of Vice-President and vacancy

111. (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.

Functions of Vice-President

112. (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).

Cabinet Ministers

Cabinet

113. There shall be a Cabinet consisting of the—

(a) President;

(b) Vice-President;

(c) Ministers; and

(d) Attorney-General, as *ex-officio* member.

Functions of Cabinet

114. (1) The functions of Cabinet are as follows:

(a) approve and cause to be implemented Government policy;

(b) approve Government Bills for introduction to the National Assembly;

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

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

(e) recommend, for approval of the National Assembly—

(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.

Proceedings of Cabinet meetings

115. (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.

Ministers

116. (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.

(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.

Provincial Minister

117. (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

Principles of judicial authority

118. (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.

Vesting of judicial authority and performance of judicial function

119. (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.

System of court

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

(a) subordinate courts;

(b) small claims courts;

(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;

(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.

Ranking of Supreme and Constitutional Courts

121. The Supreme Court and Constitutional Court rank equivalently.

Functional independence of Judiciary

122. (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.

Financial independence of Judiciary

123. (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

Establishment and composition of Supreme Court

124. 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.

Jurisdiction of Supreme Court

125. (1) Subject to Article 128, the Supreme Court is the final court of appeal.

(2) The Supreme Court has—

(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.

Sittings of Supreme Court

126. (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 and composition of Constitutional Court

127. 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.

Jurisdiction of Constitutional Court

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

(a) a matter relating to the interpretation of this Constitution;

(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.

(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.

Sittings of Constitutional Court

129. (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.

Establishment and composition of Court of Appeal

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

Jurisdiction of Court of Appeal

131. (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.

Sittings of Court of Appeal

132. (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.

Establishment and composition of High Court

133. (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.

(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.

Jurisdiction of High Court

134. The High Court has, subject to Article 128—

(a) unlimited and original jurisdiction in civil and criminal matters;

(b) appellate and supervisory jurisdiction, as prescribed; and

(c) jurisdiction to review decisions, as prescribed.

Sittings of High Court

135. 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

Chief Justice

136. (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.

Deputy Chief Justice

137. (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.

(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.

President of Constitutional Court

138. (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.

Deputy President of Constitutional Court

139. (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.

(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.

Appointment of judges

140. 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.

Qualification for appointment as judge

141. (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—

(a) Supreme Court, for at least fifteen years;

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

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

(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.

Tenure of office of judge

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

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

(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.

Removal of judge from office

143. 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.

Procedure for removal of judge

144. (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

Appointment and retirement of judicial officers

145. (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.

Chief Administrator of Judiciary

146. (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

System of devolved governance

147. (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.

Sub-structures of local government

148. (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

Provinces, Districts and Wards

Provinces, districts and wards

149. (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.

(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.

(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

Provincial administration

150. (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

System of Local Government

System of local government

151. (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.

Local authorities

152. (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.

Election of councillors, composition of councils and tenure

153. (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.

Mayor, deputy mayor, council chairperson and deputy council chairperson

154. (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 with Article 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.

Conduct of councillor

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

Accountability of councillors

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

Vacation of office of councillor and vacancies

157. (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.

By-election for council

158. (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.

Local government elections tribunals and petitions

159. (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.

(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.

Enforcement of judgment against local authority

160. 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.

Revenue of local authorities

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

Constituency Development Fund

162. (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.

Local Government Equalisation Fund and funds for local authorities

163. (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.

Legislation on local authorities

164. 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

Institution of chieftaincy and traditional institutions

165. (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.

Status of institution of chieftaincy

166. 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.

Rights and privileges of chiefs

167. 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.

Participation of chiefs in public affairs

168. (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.

House of Chiefs and function

169. (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.

Tenure of office and vacancy

170. (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.

Staff of House of Chiefs

171. (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.

Legislation on House of Chiefs

172. 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

Values and principles of public service

173. (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;

(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

Constituting offices for public service

174. (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.

Holding of office in public service

175. 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

Secretary to Cabinet

176. (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

177. (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;

(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.

Vacancy in office of Attorney-General

178. (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.

Solicitor-General

179. (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.

Director of Public Prosecutions

180. (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.

House of Chiefs and functions

(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.

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

181. 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.

Tenure of office of Director of Public Prosecutions

182. (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.

Secretary to Treasury

183. (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;

(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;

(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.

Permanent Secretaries

184. (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

Appointment of public officers

185. (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.

Participation in politics

186. (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

Pension benefit

187. (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.

Review of pension benefit and tax exemption

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

(2) A pension benefit shall be exempt from tax.

Payment of pension benefits

189. (1) A pension 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

Principles relating to Defence Force and national security services

190. (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.

Status of Defence Force and national security services

191. 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 them effectively perform their functions.

Establishment of Defence Force and functions

192. (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.

Establishment of national security services and functions

193. (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.

Qualification to serve in Defence Force and national security service

194. 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.

Deployment outside Republic

195. (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.

Prohibition of activities relating to defence and national security

196. 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.

Legislation on Defence Force and national security services

197. 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

Principles relating to public finance

198. The guiding principles of public finance include the following:

(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;

(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.

Imposition of tax

199. (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.

Consolidated Fund

200. (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.

Withdrawal from Consolidated Fund

201. (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.

Annual financial estimates of revenue and expenditure

202. (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.

Appropriation Act, Supplementary Appropriation Act and Excess Expenditure Appropriation Act

203. (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 Appropriation Act 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.

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

(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.

Limitation and conditions of warrant

204. (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.

Budget and planning legislation

205. 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.

Investment of public funds

206. (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.

Borrowing and lending by Government

207. (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.

Public debt

208. (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.

Compensation Fund

209. (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.

Public procurement and disposal of State assets

210. (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.

Financial report of Republic

211. (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.

Auditor-General's report

212. 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

Bank of Zambia

213. (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.

Governor of Bank of Zambia

214. (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.

Legislation on Bank of Zambia

215. 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

Principles relating to commissions

216. 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

Parliamentary Service

217. (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.

Parliamentary Service Commission

218. (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

Judicial Service

219. (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.

Judicial Service Commission

220. (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

Civil Service

221. (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.

Civil Service Commission

222. (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

Teaching Service

223. (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.

Teaching Service Commission

224. (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

Zambia Correctional Service Commission

225. (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

Zambia Police Service Commission

226. (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

227. (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.

Local Government Service Commission

228. (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 of Zambia

Electoral Commission of Zambia

229. (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;

(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;

(g) delimit electoral boundaries; and

(h) perform such other functions as prescribed.

Human Rights Commission

Human Rights Commission

230. (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

Gender Equity Equality Commission

231. (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

Emoluments Commission

232. (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

Lands Commission

233. (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

State Audit Commission

234. (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

Investigative Commissions

235. There is established the following investigative commissions:

(a) the Anti-Corruption Commission;

(b) the Drug Enforcement Commission; and

(c) the Anti-Financial and Economic Crimes Commission.

Judicial Complaints Commission

Judicial Complaints Commission

236. (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

Police Public Complaints Commission

237. (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

Financial independence of commissions

238. (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.

Expenses of commissions

239. 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.

Qualifications of members of commissions

240. 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.

General powers of commissions

241. 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.

Legislation on commissions

242. 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
Public Protector

Public Protector

243. (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.

Functions of Public Protector

244. (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.

Limitation of powers of Public Protector

245. 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;

(d) relates to the exercise of the prerogative of mercy; or

(e) is criminal in nature.

Performance of functions of Public Protector during absence, illness or other cause

246. 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.

Tenure of office of Public Protector

247. (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.

Report to National Assembly

248. The office of the Public Protector shall report to the National Assembly on matters concerning its affairs.

Auditor-General

Auditor-General

249. (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.

Functions of Auditor-General

250. (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.

Performance of functions of Auditor-General during absence, illness or other cause

251. 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.

Tenure of office of Auditor-General

252. (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

Principles of land policy

253. (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.

Classification and alienation of land and land tenure

254. (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

Principles of environmental and natural resources management and development

255. 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;

(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 and natural resources

256. 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.

Utilisation of natural resources and management of environment

257. 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;

(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

Official language and use and status of local languages

258. (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.

(3) The State shall respect, promote and protect the diversity of the languages of the people of Zambia.

Nominations and appointments

259. (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.

Oath of office and prescribed oaths

260. 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.

Code of conduct and ethics

261. A person holding a public office shall act in accordance with a code of conduct and ethics, as prescribed for that office.

Conflict of interest

262. 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.

Declaration of assets

263. A person holding a public office shall, before assuming office or leaving office, make a declaration of their assets and liabilities, as prescribed.

Emoluments payable under Constitution

264. (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.

Funding, expenses and emoluments charge on Consolidated Fund

265. (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.

Definitions

266. 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 in Article 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;

(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 Enforcement Commission, the Anti-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.

Interpretation of Constitution

267. (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.

Grammatical variation

268. 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.

Computation of time

269. 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.

Power to appoint includes power to remove

270. 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.

Implied power

271. 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.

Legislation to give effect to Constitution

272. 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.

Power to make statutory instrument, resolution or direction

273. 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.

Time for performance of function

274. A function conferred in this Constitution may be performed as occasion requires.

Exercise of power between publication and commencement of Acts

275. 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

(*Article* 147 (2))

FUNCTIONS OF NATIONAL, PROVINCIAL AND LOCAL LEVELS OF DEVOLVED GOVERNMENT

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 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
- Nature conservation
- Parliamentary Business
- legislative procedures and processess
- 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
- Soil conservation
- Tourism, trade and commerce
- Urban and rural development
- Welfare services
- Industrial and labour relations
- Resettlement
- Investment
- Telecommunication

C. Local Authorities exclusive functions

- 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
- Noise pollution
- Pounds
- Public places
- Refuse removal, refuse dumps and solid waste disposal
- Street trading
- Street lighting
- Traffic and parking
- Gardens and landscaping

THE ELECTORAL PROCESS ACT, 2016

ARRANGEMNET OF SECTIONS

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Single copies of this Act may be obtained from the Government Printer, P.O. Box 30136, 10101 Lusaka. Price K144.00 each.

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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.

(2) The Commission shall prescribe the procedure and conditions under which a voter who is unable to vote in the polling district in which that voter is registered may apply for a special vote.

Election officers at polling stations

49. On polling day each polling station shall be staffed by the—

(a) presiding officer appointed for that polling station;

(b) polling assistants appointed for that polling station; and

(c) other officers appointed by the Commission.

Hours of voting

50. (1) The Commission shall prescribe the voting hours for an election.

(2) The Commission may, where it is necessary to do so, prescribe different voting hours for different polling stations.

(3) The Commission shall publish the prescribed voting hours in the media.

(4) A polling station shall—

(a) open for voting at the prescribed time; and

(b) subject to subsection (7)*(b)*, remain open for voting until the prescribed time or such later time as the Commission may determine under subsection (7)*(a)*.

(5) A person shall not be admitted to a polling station for the purpose of voting after the polling station has closed for voting.

(6) Voting at a polling station shall continue until every voter who had reported at a polling station to vote at the time prescribed for voting hours has voted.

(7) The Commission—

(a) may extend voting hours at a polling station after the voting day or prescribed time; and

(b) may temporarily close a polling station for part of a polling day if it is temporarily impossible to conduct an election at that voting station.

Ballot paper

51. Subject to the other provisions of this Act and section *fifty-two*, the Commission shall prescribe the form and design of a ballot paper and the manner in which ballot papers issued shall be accounted for.

Design of ballot paper

52. (1) Despite section *fifty-one*, a ballot paper shall be designed in a way that prevents fraudulent voting.

(2) A ballot paper shall include—

(a) a portrait of the candidate nominated for elections to the office of President, Member of Parliament, mayor, council chairperson and councillor; and

(b) the symbol of a political party registered with the Commission under which a candidate shall stand for elections and where the candidate is an independent candidate, the symbol the Commission shall allocate to the independent candidate.

(3) A ballot paper shall be colour coded so as to differentiate the ballot paper for use in a presidential, parliamentary or local government elections.

Ballot boxes

53. (1) The Commission shall use in an election transparent ballot boxes capable of being securely closed.

(2) The Commission shall prescribe the manner in which ballot boxes shall be—

(a) numbered and labelled; and

(b) closed, secured, opened, sealed and unsealed.

Voting compartments

54. (1) Subject to subsection (2), the Commission shall prescribe the design and material of voting compartments to be used in an election.

(2) A voting compartment shall, while screening a voter from observation by other persons when marking a ballot paper, be designed and placed in such a manner as to ensure that a clear view of the voters' back can be observed from the outside.

Conduct of general election Cap. 1

55. A general election shall be held in accordance with the Constitution, this Act and as may be prescribed.

Postponement of voting at polling station

56. (1) If it is not possible to conduct a free and fair election at a polling station on a prescribed polling day, the Commission may, at any time before voting at the polling station has commenced, postpone voting at that polling station.

(2) A postponement under subsection (1) shall be—

(a) effected in the prescribed manner;

(b) to a day that would fall within the period referred to in section *twenty-eight;* and

(c) publicised in the media so as to ensure wide publicity of the postponement of the polling day at the polling station.

Postponement of by-election

57. The Commission may postpone the polling day of a by-election if it is satisfied that—

(a) the postponement is necessary for ensuring a free and fair election; and

(b) the polling day for the election shall fall within the period required by the Constitution.

Cap. 1

Voting materials

58. (1) The Commission shall supply, before voting opens at a polling station, the voting materials necessary for the election at that station including—

(a) ballot papers;

(b) ballot boxes;

(c) voting compartments;

(d) a certified register of voters for the polling district concerned; and

(e) a document to be signed by the presiding officer detailing the voting materials entrusted to that presiding officer.

(2) A presiding officer shall be responsible for the safe-keeping of all the voting materials supplied to that presiding officer.

Initial procedures

59. A presiding officer shall, immediately before opening a polling station for voting—

(a) show all accredited observers, monitors, election and polling agents present, that each ballot box to be used at that polling station is empty; and

(b) in the presence of the accredited observers, monitors, election and polling agents, close, seal and secure the ballot boxes in the prescribed manner.

Voting procedure

60. (1) Subject to section *forty-eight*, a voter shall only vote at the polling station in the polling district for which that voter is registered.

(2) A voter is entitled to vote at a polling station—

(a) on production of that voter's national registration card and voter's card to the presiding officer or election officer at the polling station; and

(b) if that voter's details are in the certified segment of the Register of Voters for the polling district concerned.

(3) When a voter produces a national registration card to the presiding officer or election officer as required by subsection (2), the presiding officer or election officer shall examine the identity document and determine whether—

(a) the voter is the person described in that national registration card;

(b) the voter's details are in the certified segment of the Register of Voters for the polling district concerned; and

(c) the voter has not already voted in the election.

(4) For the purposes of subsection (3) (c), the presiding officer or election officer shall examine the voter's hands to ensure that the voter does not possess the mark indicating that the voter has already voted.

(5) If the presiding officer or election officer is satisfied in respect of all the matters referred to in subsection (3), the presiding officer shall—

(a) record that the voter is treated as having voted in the election;

(b) mark the hand of the voter in the prescribed manner;

(c) mark the back of a ballot paper for that election; and

(d) hand the ballot paper to the voter.

(6) A voter shall, once the voter has received a ballot paper marked under subsection (5)(c) —

(a) enter an empty voting compartment;

(b) mark the ballot paper in a way that indicates the candidate the voter wishes to vote for;

(c) fold the ballot paper to conceal the voter's vote;

(d) cast the ballot paper in the ballot box; and

(f) without delay leave the voting station.

Assistance to voters with disabilities

61. (1) A person may assist a voter to vote where—

(a) the voter requires assistance due to a physical disability;

(b) the voter has requested to be assisted by that person; and

(c) the presiding officer is satisfied that the person assisting the voter has attained the age of eighteen years.

(2) In the absence of a person referred to in subsection (1), the presiding officer or another election officer, at the request of a voter who is unable to read, shall assist that voter to vote.

(3) Subject to subsection (2), the presiding officer or election officer shall assist voters in the presence of—

(a) a person appointed by the presiding officer or an accredited observer or monitor, if available; or

(b) two election agents of different candidates, if available.

(4) A presiding officer shall record in a copy of the Register of Voters, by means of a mark placed next to the name of the voter concerned, that the presiding officer or another person has assisted the voter as provided under this section and give the reasons for doing so.

(5) A person assisting another person under subsection (2) shall maintain the secrecy of the vote cast by the person being assisted.

Issuance of new ballot paper

62. (1) If a voter accidentally marks a ballot paper in a way that does not indicate for whom the voter wishes to vote and the ballot has not yet been placed in the ballot box—

(a) the voter may return that ballot paper to the presiding officer or a polling assistant;

(b) the presiding officer or polling assistant shall deal with the ballot paper in accordance with subsection (2), and shall give the voter a new ballot paper in accordance with this section; and

(c) the voter may vote in accordance with section *sixty.*

(2) Upon receiving a ballot paper from a voter under subsection (1), the presiding officer or a polling assistant shall mark "cancelled" on the back of the ballot paper and file it separately to be dealt with in accordance with section *sixty-three*.

Spoilt ballot papers

63. Where a voter inadvertently deals with a ballot paper in such manner that it cannot be used as a valid ballot paper, the voter shall deliver that ballot paper to the presiding officer and, if the presiding officer is satisfied that the ballot paper has been spoilt inadvertently, the presiding officer shall issue another ballot paper to the voter, and shall cancel the spoilt ballot paper and the counterfoil to which it relates.

Objections concerning voting

64. (1) A person may, at any time before a voter is handed a ballot paper, object to that voter being entitled to vote or to vote at the polling station concerned.

(2) A person may object to a voter's vote where the voter—

(a) has already voted;

(b) is not the owner of the voter's card;

(c) is not registered at the polling station;

(d) is not a citizen; or

(e) is disqualified from voting.

(3) An election agent or a voter may object to any conduct of an election officer or any other person present at a polling station.

(4) An objection under this section shall be made to the presiding officer in the prescribed manner.

(5) A presiding officer shall make a decision on the objection and notify the objector and any other parties involved in the objection of the presiding officer's decision in the prescribed manner.

(6) An appeal against the decision of a presiding officer may be made to a returning officer in the prescribed manner.

(7) A presiding officer or returning officer shall keep a written record of each objection and decision made under this section in the prescribed manner .

Sealing of full ballot boxes

65. (1) As soon as a ballot box is full, a presiding officer, in the presence of an accredited observer, monitor or polling agent, shall seal the ballot box and allow the agents to affix their seals to the ballot box.

(2) Immediately after the last vote has been cast, every remaining used ballot box shall be similarly dealt with.

(3) A sealed ballot box shall remain—

(a) sealed until opened for the counting of votes; and

(b) in the polling station until the commencement of the counting of the votes.

Completion of ballot paper account form and sealing of voting materials

66. (1) A presiding officer shall, at the close of a polling station, in the presence of an accredited observer, monitor or election agent

(a) complete a ballot paper account form reflecting the number of—

(i) ballot boxes entrusted to that presiding officer;

(ii) used ballot boxes;

(iii) unused ballot boxes;

(iv) ballot papers entrusted to that presiding officer;

(v) issued ballot papers;

(vi) unissued ballot papers; and

(vii) cancelled ballot papers;

(b) seal each unused ballot box entrusted to that presiding officer; and

(c) seal in separate ballot boxes

(i) the certified segment of the Register of Voters for that polling district;

(ii) the unused ballot papers entrusted to that presiding officer;

(iii) the spoilt ballot papers; and

(iv) the written record of any objections concerning voting.

Place and time of counting of votes

67. (1) Votes shall be counted at the polling station at which those votes were cast.

(2) A presiding officer shall ensure that the procedures set out in this Part relating to the counting of votes commences immediately after the polling station is closed for voting and continue the counting of votes until completion.

(3) The procedures provided for in this Part relating to the counting of votes may be suspended only with the approval of the Commission and, if they are suspended, the presiding officer shall ensure the safekeeping of all the voting materials entrusted to the presiding officer until the counting of votes has been completed.

Counting of votes and announcement of provisional results

68. (1) A presiding officer shall open the ballot boxes and—

(a) cause the ballot papers to be sorted on the basis of the ballot papers for each election, if more than one election was held at a polling station on the same day;

(b) cause the ballot papers for each election to be sorted and compare them with the number of ballot papers issued in the prescribed manner;

(c) cause the votes cast in each election to be counted in the prescribed manner; and

(d) announce and publish the result of each count at that polling station in both figures and words in the prescribed manner.

(2) A presiding officer shall reject a ballot paper—

(a) that indicates the identity of the voter;

(b) on which a vote is cast for more than one candidate;

(c) that is unmarked;

(d) that is marked in such a way that it is not reasonably possible to determine the voter's choice;

(e) that does not bear the official mark required in terms of section *sixty* (5) (c); or

(f) that is not an official ballot paper.

(3) The presiding officer shall mark Afor rejection on the back of each rejected ballot paper and file the rejected ballot paper separately.

Objections concerning sorting of ballot papers

69. (1) An election or polling agent may object to any alleged irregularity in the sorting of the ballot papers.

(2) An objection under subsection (1) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has commenced the count.

(3) Section *sixty-four*, with the necessary modifications, applies to an objection under this section.

Objections concerning counting of votes and announcement of provisional result

70. (l) An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section *seventy-one.*

(2) An objection under subsection (l) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result.

(3) A presiding officer shall determine the objection and decide whether to order a recount.

(4) A presiding officer shall notify the objector and any other party involved in the objection, of the decision made under subsection (3).

(5) If a presiding officer orders a recount, the presiding officer shall announce the result afresh.

(6) An appeal against the decision of a presiding officer may be made to the returning officer in the prescribed form.

(7) A presiding officer shall keep a written record, in the prescribed form, of each objection under subsection (l) and each decision under this section.

Procedure concerning provisional results and voting materials

71. (1) After announcing the result at a polling station, a presiding officer shall complete a form, as may be prescribed, reflecting—

(a) the number of ballot papers supplied to the polling station;

(b) the result at the polling station;

(c) the number of rejected ballot papers;

(d) the number of spoilt ballot papers; and

(e) the number of unused ballot papers.

(2) When a presiding officer has complied with subsection (1), the presiding officer shall publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station.

(3) When the presiding officer has complied with subsection (2), the presiding officer shall inform the returning officer of the result of that count at the polling station.

(4) When the presiding officer has complied with subsection (3), the presiding officer shall—

(a) seal in separate ballot boxes each of the items mentioned in subsection (l) and the written record of any objections; and

(b) deliver the form, completed in terms of subsection (l), and the sealed ballot boxes to the returning officer.

Announcement and declaration of results by returning officer

72. (1) Upon receipt of the items mentioned in section *seventy-one*, a returning officer shall tally the results of the votes received from the polling station in the constituency, district and ward and shall—

(a) announce the results of the votes for the presidential and mayoral or council chairperson elections; and

(b) declare the results for the National Assembly and Ward election.

(2) The returning officer shall submit the results referred to in subsection (1) (a) and (b) to the Commission.

Announcement and declaration of results in Presidential election

73. (1) The Returning Officer shall tally, announce and declare the result of a presidential election as soon as they are received.

(2) The Returning Officer shall announce and declare the result of a presidential election without having received the results of all polling stations if—

(a) to wait for the receipt of the result from every polling station would unduly and unreasonably delay the determination and declaration of the result of that election; and

(b) the outstanding results are not likely to materially influence the overall result of that election.

Electronic transmission of results

74. The Commission may use electronic means to transmit results from polling stations.

Revoting at polling station

75. (1) If ballot papers used in an election at a polling station are lost, destroyed or unlawfully removed before the votes cast at the polling station have been counted and announced, the Commission shall allow a revote at that polling station.

(2) A revote at a polling station shall be—

(a) conducted on a date that would fall within the period referred to in section *twenty-eight;*

(b) publicised in the media so as to ensure wide publicity of the date determined for the revote; and

(c) conducted in accordance with a procedure prescribed by the Commission.

Correction of mistakes

76. The Commission may correct a mistake committed by an electoral officer in the tabulation of results within seven days after the declaration of the results.

PART VII

OBSERVERS, MONITORS AND VOTER EDUCATION

Accreditation of observers and monitors

77. (1) A juristic person may apply to the Commission, in the prescribed manner, for accreditation to observe or monitor an election.

(2) The Commission may require any information it may consider necessary in support of an application under subsection (1).

(3) The Commission shall, where it decides to to accredit an applicant—

(a) issue the applicant with a certificate of accreditation in the applicant's name, stating the period and other conditions of accreditation; and

(b) enter the applicant's name in the register of persons accredited as observers and monitors.

(4) The Commission may accredit an applicant, without the payment of a fee, to observe or monitor an election after considering the application and any other information provided by the applicant, and whether—

(a) the accreditation of the applicant shall promote conditions conducive to a free and fair election; and

(b) the persons appointed by the applicant shall—

(i) observe the election impartially and independently of any registered party or candidate contesting that election;

(ii) be competent and professional in observing the election; and

(iii) subscribe to a code governing observers and monitors issued by the Commission under this Act.

(5) The Commission shall, where it decides not to accredit the applicant, inform the applicant accordingly, in writing, and give the reasons for its decision.

(6) If a person accredited as an observer or monitor fails to comply, to a material extent, with the conditions of the accreditation, the Commission may cancel that accreditation and, in writing, notify the person concerned of the cancellation and state the reasons for such cancellation.

(7) Any person may inspect the register and copies of the certificates of persons accredited as observers and monitors.

(8) The register and copies of the certificate shall be kept at the Commission's head office.

(9) The Chief Elections Officer shall provide a certified copy of, or extract from, the register or a certificate to any person upon payment of the prescribed fee.

(10) A person representing an accredited observer or monitor shall abide by the Code.

(11) A person representing an accredited observer or monitor who is found guilty of violating any election law shall be disqualified from observing or monitoring an election.

(12) A register of juristic persons and institutions accredited as observers or monitors and copies of the certificates of the observers and monitors shall be kept at the Commission's head office.

(13) In this section "juristic person" includes an institution and organisation registered under the Non-Governmental Organisations Act, 2009.

Act No. 16 of 2009

Powers and duties of accredited observers and monitors

78. (1) An accredited observer or monitor may, in relation to an election for which that observer or monitor is accredited, observe the proceedings concerning voting, the counting of votes and the announcement and declaration of the election results.

(2) Whilst observing an election, a person appointed by an accredited observer or monitor shall wear the prescribed identification indicating that the person is representing an accredited observer or monitor.

(3) A person appointed by an accredited observer or monitor shall comply with any order issued by an election officer or a police officer acting on the instructions of an election officer.

Provision of voter education generally

79. (1) Any natural or juristic person may provide voter education for an election.

(2) Any natural or juristic person providing voter education shall do so in a manner that—

(a) is impartial and independent of any registered party or candidate contesting an election; and

(b) shall promote conditions conducive to free and fair elections.

Voter education

80. Despite section *eight*, the Commission shall provide voter education for an election.

PART VIII
Elections Offences

Bribery

81. (1) A person shall not, either directly or indirectly, by oneself or with any other person corruptly—

(a) give, lend, procure, offer, promise or agree to give, lend, procure or offer, any money to a voter or to any other person on behalf of a voter or for the benefit of a voter in order to induce that voter to vote or refrain from voting or corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election;

(b) give, lend or procure, offer, promise or agree to give, lend, procure, offer or promise, any money to a voter or for the benefit of a voter or to any other person or on behalf of that person on behalf of any voter or to or for any other person for acting or joining in any procession or demonstration before, during or after any election;

(c) make any gift, loan, offer, promise, procurement or agreement to or for the benefit of any person in order to induce the person to procure or to endeavour to procure the return of any candidate at any election or the vote of any voter at any election;

(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procure or engage, promise or endeavour to procure, the return of any candidate at any election or the vote of any voter at any election;

(e) advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or partially expended in bribery at any election;

(f) before or during any election, receive or contract for any money or loan for oneself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

(g) after any election, receive any money on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; or

(h) convey or transfer or be concerned with the conveyance or transfer of any property, or pay or be concerned with the payment of any money, to any person for the purpose of enabling that person to be registered as a voter, thereby to influence that person's vote at any future election, or pay to or be concerned with the payment of any money on account of any voter for the purpose of inducing that person to vote or refrain from voting.

(2) A person who contravenes any provision of subsection (1) commits an offence.

(3) Nothing in this Act shall be construed as applying to any money paid or agreed to be paid for, or on account of, any expenditure *bona fide* and lawfully incurred in respect of the conduct or management of an election.

Impersonation

82. (1) A person shall not—

(a) at any election, apply for a ballot paper in the name of some other person, living or dead, or of a fictitious person;

(b) having voted once at any election, apply again at the same election for a ballot paper;

(c) vote at any election knowing that the person is not entitled to vote at that election or induce or procure any person to vote at any election knowing that person is not entitled to vote at that election;

(d) apply to be registered as a voter in the name of any other person, whether living, dead or fictitious; or

(e) impersonate—

(i) a representative of a registered political party;

(ii) a candidate in an election;

(iii) a member, employee or officer of the Commission; or

(iv) a person appointed by an accredited observer, or monitor.

(2) A person who contravenes any provision of subsection (1) commits an offence.

Undue influence

83. (1) A person shall not directly or indirectly, by oneself or through any other person—

(a) make use of or threaten to make use of any force, violence or restraint upon any other person;

(b) inflict or threaten to inflict by oneself or by any other person, or by any supernatural or non-natural means,or pretended supernatural or non-natural means, any physical, psychological, mental or spiritual injury, damage, harm or loss upon or against any person;

(c) do or threaten to do anything to the disadvantage of any person in order to induce or compel any person—

(i) to register or not to register as a voter;

(ii) to vote or not to vote;

(iii) to vote or not to vote for any registered political party or candidate;

(iv) to support or not to support any political registered party or candidate; or

(v) to attend and participate in, or not to attend and participate in, any political meeting, march, demonstration or other political event;

(d) interfere with the independence or impartiality of the Commission, any member, employee or officer of the Commission;

(e) prejudice any person because of any past, present or anticipated performance of a function under this Act;

(f) advantage, or promise to advantage, a person in exchange for that person not performing a function under this Act; or

(g) unlawfully prevent the holding of any political meeting, march, demonstration or other political event.

(2) Subject to the other provisions of this Act, a person shall not prevent another person from exercising a right conferred by this Act.

(3) A person, knowing that another person is not entitled to be registered as a voter, shall not—

(a) persuade that other person that, that other person is entitled to be registered as a voter; or

(b) represent to anyone else that the person is entitled to be registered as a voter.

(4) A person, knowing that another person is not entitled to vote shall not—

(a) assist, compel or persuade that other person to vote; or

(b) represent to anyone else that the other person is entitled to vote.

(5) A person who contravenes any of the provisions of subsections (l) to (4) commits an offence.

(6) A person who, by abduction, duress or any fraudulent device or contrivance, impedes or prevents the free exercise of the vote of any voter or thereby compels, induces or prevails upon any voter either to give or to refrain from giving the person's vote at any election, commits an offence.

Illegal practice of publishing false statements in respect of candidates

84. (1) A person shall not, before or during an election, publish a false statement of the illness, death or withdrawal from election of a candidate at that election for the purpose of promoting or procuring the election of another candidate, knowing that statement to be false or not believing it to be true.

(2) A person who, contravenes subsection (1) commits an illegal practice, unless that person had reasonable grounds for believing, and did believe, the statement to be true.

Illegal practice in respect of nomination of candidates

85. (1) A person shall not—

(a) forge or fraudulently destroy any written authority of a candidate or nomination paper; or

(b) deliver to a returning officer any written authority of a candidate or nomination paper or affidavit knowing the same to be forged.

(2) A person who knowingly makes a false statement relating to that person's nomination in that person's nomination paper or affidavit commits an offence.

Illegal practices in respect of public meetings

86. A person shall not, at a lawful public meeting held in connection with the election of any person between the day of the publication of a notice appointing a nomination day and the day on which the result of the election is published, act or incite others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is called.

Illegal practices relating to the poll

87. (1) A person shall not—

(a) forge, counterfeit or fraudulently deface or fraudulently destroy any ballot paper or the official mark on any ballot paper;

(b) without authority supply any ballot paper to any person;

(c) without authority put into any ballot box any ballot paper which that person is not authorised by law to put in;

(d) sell or offer to sell any ballot paper or voter's card to any person or purchase or offer to purchase any ballot paper or voter's card from any person;

(e) not being a person entitled under this Act to be in possession of a ballot paper or voter's card, have any such ballot paper or voter's card in that person's possession;

(f) without authority destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers in use or intended to be used for the purpose of an election;

(g) without authority print or make any ballot paper or what purports to be or is capable of being used as a ballot paper or any identity document at an election;

(h) manufacture, construct, have in that person's possession, supply, or use for the purpose of an election, or cause to be manufactured constructed, supplied or used for the purposes of any election any appliance, device or mechanism by which a ballot paper may be extracted or manipulated after having been deposited in a ballot box in the course of polling at any polling station; or

(i) at an election obstruct a voter either at the polling station or on that voter's way thereto or therefrom.

Penalty for illegal practices

88. A person who engages in an illegal practice commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Other election offences

89. (1) A person shall not—

(a) within a period prescribed for the receipt of nominations, under this Act, loiter in any public place within four hundred metres from the entrance to a nomination centre;

(b) having been required to leave a nomination office, fail to leave such nomination office or the precincts thereof;

(c) put into any ballot box anything other than the ballot paper which that person is authorised by law to put therein;

(d) without due authority take out of the polling station any ballot paper or be found in possession of any ballot paper outside a polling station;

(e) on any polling day, at the entrance to or within a polling station, or in any public place or in any private place within four hundred metres from the entrance to such polling station

(i) canvass for votes;

(ii) solicit the vote of any person;

(iii) induce any person not to vote; or

(iv) induce any person not to vote for a particular candidate;

(f) on any polling day loiter in any public place within four hundred metres from the entrance to any polling station;

(g) on any polling day exhibit in any public or private place within one hundred metres from the entrance to any polling station any notice or sign, other than an official notice or sign authorised by an election officer under this Act, relating to the election;

(h) not being a presiding officer, an election officer, candidate, an election agent or a polling agent in the course of their functions within a polling station, make any record showing that any particular person has voted in an election;

(i) without lawful authority, destroy, mutilate, deface or remove any notice which is exhibited in accordance with this Act or under any regulations issued under this Act, or any document made available for inspection under this Act and any such regulations;

(j) wilfully obstruct or interfere with a returning officer, presiding officer, or election officer in the execution of their duties;

(k) make a false answer to any question put to that person by a presiding officer or an election officer under this Act;

(l) have any communication with a voter while such voter is in the precincts of a polling station for the purpose of voting;

(m) fail to comply with any requirement or direction to leave a polling station or the precincts thereof; or

(n) being a candidate use a symbol in the course of an election other than the symbol registered with the Chief Electoral Officer in accordance with this Act and any regulations thereunder or, in the case of any other person, associate any candidate with, any symbol in the course of an election other than the candidate's registered symbol.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Property in certain election material

90. In a prosecution for an offence in relation to a nomination paper, ballot box or ballot paper, the property in such nomination paper, ballot box, as well as the property in the counterfoil of any ballot paper, shall be vested in the Commission at that election.

Secrecy and penalty for breach of secrecy

91. (1) A person in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting at such station and shall not communicate, except for some purpose authorised by law, to any person, any information as to the name or number on the Register of Voters of any voter who has or has not applied for a ballot paper or voted at such polling station, or as to the official mark or official seal at such polling station.

(2) A person other than a presiding officer or polling assistant in exercise of the presiding officer or polling assistants' functions under this Act shall not, obtain or attempt to obtain in a polling station information as to the candidate for whom any person in such polling station is about to vote or has voted or communicate at any time, to any person, any information obtained in a polling station as to the candidate for whom any person in such polling station is about to vote or has voted, or as to the number on the ballot paper issued to any person at such polling station.

(3) A person in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting and shall not ascertain at the counting the number on any ballot paper or communicate any information obtained at the counting as to the manner in which any vote is given by any particular ballot paper.

(4) A person who contravenes any of the provisions of this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences by election officers

92. An election officer who wilfully fails to perform the functions of that office under this Act commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences by printers and publishers

93. (1) A bill, placard, poster, pamphlet, circular or other printed matter having reference to an election shall bear upon the face thereof the name and address of the printer and of the publisher.

(2) A person who prints, publishes or posts, or causes to be printed, published or posted any matter referred to in subsection (1), which does not bear upon the face thereof such name and address of the printer or publisher commits an offence.

(3) The proprietor and publisher of every newspaper shall cause the word advertisement to be printed as a headline to each article or paragraph appearing in that person's newspaper containing electoral matter, the insertion of which is or is to be paid for, and any proprietor or publisher who fails to comply with this provision commits an offence.

(4) For the purposes of this section—

(a) any process for producing copies of a document, other than by copying it by hand, shall be deemed to be printing, and the expression "printed" shall be construed accordingly; and

(b) "electoral matter" shall be deemed to include all matters which, on the face of them, are intended or calculated to affect the result of an election.

Obstruction of officer

94. (1) A person shall not—

(a) wilfully delay or obstruct an officer in the carrying out of that officer's duties and powers under this Act; or

(b) assault an officer in the lawful exercise of that officers duties and power under this Act.

(2) A person who contravenes a provision of subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Attempts to commit offence

95. A person who attempts to commit an offence under this Part commits an offence and is liable upon conviction to the penalty specified for that offence.

PART IX
ELECTION PETITIONS

Application to members and officers of Parliament

96. (1) A question which may arise as to whether—

(a) a person has been validly appointed or nominated as a Member of Parliament;

(b) the seat of an elected or nominated Member of Parliament, mayor, council chairperson or councillor, has become vacant, other than a question arising from the election of a candidate as a Member of the Parliament; or

(c) a petition may be heard and determined by the High Court or tribunal upon application made by—

(i) any person to whom the question relates; or

(ii) the AttorneyGeneral;

may be determined by the High Court or a tribunal, as the case may be.

(2) A person who makes an application to the High Court or a tribunal under subsection (1), has the right to appear and be represented before the High Court or tribunal.

(3) Subject to any rules of court or tribunal, the powers, practice and procedure of the High Court or a tribunal in respect of the trial of an election petition under this Part shall apply, with the necessary modifications, to the hearing and determination of such applications.

Avoidance of elections

97. (1) An election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall not be questioned except by an election petition presented under this Part.

(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(i) by a candidate; or

(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and

the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred;

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election; or

(c) the candidate was at the time of the election a person not qualified or a person disqualified for election.

(3) Despite the provisions of subsection (2), where, upon the trial of an election petition, the High Court or a tribunal finds that a corrupt practice or illegal practice has been committed by, or with the knowledge and consent or approval of, any agent of the candidate whose election is the subject of such election petition, and the High Court or a tribunal further finds that such candidate has proved that—

(a) a corrupt practice or illegal practice was not committed by the candidate personally or by that candidate's election agent, or with the knowledge and consent or approval of such candidate or that candidate's election agent;

(b) such candidate and that candidate's election agent took all reasonable means to prevent the commission of a corrupt practice or illegal practice at the election; and

(c) in all other respects the election was free from any corrupt practice or illegal practice on the part of the candidate or that candidate's election agent;

the High Court or a tribunal shall not, by reason only of such corrupt practice or illegal practice, declare that election of the candidate void.

(4) An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election.

Presentation of election petition

98. An election petition may be presented to the High Court or a tribunal by one or more of the following persons:

(a) a person who lawfully voted or had a right to vote at the election to which the election petition relates;

(b) a person claiming to have had a right to be nominated as a candidate or elected at the election to which the election petition relates;

(c) a person claiming to have been a candidate at the election to which the election petition relates; and

(d) the AttorneyGeneral.

Relief which may be claimed in election petition

99. Any of the following reliefs may be claimed in an election petition:

(a) a declaration that the election was void; or

(b) a declaration that any candidate was duly elected.

Form and procedure for presentation of election petition

100. (1) An election petition shall be in such form as the Chief Justice may by rules prescribe.

(2) An election petition shall be presented—

(a) in the case of an election of a candidate as a Member of Parliament, to the Principal Registry or District Registry of the High Court by lodging it with the Registrar in accordance with this Act; or

(b) in the case of an election of a candidate as a mayor, council chairperson or councillor, to the appropriate tribunal by lodging it with the designated person.

(3) An election petition shall be signed by the petitioner or by all the petitioners, if more than one, and shall be presented not later than fourteen days after the date on which the result of the election to which it relates is duly declared.

(4) Where an election petition is presented under this section—

(a) in the case of an election petition presented in respect of an election of a candidate as a Member of Parliament, the Registrar shall, in writing, inform the Speaker of the National Assembly and the Commission of such presentation; and

(b) in the case of an election petition presented in respect of the election of a candidate as a mayor, council chairperson or councillor, the designated person shall, in writing, inform the Commission of the presentation.

Duty of Registrar and designated person to make out list of election petition

101. (1) Subject to the provisions of subsection (2), the Registrar and the designated person shall make out a list of all election petitions presented under this Act, placing them on such list in the order in which they are presented, and the Registrar or the designated person, as the case may be, shall keep at the Registrars office or the designated person's office a copy of the list which shall be open for inspection by any person making application for inspection thereof.

(2) An election petition shall, unless the High Court or a tribunal orders otherwise, be tried in the order in which it stands on the list made out by the Registrar or designated person under subsection (1), but where more election petitions than one are presented in respect of the same election, the election petitions shall be bracketed together and shall be dealt with as one petition, standing, unless the

High Court or a tribunal orders otherwise, in the list in the place where the last of the election petitions would have stood if it had been the only election petition presented in respect of that election.

Rules of practice and procedure, security for costs etc

102. (1) Subject to the other provisions of this Act, the Chief Justice may make rules regulating generally the practice and procedure of the High Court and tribunals with respect to the presentation and trial of election petitions, including rules as to the time within which any requirement of the rules is to be complied with and as to the costs of and incidental to the presentation and trial of the election petitions and as to the fees to be charged in respect of proceedings therein, and generally as regard to any other matter relating thereto as the Chief Justice may consider necessary or desirable.

(2) After the presentation of an election petition, a petitioner to it shall give such security for costs, not exceeding in amount the sum of eight thousand fee units, as the High Court or a tribunal may order, and such security shall be given within the time and in the manner and form as the Chief Justice may prescribe by rules under this section or, in the absence of the rules, as the High Court or a tribunal may order.

(3) Where, after the presentation of an election petition, no security for costs is given as required by or under this section, no further proceedings shall be heard on that election petition.

Withdrawal of election petition

103. (1) A petitioner shall not withdraw an election petition without the leave of the High Court or a tribunal.

(2) An application for leave to withdraw an election petition shall not be made until notice of intention to withdraw the election petition has been given in such manner as the Chief Justice may prescribe.

(3) Where an election petition is presented by two or more petitioners, an application to withdraw the election petition shall not be made except with the consent of all the petitioners to it.

(4) The High Court or a tribunal may, upon an application for leave to withdraw an election petition, make such order as to costs as it may consider just.

Substitution of new petitioners

104. (1) Upon the hearing of an application under section *one hundred and three* for leave to withdraw an election petition, any person who might have been a petitioner in respect of the election to which that election petition relates may, despite the provisions of

section *one hundred*, apply to the High Court or tribunal to be substituted for the petitioner applying to withdraw, and the High Court or a tribunal may, if it grants leave to the petitioner to withdraw, order that person (hereinafter referred to as "the substituted petitioner") to be substituted for the petitioner.

(2) Subject to the other provisions of this section, the substituted petitioner shall, as nearly as may be, stand in the same position, and be subject to the same liabilities, under this Act as the petitioner for whom a substitution was made (hereinafter referred to as "the original petitioner").

(3) Where the High Court or a tribunal makes an order under subsection (1), it may direct that the security for costs given by the original petitioner shall remain as security for any costs caused thereafter by the substituted petitioner upon the trial of the election petition, and may direct that, to the extent of the amount of the security, the original petitioner shall be liable to pay the costs of the substituted petitioner.

(4) Unless the High Court or tribunal gives directions as in subsection (3), section *one hundred and three* (1) and (2) shall apply to the substituted petitioner as they apply in relation to a petitioner presenting an election petition.

Abatement of election petitions

105. (1) If a sole petitioner or the survivor of several petitioners dies, then subject to the provisions of this section, no further proceedings shall be heard upon the election petition.

(2) The death of a petitioner shall not affect that petitioner's liability for the payment of costs previously incurred.

(3) On the abatement of an election petition under subsection (1), any person who might have been a petitioner in respect of the election to which that election petition relates may, despite section *one hundred and one* apply to the High Court or tribunal to be substituted as a petitioner in place of the deceased petitioner and the High Court or a tribunal may, if it thinks fit, order that such person be substituted accordingly.

(4) Where the High Court or a tribunal makes an order under this section for the substitution of a person in place of a deceased petitioner such person shall, as nearly as may be, stand in the same position, and be subject to the same liabilities, under this Act as the

deceased petitioner would have been but for the death, and section *one hundred and three* (1) and (2) shall apply to the person as they apply in relation to a petitioner presenting an election petition.

Trial of election petitions

106. (1) An election petition shall be tried and determined by the High Court or a tribunal in open court—

(a) in the case of the election of a candidate as a Mayor, council chairperson or Councillor, within thirty days from the date of filing an election petition; and

(b) in the case of the election of a candidate as a Member of Parliament, within ninety days from the date of filing an election petition.

(2) Where an election petition is not tried and determined within the period specified in subsection (1) due to a failure by the petitioner to actively prosecute the petition, the High Court or a tribunal shall dismiss the petition for want of prosecution.

(3) The High Court or a tribunal may adjourn the trial of an election petition from time to time and from place to place.

(4) Subject to the provisions of this Act, the High Court may in respect of the trial of an election petition, exercise such powers within its civil jurisdiction as it may deem appropriate.

(5) On the trial of an election petition, a verbatim record of all evidence given orally in the trial shall be taken and transcripts of the record shall, at the conclusion of the proceedings, be delivered to the Commission by the Registrar or designated person, as the case may be.

Witnesses

107. (1) On the trial of an election petition, the High Court or a tribunal may—

(a) order a person who appears to the High Court or a tribunal to have been concerned in the election to attend as a witness at the trial; and

(b) examine any witness or any person who is present at the trial although such witness or person is not called as a witness by any party to the proceedings, except that after the examination by the High Court or a tribunal of a witness or person, the witness or person may be cross examined by or on behalf of the petitioner or the respondent.

(2) A person who is called as a witness at the trial of an election petition shall not be excused from answering any question relating to any offence connected with an election on the ground that the answer thereto may tend to incriminate that person, or on the ground of privilege.

(3) Despite subsection (2), a witness who answers to the satisfaction of the High Court or a tribunal every question which is required to be answered under subsection (2), and the answers to which may tend to incriminate that witness, shall not be liable to prosecution for any offence committed by that witness in connection with the election and in respect of which that witness is examined and the witness shall be entitled to receive a certificate of indemnity under the hand of the Registrar or designated person as the case may be, stating that the witness is freed and discharged from liability to prosecution for that offence.

(4) Despite subsection (2), an answer by a witness to a question before the High Court or tribunal under subsection (2) shall not, except in the case of any criminal proceedings for giving false evidence in respect of the evidence, be admissible in any proceedings, civil or criminal, in evidence against that witness.

(5) Where a person has received a certificate of indemnity under subsection (3), and any legal proceedings are at any time brought against that person for any offence to which the certificate relates, the court having conduct of the case shall, on proof of the certificate of indemnity, stay the proceedings and may award to that person such costs as that person may have been put to in the proceedings.

(6) All reasonable expenses incurred by any person in attending at or appearing before the High Court or a tribunal to give evidence as a witness at the trial of an election petition shall be allowed to that person according to the scale of allowances and expenses appropriate in civil proceedings before the High Court.

Conclusion of trial of election petition

108. (1) At the conclusion of the trial of an election petition, the High Court or a tribunal shall determine whether the respondent, or any other, and which, person, was duly elected, or whether the election to which the election petition relates was void, and the Registrar or designated person shall, as soon as is practicable, submit a copy of such determination to—

(a) in the case of an election petition in the High Court, the Speaker of the National Assembly and the Commission; and

(b) in the case of an election petition in a tribunal, the Commission.

(2) Where the High Court or a tribunal determines that the respondent was duly elected, the election shall be and remain valid.

(3) Where the High Court or a tribunal determines that the respondent was not duly elected but that some other person was duly elected, that other person shall be deemed to have been elected accordingly.

(4) Where the High Court or a tribunal determines that the respondent was not duly elected, and that no other person was duly elected, at the election concerned, the vacancy in the membership of the National Assembly or a Council in respect of which that election was held shall be deemed to continue until duly filled.

(5) Where a determination under subsection (1) alters the results of an election as previously declared, the Commission shall publish the results as so altered in the *Gazette*.

(6) Where it appears to the High Court or a tribunal upon the trial of an election petition that any corrupt practice or illegal practice has been committed by any person in connection with the election to which the election petition relates, the High Court or tribunal shall, at the conclusion of the proceedings, prepare a report stating

(a) the evidence given in the proceedings in respect of the corrupt practice or illegal practice;

(b) the names and particulars of any person by whom the corrupt practice or illegal practice was, in the opinion of the High Court or a tribunal, committed;

(c) in the event that there is an appeal, the Constitutional Court shall prepare the report, except that the Court shall not state the name of any person under this paragraph unless the person has been given an opportunity of appearing before the Court and of showing cause why that person's name should not be so stated.

(7) The Registrar or designated person shall deliver a copy of every report prepared by the High Court or a tribunal under subsection (6) to—

(a) the Commission; and

(b) the Director of Public Prosecutions.

(8) The Commission shall, as soon as it receives the report under subsection (7), recommend the prosecution of the person stated in the report by the Director of Public Prosecutions.

Costs

109. (1) Subject to the provisions of this section, costs, charges and expenses of, and incidental to, the presentation and trial of an election petition shall be borne in such manner and in such proportions as the High Court or a tribunal may order and in particular, any costs which in the opinion of the High Court or a tribunal have been caused by any vexatious conduct or by any frivolous or vexatious allegations or objections on the part of the petitioner or of the respondent, may be ordered to be paid by the party by whom such costs have been caused.

(2) Where, on the trial of an election petition, the High Court or a tribunal determines that the respondent was not duly elected and is of the opinion, having regard to the circumstances, that it would be just and reasonable to relieve any party to the election petition from all or a portion of the costs thereof, then—

(a) if the High Court or a tribunal finds that the election of the respondent was due to a mistake or improper performance or failure or performance of any function *bona fide* made by any election officer, it may, after sufficient notice to the Attorney-General to show cause to the contrary, make such order as to the payment by the State of the costs of the proceedings or a portion thereof, as it may deem proper;

(b) if the High Court or a tribunal finds that the election of the respondent was due to a mistake or improper performance, or failure of performance of any function *mala fide* made by any election officer, it may, after sufficient notice to such officer to show cause to the contrary, make such order as to the payment by such election officer of the costs of the proceedings or a portion thereof, as it may consider proper.

(3) The High Court or a tribunal may, on application made by any person to whom any costs, charges or expenses are payable under this Act, order the same to be paid out of any deposit made to secure the same, or by any surety who gave a recognizance to secure the same.

(4) The notice of an application made pursuant to subsection (3) shall be given, in such manner as may be prescribed by rules of the High Court or a tribunal, to the party by or on whose behalf the deposit was made or for whom the surety gave a recognizance, requiring the party, or the surety and the party, as the case may be, to state, within the time and in the manner as prescribed, whether that party resists the application.

(5) Where, on the trial of an election petition, any person appears to the High Court or a tribunal to have been guilty of any corrupt practice or illegal practice relating to the election which is the subject of the election petition, the High Court or a tribunal may, after giving that person an opportunity of making a statement to show cause why the order should not be made, order the whole or a portion of the costs of, or incidental to, the trial of the election petition to be paid by that person to such person or persons as the High Court or a tribunal may determine.

(6) Execution may be levied under any order for payment made by the High Court or a tribunal under this section in the same manner and to the same extent as execution may be levied under a judgement of the High Court or tribunal for the payment of money.

(7) Money deposited as security shall, when no longer needed as security for costs, be returned to the person in whose name it is deposited or to any person entitled to received the same by order of the High Court or a tribunal which may be upon motion after notice and proof that all just claims have been satisfied or otherwise sufficiently provided for as the High Court or a local government elections tribunal may require.

PART X

General Provisions

Code of Conduct

110. (1) The Commission shall enforce the Code of Conduct specified in the Schedule.

(2) The Commission may disqualify a political party or candidate in breach of the Code.

Appeal against decision of registration officer

111. (1) A person aggrieved by a decision or action taken by a registration officer may appeal to the Commission in the prescribed manner.

(2) The Commission shall notify the appellant of its decision within thirty days from the date of receipt of the appeal.

Powers to decide objections and appeals

112. (1) Whenever the Commission, is required under this Act to decide an objection, dispute, complaint or an appeal, the Commission may resolve the issue, that is the subject of the objection, dispute, complaint or appeal, through conciliation or mediation where applicable.

(2) The Commission shall prescribe the manner for handling any objection, dispute, complaint or appeal under this Act.

Constitution of conflict management committees

113. (1) The Commission shall, for purposes of resolving electoral disputes, constitute such number of conflict management committees as the Commission may determine.

(2) A conflict management committee shall comprise, as members, such number of conflict management officers appointed by the Commission, as the Commission shall determine.

(3) The Chairperson of the committee shall be appointed by the Commission and the Vice-Chairperson shall be elected by the members from amongst themselves.

(4) Subject to subsection (5), a member of a committee shall hold office for such period as the Commission shall determine.

(5) A member shall be paid such allowances as the Emoluments Commission may, on the recommendation of the Commission, determine.

(6) A committee shall meet for the transaction of business at such places and times as the Chairperson of the Committee may determine.

(7) The quorum at any meeting of a committee shall be one half of the members of the committee.

(8) There shall preside at any meeting of a committee—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from their number for the purposes of that meeting.

(9) The determination of any matter before a committee shall be according to the votes of the majority of the members present and considering the matter.

(10) A committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the committee but such person shall have no vote.

(11) A committee shall cause minutes to be kept of the proceedings of every meeting of a committee.

(12) The Commission shall assign persons employed in the Commission to perform such secretarial and administrative functions in connection with a committee as may be necessary for the performance of its functions.

Printing, manufacture, use, removal etc., of election materials

114. The Commission may authorise—

(a) the printing, manufacture or supply of any voting or election material;

(b) the use of the register of voters or any voting or election material for a purpose other than an election purpose; or

(c) the removal or destruction of any voting or election material.

Ownership of voting and election material and disposal

115. (1) The Commission shall own all voting and election materials used for, or provided by it in, an election.

(2) Unless the Constitutional Court, the High Court or a tribunal orders otherwise, the Commission may dispose of the voting and election materials used in a particular election six months after the date on which the final result of the election was declared, in the manner directed by the Commission.

Effect of certain irregularities

116. A mistake in the certified segment of the register of voters under this Act shall not invalidate that register of voters.

Inspection and copying of documents

117. Where this Act requires that documents be publicised, or made available for inspection or copying, the Commission shall endeavour to also publicise or make available those documents in electronic form.

When incapacity may be removed

118. Whenever a person has become subject to any incapacity under this Act by reason of a conviction or by reason of any declaration or report of any court, and any witness who gave evidence against such person upon the proceeding for such conviction, declaration or report is convicted of perjury in respect of that evidence, such person may apply to the High Court or a tribunal which, if satisfied that the conviction, declaration or report, so far as it concerns that person, was based upon perjured evidence, may order that, that person's incapacity shall from that time cease, and the same shall cease accordingly.

Person not required to state how person voted

119. A person who has voted at an election shall not in any proceedings, whether brought under this Act or otherwise, be required, to state for whom the person voted.

Evidence as to holding of election

120. Upon any charge of a corrupt practice or an illegal practice, or any other offence against this Act, alleged to have been committed at or in connection with an election, the certificate of a returning officer that the election mentioned therein was being or had been held shall be sufficient evidence of the fact that such election was being or had been held.

Validation of certain documents

121. A misnomer or inaccurate description of a person or place in a register, nomination paper, notice or other document required for the purposes of this Act shall not affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

Powers of officer

122. (1) An officer may, during the campaign period and on polling day, enter any area, place and premises in which the officer reasonably believes there is being, or had been carried on, an activity that is an offence under this Act, except that an officer shall not enter into a private dwelling without the consent of the occupant or the authority of a court warrant.

(2) An officer may request any information from any person who appears to have custody or control of any material or thing which the officer reasonably believes is being used, or was intended to be used or is likely to be used, to commit an offence under this Act.

(3) An officer may seize or detain any material or thing where the officer has reasonable ground to believe that the material or thing is being used, was intended to be used or is likely to be used, to commit an offence under this Act.

Power of arrest

123. (1) A police officer may, without warrant, arrest a person and keep that person in custody where—

(a) the person is found committing an offence or is reasonably suspected of having committed an offence under this Act; or

(b) upon being requested by the police officer, the person wilfully, fails or refuses to furnish that person's name, address or other relevant information to the satisfaction of the police officer; and

(c) the police officer has reasonable grounds to believe that unless arrested, the person shall—

(i) escape or cause unreasonable delay to or trouble during or for, the election;

(ii) interfere with witnesses; or

(iii) tamper with or destroy relevant evidence or material.

(2) Any person arrested under subsection (1), shall be taken before a court within fortyeight hours, and shall not be detained for longer than is reasonably necessary for the purpose.

General penalty

124. A person who is convicted of an offence under this Act for which a penalty is not prescribed is liable, upon conviction—

(a) for a first offence, to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both;

(b) for a second or subsequent offence, to a fine not exceeding seven hundred thousand penalty units or to a term of imprisonment not exceeding seven years, or to both.

Regulations

Cap. 1

125. (1) Subject to the provisions of the Constitution and this Act, the Commission may, by statutory instrument, make regulations providing for the registration of voters for the purposes of elections and for the procedure and manner of conducting elections.

(2) Without prejudice to the generality of subsection (1), the Commission may, by statutory instrument, make regulations providing for all or any of the following matters:

(a) the registration of voters;

(b) the preparation of, and the form of, registers to be used in the registration of voters;

(c) the manner of ascertaining whether persons applying for registration as voters are qualified for registrations or for their inclusion in a register for a particular constituency;

(d) the making and determination of appeals, claims and objections with respect to the registration of voters;

(e) voter education;

(f) the correction, amendment and certification of registers of voters;

(g) the manner in which the name of any person may be deleted from a register of voters, the transfer of the names of persons from the register of voters of one polling district to that of another polling district and the restoration of the name of a registered voter;

(h) the manner and form for nomination of candidates for any election that a candidate at a direct election for the National Assembly is the authorised candidate of a political party;

(i) the publication of the names of candidates whose nominations are accepted;

(j) the payment of election fees by candidates, and the circumstances in which such fees are to be returned.

(k) the use of symbols at an election;

(l) the manner and procedure of voting at an election;

(m) the manner of ascertaining the identity of persons wishing to vote at elections and whether such persons are qualified to vote;

(n) the administering of oaths by election officers in respect of such matters as may be prescribed;

(o) the procedure to be followed at the conclusion of a poll in an election;

(p) for the purpose of declaring any candidate duly elected, the procedure to be followed where there is an equality of votes between candidates in an election for members of the National Assembly or Council;

(q) the procedure to be followed where only one person is duly nominated for election to the office of President, in a constituency for election to the National Assembly or in an election to a Council;

(r) the declaration, notification and publication of the results of an election;

(s) the custody and disposal of nomination papers, ballot papers, records, documents or other things relating to the registration of voters and the conduct of elections;

(t) election expenses and the return of election expenses;

(u) the notification and publication of any casual vacancy in the elected membership of the National Assembly or a Council and the fixing of a date of an election to fill such vacancy;

(v) the forms and records to be used for any of the purposes of this Act;

(w) the delimitation of provinces, constituencies, wards and polling districts; and

(x) any matter to be prescribed by or under this Act.

(3) Separate regulations may be made in respect of each category of elections.

(4) Regulations under this section may provide in respect of any contravention thereof that the offender shall be liable to a fine not exceeding two hundred thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(5) A prosecution for an offence against this Act shall not be commenced after the lapse of one year from the date on which the offence is alleged to have been committed.

Repeal of Act No.12 of 2006

126. The Electoral Act, 2006, is repealed.

SCHEDULE

(Section 107)

CODE OF CONDUCT

Enforcement of Code

1. (1) A person has, subject to paragraph (2), the right to—

(a) express political opinions;

(b) debate the policies and programmes of political parties;

(c) canvas freely for membership and support from voters;

(d) distribute election literature and campaign materials;

(e) publish and distribute notices and advertisements;

(f) erect banners, placards and posters;

(g) campaign freely;

(h) participate freely in partisan political activities; and

(i) seek the protection of the law from harm as a result of that person's political opinion or affiliation.

(2) A public officer shall not engage in any active partisan political activity referred to in subparagraph (1) whilst in the public service.

Promotion of free and fair elections

2. A person shall, during an election campaign or election, promote conditions conducive to the conduct of free and fair elections and be bound by this Code.

Duty of Commission

3. (1) The Commission shall, where reasonable and practicable to do so—

(a) meet political party representatives on a regular basis to discuss matters of concern related to on election campaign and election itself;

(b) ensure that political parties do not use State resources to campaign for the benefit of any political party or candidate;

(c) avail political parties with the election timetable and election notices in accordance with the Act;

(d) censure acts done by leaders of political parties, candidates, supporters, and Government and its organs, which are aimed at jeopardising elections or done in contravention of this Code;

(e) declare election results expeditiously from the close of the election day;

(f) ensure that a campaign rally or meeting which is legally organised by a political party is not disrupted or arbitrarily prohibited;

(g) ensure that an election officer, police officer, monitor, observer or media person is not victimised in the course of their election duties;

(h) ensure that police officers act professionally and impartially during the electoral process;

(i) ensure that traditional leaders do not exert undue influence on their subjects to support a particular political party or candidate;

(j) ensure that equal opportunity is given to all stakeholders, particularly political parties and independent candidates to participate in and conduct their political activities in accordance with the law; and

(k) condemn acts of media organisations and personnel aimed at victimisation, punishment or intimidation of media practitioners implementing any of the provisions of this Code.

(2) A member of the Commission may attend political rallies to monitor compliance with this Code.

Obligation of Political Party and candidate during election

4. (1) A political party and candidate shall—

(a) establish and maintain effective lines of communication with the Commission and with other registered political parties and candidates, at national, political and local level, including the provision of names and the contact details and addresses of or a candidate's party election agents and of other relevant office bearers and representatives;

(b) accept and respect decisions of the Commission in respect of election results announced by returning officers and the Commission in accordance with the law;

(c) issue directives to their members and supporters to observe this Code and take any necessary steps to ensure compliance;

(d) hold public meetings in compliance with the law;

(e) adhere to the election timetable issued by the Commission in conducting election campaigns in accordance with this Act;

(f) take appropriate measures to ensure environmental protection and cleanliness in the course of posting or distributing electoral campaign material;

(g) remove campaign materials within fourteen days of the declaration of election results;

(h) take necessary measures to ensure public safety in the course of posting or distributing electoral campaign material; and

(i) carry out campaign meetings and rallies peacefully.

(2) A member or supporter of a political party or a candidate shall not—

(a) use language which incites hatred or violence in any form against any person;

(b) issue any pamphlet, newsletter, poster or other propaganda which contains materials that incite people to violence or rebellion;

(c) deface, remove or destroy campaign materials of another political party or publications of the Commission;

(d) disrupt another political party's rally, meeting, march or demonstration or seek to obstruct another person from attending a political rally of another political party;

(e) continuously remain at a polling station during the campaign period or elections; and

(f) wear any campaign materials within four hundred metres of the polling station on the polling day.

(3) Without prejudice to any other written law, any person who contravenes subparagraph (2) commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment not exceeding one year, or to both.

Duty of election agent or polling agent during election

5. (1) An election agent or polling agent shall, subject to this Code, have the following duties during an election:

(a) observe the opening and closing of a polling station assigned to them on polling day;

(b) witness the voting process;

(c) witness the count of ballot papers for candidates;

(d) witness the announcement of results; and

(e) witness the declaration of results, where applicable.

(2) An election agent or polling agent shall counter sign the election results duly announced or declared by a presiding officer or returning officer, as the case may be, except that failure to countersign the election results by such election agent or polling agent shall not render the results invalid.

Duties of Zambia Police

6. The Zambia Police Service shall—

(a) enforce law and order at campaign meetings and processions in order to maintain peace and order;

(b) ensure that police officers do not abuse their authority or Government resources to campaign for the benefit of any political party or candidate;

(c) refrain from disrupting any campaign, rally or meeting which is legally convened by any political party; and

(d) ensure that police officers do not use their office to oppress any political party, candidate or supporter.

Duties of media

7. (1) Print and electronic media shall—

(a) provide fair and balanced reporting of the campaigns, policies, meetings, rallies and press conferences of all registered political parties and candidates during the campaign period;

(b) provide news of the electoral process up to the declaration of results;

(c) abide by regional codes of conduct in the coverage of elections provided that such guidelines are not in conflict with this Code;

(d) be bound by the provisions of this Code during elections; and

(e) in liaison with the Commission, recognise a representative media body authorised to receive complaints and provide advice regarding fair coverage of elections.

(2) A media organisation shall endeavour to—

(a) undertake capacity building of media personnel in their respective organisations;

(b) report election news in an accurate manner and not make any abusive editorial comment, incite violence or advocate hatred based on race, ethnicity, tribe, gender, sex, political or religious conviction; and

(c) identify any editorial comment it intends to make and separate it from the factual reporting of the news.

(3) The heads, senior management and staff of public and private media organisations shall not intimidate media practitioners and shall allow them to exercise professional judgment without undue influence.

(4) Public and private media personnel shall—

(a) conduct interviews with candidates with fairness both in the style of the interview and in the amount of the time given;

(b) refrain from broadcasting their own political opinions, commentary or assessment, and where they do so, clearly identify the opinion, commentary or assessment as their own and carefully balance it in order to avoid bias; and

(c) be duly accredited by the Commission to enter a nomination centre, polling centre or totalling centre.

Allocation of air time

8. (1) A public television, radio and electronic media shall allocate public air time equally to all political parties and candidates for their political broadcasts.

(2) The Commission shall prescribe the amount of air time in any given language on public television or radio to be allocated to a political party or candidate.

(3) On polling day, media shall not broadcast any campaign interviews for political parties or independent candidates or predict election results.

(4) Broadcasters shall inform the public on the source of any public opinion poll and shall indicate the margin of error.

Election results programme

9. (1) Media shall disclose accurate election results and provide updates on the progress of the vote counting process and shall not speculate election results but shall broadcast confirmed election results as they are announced and published by presiding officers.

(2) Television and radio stations shall—

(a) maintain full records of all radio and television news bulletins and recordings of all other programmes related to the election, including party political broadcasts and shall institute a close and meticulous monitoring system to ensure balance throughout the campaign and up to the close of poll; and

(b) provide the Commission, at any reasonable time, with such records, information and recordings as the Commission may require to fulfill its monitoring role.

(3) The Commission shall require newspapers to make available archived copies of newspapers for inspection in the event of a complaint.

(4) A candidate or political party who alleges that the candidate or political party has been unfairly treated or covered by any media organisation in the course of the election campaign, may lodge a complaint against the media organisation, in writing, to the Commission.

(5) Where a complaint made under subparagraph (4) requires any media organisation to rectify an error, the candidate or political party making the complaint shall send the complaint to that media organisation and a copy of the complaint to the Commission and the media organisation shall respond to the complaint.

(6) Where a right of reply, a retraction or the correction of a matter of significance is necessary, it shall be made in a like manner and with equal prominence as the original report or publication.

Monitors and observers

10. (1) A person shall not act as a monitor or observer, during an election campaign or election unless the person is duly accredited by the Commission.

(2) A monitor shall be nominated by the organisation to which the monitor belongs and shall undergo training and assessment by that organisation.

(3) A monitor or observer shall be provided with necessary identification by the Commission and the monitor's or observer's organisations.

(4) A monitor or observer shall discharge monitors or observer's functions in accordance with this Code and any other written law or such lawful directives as may be given by the Commission or any person acting on its behalf.

(5) A monitor or observer shall—

(a) bring to the attention of the presiding officer or returning officer or member of the Commission any observed electoral malpractice;

(b) be impartial in the conduct of the monitor's or observer's duty and shall, at no time, publicly indicate or express any bias or preference with reference to any political party or candidate;

(c) be in a sufficient number at each polling station and shall ensure that their presence is widely known and recognised by the electorate;

(d) not interfere with the duties of the election officials in any way and shall immediately report any violation to the proper authority;

(e) ensure that any material information or report which the monitor or observer receives or any event, occurrence or statement of which the monitor or observer has been notified or which indicates the commission of an offence or contravention of the Act or this Code are brought to the attention of the monitor's or observer's organisations, the police, the Commission, conflict management committees and other parties concerned;

(f) not by themselves or through the monitor's or observer's organisation, forecast, declare or disclose the result of any election before the declaration by the Commission;

(g) when so requested, immediately identify themselves to any election officer or police officer and shall, during the conduct of the monitor's or observer's activities, at all times carry, wear or otherwise prominently display the identification issued by the Commission;

(h) not display allegiance to any political party at any time and shall refrain from carrying, wearing and displaying electoral material or any article of clothing, colours, badges or other items denoting support for or opposition to any political party or candidates or any of the issues in contention in the elections;

(i) not be involved in corrupt practices or accept any favours, so as to make statements in favour of or against any candidate or political party; and

(j) not carry or display arms or other dangerous weapons during the conduct of the monitor's or observer's activities or while wearing the identification issued by the Commission.

(6) Monitors and observers and their sponsoring organisations shall, whenever requested by the Commission, attend such briefings, training workshops and other meetings convened in order to co ordinate their activities.

(7) After the declaration of results of the elections, monitors and observers shall hand over to the Commission any identification received from it.

(8) The Commission may revoke the accreditation of any monitor or observer who contravenes the provisions of this Code.

Powers of Commission

11. (1) The Commission may—

(a) reprimand a political party, candidate or stakeholder for any conduct in violation of this Code;

(b) report a breach of this Code to the Zambia Police Service, Anti-Corruption Commission and Drug Enforcement Commission or any other relevant law enforcement agency;

(c) revoke the accreditation of election agents, polling agents, monitors observers or the media where it is necessary in the interest of public safety and security to do so; and

(d) impose any administrative measures on any person, candidate or political party for persistent breach of this code.

(2) The Commission may where practicable to do so, summon any person contravening this Code and any voter, candidate or political party alleging a breach to appear before it.

Complaints

12. (1) The following persons may lodge a complaint to the Commission in relation to an election:

(a) a voter or candidate in a constituency where a breach of this Code has been committed; or

(b) from a political party participating in an election.

(2) Complaints arising during election campaigns and elections may be made to an election officer or to a conflict management committee at the place where the conduct complained against occurred.

(3) The Commission may refer and report any violation of the Code to the Zambia Police Service, AntiCorruption Commission or any other appropriate law enforcement agency for investigation and prosecution where appropriate.

Conflict management committee

13. (1) Conflict management committees established by the Commission pursuant to section *one hundred and eight* may resolve electoral disputes.

(2) The conflict management committees shall take into account the provisions of this Code in resolving electoral disputes.

(3) Conflict management committees shall mediate in electoral disputes and shall encourage amicable settlement of electoral disputes within twentyfour hours of receipt of a formal complaint.

Prohibition on coercion and intimidation

14. A person or a member of a law enforcement agency, civil society, a Church, faith-based organisation, traditional leader, political party or media shall not, by means of threats, violence or sanction, coerce or intimidate another person during campaigns, public debates or elections.

General offence

15. (1) A person shall not—

(a) cause violence or use any language or engage in any conduct which leads or is likely to lead to violence or intimidation during an election campaign or election;

(b) carry or display arms or weapons, traditional or otherwise, of any kind at a political meeting or in the course of any march, demonstration or other public gathering of a political nature;

(c) make false, defamatory or inflammatory allegations concerning any person or political party in connection with an election;

(d) arrange a public meeting, demonstration, rally or march at the same time and venue as another similar political event organised by another political party or candidate;

(e) prevent the reasonable access to voters of any candidate or political party in any manner for the purposes of conducting voter education, fund raising, canvassing membership or soliciting support;

(f) plagiarise the symbols, colours or acronyms of candidates or other political parties;

(g) deface, remove or destroy any political campaign materials of any person or political party or publications of the Commission;

(h) offer any inducement, reward or bribe to any person in consideration of such person—

(i) joining or not joining any political party;

(ii) attending or not attending any political event;

(iii) voting or not voting;

(iv) accepting, refusing or withdrawing that person's domination as a candidate in an election;

(v) surrendering that person's voter's card, or national registration card or both; or

(vi) offering to surrender a voter's card or national registration card, or both;

(i) abuse or attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority for political purposes including any offer of a reward or for the issuance of a threat;

(j) propagate any opinion or action which is prejudicial to—

(i) the sovereignty, integrity or security of the country;

(ii) the maintenance of public order; or

(iii) the independence of any institution;

(k) use Government or parastatal transportation or facilities for campaign purposes, except that this paragraph shall not apply to the President and the Vice President in connection with their respective offices;

(l) use Government transportation or resources or facilities to transport voters to polling stations;

(m) discriminate against any person on grounds of race, ethnicity, class, disability, gender, sex, religion or in any other manner in connection with an election or political activity;

(n) carry any statue, caricature or anything which tends to ridicule, revile or scandalise any political party or its leader, a candidate or the Government, at any public political gathering, meeting or procession; and

(o) be in possession of a voter's card or national registration card belonging to another person during the campaign period.

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

General Penalty

16. A person who contravenes any provision of this Code for which no specific penalty is provided commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Revocation of SI No. 90 of 2006

17. The Electoral (Code of Conduct) Regulations, 2006, are revoked.

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 63 OF 2016

The Electoral Process Act 2016

(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

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Copies of this Statutory Instrument can be obtained from the Government Printer, P.O.Box 30136, 10101 Lusaka Price K120.00 each

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SCHEDULE

IN EXERCISE of the powers contained in section *one hundred and twenty-five* of the Electoral Process Act, 2016, the following Regulations are made:

PART I

PRELIMINARY PROVISIONS

Title

1. These Regulations may be cited as the Electoral Process (General) Regulations, 2016.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

"assistant returning officer" means a person appointed as such under regulation 4;

"ballot box" has the meaning assigned to it in the Act;

"ballot paper" has the meaning assigned to it in the Act;

"ballot paper account"has the meaning assigned to it in the Act;

"by-election" has the meaning assigned to it in the Constitution; Cap. 1

"candidate" has the meaning assigned to it in the Act;

"councillors" has the meaning assigned to it in the Act;

"Chief Electoral Officer" means the person appointed as Chief Electoral Officer under the Electoral Commission of Zambia Act, 2016 Act No. 25 of 2016

"election agent" has the meaning assigned to it in the Act;

"election officer" has the meaning assigned to it in the Act;

"local government election" includes elections for a mayor, council chairperson and councillor;

"local notice" means a notice given at the nomination office, the office of the district council within which the constituency is situated and such other place as the returning officer considers necessary;

"Member of Parliament" has the meaning assigned to it in the Constitution; Cap. 1

"national registration card" has the meaning assigned to it in the Act;

"national registration number has the meaning assigned to it in the Act;

"nomination office" means a place appointed as such under regulation 10;

"nomination paper" has the meaning assigned to it in the Act;

"official mark" means a mark provided to a presiding officer under regulation 29, for the taking of a poll; "official seal" means a seal provided to a presiding officer under regulation 29, for the taking of a poll; " polling agent" has the meaning assigned to it in the Act;

"polling assistant"has the meaning assigned to it in the Act;

"polling day" has the meaning assigned to it in the Act;

"polling district" has the meaning assigned to it in the Act;

"polling station" has the meaning assigned to it in the Act;

"presiding officer" has the meaning assigned to it in the Act;

"registered" means registered in a register of voters;

"register of voters" has the meaning assigned to it in the Act;

"Returning Officer" has the meaning assigned to it in the Act;

"returning officer" has the meaning assigned to it in the Act;

Cap. 1 "Speaker" has the meaning assigned to it in the Constitution; and

"voter's card" has the meaning assigned to it in the Act.

(2) Where an act or thing is required or authorised to be done under these Regulations in the presence of a candidate, an election agent or a polling agent, the non attendance of the candidate, election agent or polling agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise legally done, invalidate the act or thing done.

Functions of Chief Electoral Officer

3. The Chief Electoral Officer shall —

(a) ensure that an election officer performs the election office's functions with impartiality and in accordance with these Regulations;

(b) issue to an election officer such instructions as the Chief Electoral Officer considers necessary to ensure due compliance with these Regulations; and

(c) perform such functions as are conferred upon the Chief Electoral Officer under these Regulations.

Returning officer

4. (1) The Commission shall appoint in respect of each constituency, district or ward—

(a) a returning officer, by notice in the *Gazette;*

(b) assistant returning officers, by notice, in writing, for the purpose of assisting the returning officers in the performance of their functions; and

(c) polling assistants, by notice, in writing.

(2) The Commission may, by notice, in writing, appoint for each polling district, presiding officers, assistant presiding officers and polling assistants.

Form of oath or affirmation

5. The officers referred to in regulation 4 shall, before exercising any of the functions conferred upon the officers under these Regulations, take and subscribe an oath or make an affirmation before a Subordinate Court Magistrate, Local Court Magistrate, election officer,

returning officer, Commissioner for Oaths, Head of a Government School or Principal of a College in Form GEN 1 set out in the Schedule.

Revocation of appointment of election officers

6. (1)Where the Commission revokes the appointment of a returning officer, it shall publish a notice of the revocation in the *Gazette*.

(2) Where the Commission revokes the appointment of an assistant returning officer, presiding officer, assistant presiding officer or polling assistant, it shall give notice, in writing, of the revocation to the person concerned.

Notification of vacancy in council or National Assembly

7. (1) The principal officer of a council shall, upon a casual vacancy occurring in the elected membership of a council, inform the Commission and the district or ward concerned, in writing, of the occurrence of the vacancy, as soon as practicable after it occurs.

(2) The Commission shall cause every casual vacancy in the elected membership of the National Assembly or council to be filled as soon as practicable.

Allocation and registration of symbols

8. (1) The Chief Electoral Officer shall maintain a register of symbols for use by candidates at elections, and that register shall be in such form as theChief Electoral Officer may determine.

(2) A political party or independent candidate contesting an election shall apply to the Chief Electoral Officer for the registration of a symbol chosen by that party or candidate for use by a candidate supported by that party or by that independent candidate at elections and subject to subregulations (4) and (5), the Chief Electoral Officer shall register that symbol.

(3) An application made on behalf of a political party shall be made by the secretary of that political party.

(4) The following shall not be registered or used as symbols:

(a) the armorial ensigns or the National Flag of Zambia;

(b) a device or an emblem which, in the opinion of the Chief Electoral Officer, is normally associated with an ethnic group or religion or the regalia of a chief;

(c) a symbol or part of a symbol which, under the provisions of this regulation, is currently registered in respect of a political party or candidate;

(d) a symbol which is not distinctive from any other registered symbol; and

(e) a symbol the use of which is, in the opinion of the Chief Electoral Officer, offensive or objectionable.

(5) The Chief Electoral Officer shall not register a symbol under this regulation in respect of a political

party or candidate until any other registered symbol in respect of that party or independent candidate is cancelled.

(6) The Chief Electoral Officer shall allocate and register in respect of a political party or independent candidate for election in a constituency, district or ward a symbol for use by that political party or independent candidate in that election.

Determination of whether candidate is supported by political party

9. (1) If a question arises in respect of the allocation and registration of a symbol under regulation 8 regarding whether the nomination of a candidate is supported by a political party, that question shall be referred to and determined by the Commission.

(2) The Commission shall consult the leader or secretary of a political party before determining the question referred to in sub-regulation (1).

PART II

Nomination Procedure

Appointment of nomination office

10. (1) The Commission shall, by notice in the *Gazette*, appoint for each constituency, district or ward in respect of which an election date has been appointed, a place to be the nomination office for receiving nominations papers.

(2) The returning officer for a constituency, district or ward shall attend at the nomination office during the periods appointed in respect of that constituency, district or ward for the receipt of nomination, to receive nomination papers in that constituency, district or ward.

Nomination for presidential election

11. (1) A presidential nomination paper shall be—

(a) in Form GEN 2 set out in the Schedule;

(b) signed by the candidate in the presence of the Returning Officer;

(c) subscribed to by not less than one hundred registered voters from each Province who support the presidential candidate and the running mate; and

(d) accompanied by a nonrefundable election fee determined by the Commission.

(2) A nomination paper for a running mate shall be in Form GEN 3 set out in the Schedule.

(3) Sub-regulation (1)(c) and (d) does not apply to a running mate.

(4) A Presidential candidate shall file an affidavit, for purposes of Article 52 of the Constitution, in Form GEN 4 set out in the Schedule. Cap. 1

(5) The supporters referred to in sub regulation (1) (c) shall -

(a) be screened and validated by an assistant returning officer at each provincial capital appointed for that purpose by the Commission; and

(b) endorse Part B of the presidential nomination paper in the presence of the assistant returning officer.

(6) A presidential candidate shall lodge with the Returning Officer—

(a) a statutory declaration of assets and liabilities in Form GEN 5 set out in the Schedule; and

(b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.

(7) A presidential candidate shall submit the processed nomination papers to the Returning Officer on a day and at a time appointed for the receipt of nominations.

(8) The Returning Officer shall, at the time of lodging nomination papers, take a portrait of the candidate and where the nomination papers are lodged by an election agent, the election agent shall submit a portrait of the candidate as specified by the Commission.

(9) In this regulation, unless otherwise provided, a reference to a Presidential candidate includes a running mate.

Nomination for candidate for election as Member of Parliament

12. (1) The nomination paper for a candidate for election as a Member of Parliament shall be—

(a) in Form GEN 7 set out in the Schedule;

(b) subscribed to in Part B of the Form by fifteen supporters, registered in the constituency, in the presence of the returning officer;

(c) signed by the candidate in the presence of the returning officer; and

(d) accompanied by a nonrefundable election fee determined by the Commission.

Cap. 1

(2) A candidate for election as a Member of Parliament shall file an affidavit, for purposes of Article 52 of the Constitution, in Form GEN 8 set out in the Schedule.

(3) A candidate for election as a Member of Parliament shall lodge with the returning officer for the constituency concerned -

(a) a statutory declaration of assets and liabilities in Form GEN 5 set out in the Schedule; and

(b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.

(4) The returning officer shall, at the time of receiving nomination papers, take a portrait of the candidate, and where the nomination papers are lodged by an election agent, the agent shall submit a portrait of the candidate as specified by the Commission.

(5) A candidate or a person duly authorised by that candidate shall, at the time of lodging a nomination paper in a constituency, attend before the returning officer for the constituency with the fifteen supporters of the candidate who shall produce their voter's cards and national registration cards to the returning officer.

Nomination for mayor or council chairperson

13. A candidate for election as a mayor or council chairperson in a district shall lodge with the returning officer for that district-

(a) a nomination paper in Form GEN 9 set out in the Schedule; and

(b) an affidavit in Form GEN 10 set out in the Schedule.

Nomination for election as councillor

14. (1) The nomination paper for a candidate for election as a councillor shall be—

(a) in Form GEN 11 set out in the Schedule;

(b) subscribed to by nine supporters, registered in the ward, in the presence of the returning officer;

(c) signed by the candidate in the presence of the returning officer; and

(d) accompanied by a non refundable election fee specified by the Commission.

(2) A candidate for election as a councillor shall file an affidavit in Form GEN 12 set out in the Schedule.

(3) A candidate for election as a councillor in a ward shall lodge with the returning officer for that ward—

(a) a duly completed nomination paper and affidavit; and

(b) a declaration of compliance with the Electoral Code of Conduct in Form GEN 6 set out in the Schedule.

(4) The returning officer shall, at the time of lodging nomination papers, take a portrait of the candidate and where the nomination papers are lodged by an election agent, the agent shall submit a portrait of the candidate as specified by the Commission.

(5) A candidate or a person duly authorised by the candidate shall, at the time of lodging a nomination paper, present themselves to the returning officer with the fifteen supporters who shall produce their voters cards and national registration cards to the returning officer.

(6) The supporters shall subscribe their signatures on the nomination paper in the presence of the the returning officer.

Receipt of nominations

15. (1) A returning officer shall receive the nomination of a candidate in an election on the days, hours and places specified by the Commission, by statutory order.

(2) A returning officer shall attend at the place, on the days and during the hours appointed by the Commission to provide nomination papers to candidates and to receive the nomination of candidates.

(3) A returning officer may extend the closing time of the period within which to receive nominations if the returning officer is satisfied that a candidate and the candidate's supporters duly presented themselves to the returning officer before the close of the period fixed for the receipt of nominations but were prevented from lodging their nomination before the expiry of that period because the returning officer was receiving the nomination of another candidate during the same period.

Guidance by returning officer

16. (1) Where a candidate or candidate's agent intending to lodge a nomination in a constituency, district or ward requests the

returning officer for that constituency, district or ward to examine the nomination paper before it is lodged, or to be guided on any matter relating to that nomination paper, the returning officer shall guide that candidate or candidate's agent to the best of the returning officer's ability.

(2) The advice or guidance given under subregulation (1) shall not be inquired into in a proceeding before a court.

Control at nomination office

17. (1) A returning officer shall maintain order at the polling station and in its precincts, and shall regulate the number of persons to be admitted at a time in the nomination office.

(2) A returning officer at a nomination centre may require any person to leave the nomination centre and its precincts if, in the opinion of the returning officer, the person is causing a disturbance which is likely to interfere with the poll.

(3) Sub-regulation (2) does not apply to—

(a) a member of the Commission or its members of staff;

(b) an election officer;

(c) a person who is accompanying another person wishing to lodge a nomination paper in accordance with these Regulations and whose name appears on the nomination paper as a candidate, proposer, seconder or supporter;

(e) a police officer on duty;

(f) accredited monitors and observers; or

(g) a person authorised, in writing, by the Chief Electoral Officer to enter and remain in the polling station.

(4) The powers conferred by this regulation shall not be exercised so as to prevent a person who is otherwise entitled to be at the nomination office.

Determination of validity of nominations

18. (1) A returning officer for a constituency, district or ward shall, immediately after the filing of a nomination paper in that constituency, district or ward, determine the validity of each nomination lodged with the returning officer and shall declare invalid a nomination in respect of which—

(a) the nomination paper was not duly completed or properly signed or lodged;

(b) the nomination paper is not accompanied by the affidavit or the affidavit is defective in a material particular; or

(c) the appropriate election fee has not been paid.

(2) Where a returning officer determines that a nomination is invalid, the returning officer shall reject the nomination and shall endorse on the nomination paper the reason for the determination, and shall sign that endorsement.

(3) Where a returning officer determines that a nomination is valid, the returning officer shall sign the nomination paper to signify acceptance of the nomination.

(4) Where a returning officer for a constituency, district or ward determines that only one candidate has been validly nominated for election in that constituency, district or ward, the returning officer shall declare that candidate to be duly elected in that constituency, district or ward and shall inform the Commission accordingly.

(5) A returning officer shall notify each candidate, in writing, of the returning officer's decision in respect of that candidate immediately after the filing of nominations.

(6) Where a returning officer determines that more than one candidate is validly nominated, the returning officer shall immediately publish a notice of the names of the candidates validly nominated, in a manner that the returning officer considers necessary for giving the names sufficient publicity, and shall cause the notice to be published in the *Gazette*.

(7) The determination of the returning officer that a nomination is valid or invalid is final unless challenged through an election petition in accordance with Article 52(4) of the Constitution. Cap. 1

Procedure after determination of validity of nominations

19. (1) A returning officer shall, after determining the validity of nominations lodged with the returning officer, inform the Commission of the candidates who are validly nominated.

(2) Where a returning officer determines that no candidate has been validly nominated for election in that constituency, district or ward, the returning officer shall inform the Commission accordingly.

(3) Where the Commission is informed under subregulation (2) that no candidate has been validly nominated, the Commission shall, in respect of that constituency, district or ward, exercise its powers provided for in regulation 7.

Publication of local notice

20. (1) Where two or more candidates have been validly nominated for a constituency, district or ward, the returning officer shall give local notice that a poll shall be taken in that constituency, district or ward on the day appointed for the election, and the local notice shall set out the names of the candidates in alphabetical order of surnames.

(2) Where two or more candidates have been validly nominated for a constituency, district or ward, the returning officer shall publish the information contained in the nomination papers and affidavits relating to the candidates.

(3) Where no candidate or only one candidate has been validly nominated for election in a constituency, district or ward, the returning officer shall give local notice that a poll shall not be taken in that constituency, district or ward.

(4) Where in respect of a constituency, district or ward, the same day has been appointed for the poll for elections to the office of President, the National Assembly or councillor, the returning officer for that constituency, district or ward shall—

(a) in the notice referred to in subregulation (1), state that the polls shall be held at the same time; and

(b) in the notice referred to in subregulation (3), state that despite a poll for election to the National Assembly not being taken in that constituency, district or ward, the poll for the election to the office of President or councillor, as the case may be, shall be taken on the appointed day.

Procedure upon death of candidate

21. The Commission shall, where a candidate who is validly nominated for election in a constituency, district or ward dies before the close of the poll in that election, declare all proceedings relating to the election in that constituency, district or ward to be void, and shall in respect of that constituency, district or ward appoint new election dates.

Inspection of nomination paper

22. A person registered in a constituency, district or ward may, at any reasonable time, after the returning officer for the constituency, district or ward has given notice of the date of the poll and before the day appointed for the taking of a poll in that constituency, district or ward inspect, at the office of the returning officer, a nomination paper of a candidate in that constituency, district or ward.

PART III

ELECTIONS

Notice of polling stations

23. The electoral officer for a polling district shall, for the purpose of the taking of a poll in the polling district, give local notice and such other notice indicating the location of a polling station in the polling district.

Appointment of times of polling

24. (1) Subject to regulation 25, a poll shall commence and close at such time as the Commission appoints, and notice of the times shall be published in the *Gazette* and in such other manner as the Commission directs.

(2) The Commission may appoint different commencement or closing times for different constituencies or polling districts.

Postponement of poll in case of emergency

25. (1) A presiding officer may postpone until later in the day, and if necessary to some other day, the polling at the polling station where voting cannot be started or is interrupted by reason of a riot, open violence, flood, natural catastrophe or other cause, which affects the conduct of a free and fair election at the polling station.

(2) Where a presiding officer postpones a poll, in accordance with sub-regulation (1), the polling shall start or restart at the earliest practicable time or date.

(3) A presiding officer may extend the hours or postpone the day of polling at a polling station where polling has started or has been interrupted by reason of any of the causes referred to in subregulation (1), and references in these Regulations to the close of the poll shall be construed accordingly.

(4) If a poll is postponed at a polling station, the hours of polling on the day to which it is postponed shall be the same as those for the original day, and references in these Regulations to the closing of the poll shall be construed accordingly.

(5) A presiding officer shall, where the presiding officer postpones a poll in accordance with these Regulations, take such precautions as are necessary to safeguard the ballot boxes, ballot papers and other election requisites, and shall immediately notify the returning officer of that postponement.

(6) Where a returning officer is notified under subregulation (4) of the postponement of a poll, the returning officer shall immediately notify the Commission of the postponement.

Nature of poll

26. (1) A voter may vote at the polling station appointed for the polling district in which that voter is registered and shall not be entitled to vote at any other polling station.

(2) At the taking of a poll, a voter shall be entitled to cast one vote for a candidate and if a voters name appears in error or for any other reason in more than one register of voters, or more than once in the same register of voters, the voter shall not be entitled to cast more than one vote for a candidate.

Form of ballot paper

27. (1) The ballot paper for a poll in a presidential election shall be in Form GEN 13 set out in the Schedule and shall show, in alphabetical order, the surnames and portraits of the presidential candidates and the names only of the running mate, the names of the political party, if supported by any, and the symbol of each candidate.

(2) The ballot paper for a poll in an election for a Member of Parliament or councillor shall be in Form GEN 14 set out in the Schedule and in respect of a constituency, district or ward shall show the names in alphabetical order of the surnames and portraits of the candidates, the names of the political party, if supported by any, for election in that constituency, district or ward and the symbol of each candidate.

Issuance of ballot paper

28. (1) A person who intends to vote in an election shall apply for a ballot paper and shall—

(a) attend at the polling station at which the person is entitled to vote;

(b) produce that person's voter's card and national registration card to the presiding officer or assistant presiding officer at a polling station;

(c) present both hands for inspection by the presiding officer, assistant presiding officer or polling assistant; and

(d) have the right hand thumb nail stained, or any other finger or body part found appropriate by the polling assistant.

(2) A person who fails to comply with the requirements of this regulation shall not be issued with a ballot paper.

(3) Subregulation (1) (a), (c) and (d) shall not apply where a special vote is applicable.

(4) A presiding officer or polling assistant at a polling station may ask an applicant for a ballot paper any question that the presiding officer or polling assistant considers necessary to enable the presiding officer or polling assistant to identify the applicant with the name on the register of voters for that polling station.

(5) A person shall not be issued with a ballot paper or permitted to vote at a polling station unless the presiding officer or polling assistant for the polling station is satisfied that the person—

(a) is entitled to vote at that polling station;

(b) has produced that person's voter's card;

(c) has properly been identified;

(d) has not previously voted in the poll in respect of which the person is applying for a ballot paper; and

(e) is not disqualified from voting at that election under section 47 of the Act.

Preparations for taking of poll

29. (1) A returning officer shall, in respect of the taking of a poll in a polling station within the returning officer=s constituency, district or ward—

(a) ensure that there are sufficient compartments within which votersmay mark their ballot papers in secrecy and screened from observation;

(b) provide each presiding officer with such number of ballot boxes, ballot papers, official seals, official marks, the voters= roll relating to the polling station and such other things as may be necessary for the taking of the poll;

(c) make such arrangements to facilitate the taking of the poll as may be necessary for ensuring that the poll is taken in the manner provided in these Regulations and in accordance with any instructions issued by the Commission; and

(d) publish, both inside and outside each polling station, notices instructing voters on the procedure for casting their votes and notices showing

(i) the names in alphabetical order of surnames of the candidates for election in that constituency, district or ward; and

(ii) the symbol allocated under regulation 8 in respect of each candidate for election in the constituency, district or ward.

(2) The returning officer for each constituency, district or ward in which a poll is to be taken shall give notice, in writing, to each candidate for election in the constituency, district or ward, before the day appointed for taking of the poll, of the time and place at which the votes cast in the elections shall be counted.

Ballot boxes, official seals and official marks

30. (1) Every ballot box shall be transparent and constructed in a manner that, after it is sealed under regulation 42, the ballot papers can be placed in the ballot box by the voters but not taken out without breaking the seals.

(2) The official seals and official marks in respect of every poll shall be in such form as the Commission may determine.

Procedure before commencement of poll

31. (1) The presiding officer at each polling station shall, immediately before the commencement of the poll, show every ballot box, open and empty, to any person whose presence for that purpose is permitted so that the person may see that it is empty, and shall then seal with the official seal each ballot box, and shall permit a candidate, election agent or polling agent, who may be present to affix their seals to the ballot box, and the seal or seals shall not be broken until the ballot box is opened in accordance with the provisions of these Regulations.

(2) The presiding officer or assistant presiding officer at each polling station shall place every ballot box sealed under subregulation (1) in a position that it can be seen throughout the taking of the poll by the presiding officer or assistant presiding officer and a candidate, election agent or polling agent who is present at the polling station.

Control of persons entering polling station

32. (1) The presiding officer at each polling station shall keep order in the polling station and in its precincts, and shall regulate the number of voters to be admitted at a time to that polling station.

(2) The presiding officer at each polling station may require any person to leave the polling station and its precincts if, in the opinion of the presiding officer, that person is causing a disturbance which is likely to interfere with the taking of the poll.

(3) Sub-regulation (2) does not apply to—

(a) a member of the Commission or its members of staff;

(b) an election officer;

(c) a person who is accompanying another person wishing to vote in accordance with these Regulations;

(e) a police officer on duty;

(f) accredited monitors and observers; or

(g) a person authorised, in writing, by the Chief Electoral Officer to enter and remain in the polling station.

(4) A candidate, election agent, polling agent or a person accredited by the Commission to enter and remain in a polling station shall, before attending the taking of a poll at any polling station, take and subscribe an oath or make an affirmation, in Form GEN 1 set out in the Schedule before the returning officer for that constituency, district or ward.

(5) The powers conferred by this regulation shall not be exercised so as to prevent any voter who is entitled to vote at a polling station from having an opportunity of voting at that polling station.

Procedure for casting vote at polling station

33. Where a presiding officer, assistant presiding officer or polling assistant is satisfied that an applicant is entitled to be issued with a ballot paper, and to vote, the following procedure shall be followed:

(a) the voter shall, before receiving a ballot paper, present to the polling assistant, the right hand thumb to be marked, except that in the case of a voter without any thumb, that voter shall present any other finger or body part found appropriate by the polling assistant;

(b) before issuing a ballot paper to the voter, the presiding officer or assistant presiding officer shall

(i) call out the name and the number of the voter as recorded in the register of voters at such polling station;

(ii) cancel the name relating to the voter in the register of voters, as evidence that the voter has received a ballot paper; and

(iii) stamp the back of the ballot paper with the official mark;

(c) the presiding officer or polling assistant shall detach the ballot paper from its counterfoil and deliver it to the voter;

(d) the voter shall, on receiving the ballot paper, enter one of the compartments provided in the polling station for that purpose and signify the vote by secretly marking the ballot paper with a cross in the appropriate place and shall then fold the ballot paper in such a way that the official mark stamped on it is visible and the mark signifying the vote is not visible; and

(e) the voter shall thereafter leave the compartment and shall, in the presence of the presiding officer or polling assistant, place the folded ballot paper in the ballot box provided in the polling station for that purpose.

Costing of votes

34. (1) A voter shall cast the vote without undue delay and shall leave the polling station as soon as the voter has placed the ballot paper in the ballot box.

(2) Where the presiding officer is of the opinion that a voter is causing undue delay in casting the vote and that the delay is likely to hinder the adequate or orderly conduct of the poll, the presiding officer may require that voter to complete casting the vote within a period of two minutes immediately thereafter.

(3) A presiding officer shall permit every voter to cast a vote before closing the poll if the voter, at the time appointed for the closing of the poll

(a) is inside the polling station; or

(b) is owing to congestion, in the opinion of the presiding officer, within the precincts of the polling station.

Restriction on communication in precincts of polling station

35. A person, other than a presiding officer, polling assistant, police officer or person on duty in an official capacity at a polling station, shall not have any communication with a voter while the voter is in the precincts of the polling station for the purpose of voting.

Prohibition of use of electronic devices

36. (1) A person shall not use or be allowed to use an electronic device in a polling station or verification room of an election result.

(2) Despite sub-regulation (1), the Commission may specify a list of officials who may use an electronic device in a polling station or verification room for purposes of communication.

Spoilt ballot papers

37. Where a voter inadvertently deals with a ballot paper in such a manner that it cannot be used as a valid ballot paper, the voter shall deliver that ballot paper to the presiding officer and if the presiding officer is satisfied that the ballot paper has been spoilt inadvertently, the presiding officer shall issue another ballot paper to that voter and shall cancel the spoilt ballot paper and the counterfoil to which it relates.

Objections concerning voting

38. (1) An election agent, a polling agent or another voter may, at any time before a voter has been handed a ballot paper at a polling station, object to that voter being entitled to vote or to vote at that polling station if it appears that —

(a) the vote's name is not in the register of voters at that polling station; and

(b) the voter is not in possession of a voter's card or national registration card, or the objector has reasonable grounds to show that the person is not a citizen.

(2) An election agent or voter may object to any other conduct of an election officer or any other person present at a polling station.

(3) An objection shall be made to the presiding officer by an election agent, polling agent or voter in Form GEN 15 set out in the Schedule.

(4) Where a presiding officer does not accept an objection lodged under this regulation, the presiding officer shall accept the ballot and shall count the objected votes.

(5) An objector who is not satisfied with the decision of the presiding officer made under sub-regulation (4) may appeal to the returning officer before the close of voting in Form GEN 16 set out in the Schedule, and the returning officer and presiding officer shall keep a record of each objection and decision made.

Assistance to certain voters

39. (1) A presiding officer or other election officer at the request of a voter who is unable to read shall assist that voter in voting in the presence of—

(a) a person appointed by the presiding officer or accredited observer or monitor, if available; or

(b) two election agents of different candidates, if available.

(2) A person may assist a voter in voting if -

(a) the voter requires assistance due to physical disability;

(b) the voter has requested to be assisted by that person; and

(c) the presiding officer is satisfied that person has attained the age of eighteen years.

(3) The secrecy of voting as provided in the Constitution shall be preserved in the application of this regulation. Cap. 1

(4) A presiding officer shall record in the copy of the register of voters, by means of a mark placed next to the name of the voter concerned, that the presiding officer or another person assisted the voter as provided under this regulation and give the reason for doing so.

Voting by persons employed on election duties

40. (1) Where a person entitled to vote in a constituency, district or ward is employed as a returning officer, presiding officer, polling assistant, police officer or in any other official capacity at a polling station outside that constituency, district or ward, other than the polling station at which that person is entitled to vote, the returning officer for that constituency, district or ward may authorise that person, by certificate under the returning officers= hand in Form GEN 17 set out in the Schedule, to vote at the polling station at which the person is employed.

(2) A voter to whom a certificate is issued under subregulation (1) shall deliver that certificate to the presiding officer when the voter applies for a ballot paper.

Delegation of powers of presiding officer

41. The presiding officer at a polling station may, during a temporary absence from that polling station, delegate the presiding officers power's, subject to the directions of the Commission, to a polling assistant, and during the period of that absence, the polling assistant shall have and may exercise the powers of the presiding officer.

Sealing of full ballot box

42. (1) The presiding officer shall, as soon as a ballot box gets filled up during voting, seal it in the presence of accredited observers, monitors or polling agents and allow the agents to affix their seals to the box, which shall be kept in full view of all persons present until the close of the poll.

(2) The presiding officer shall, where a ballot is sealed under sub-regulation (1), place a new sealed ballot box for the continuity of the voting process.

Procedures after close of poll

43. (1) The presiding officer at a polling station shall, as soon as practicable after the close of the poll, in the presence of the candidates, accredited observers, monitors, election agents or polling agents, present at the polling station—

(a) close and seal the aperture of every ballot box used for the poll, and permit the candidates, accredited observers, monitors, election agents or polling agents, present at the polling station to affix their seal to the ballot box;

(b) in respect of the poll, complete the ballot paper account in Form GEN 18 set out in the Schedule; and

(c) place in separate envelopes, which shall be sealed with official paper seals and with the seals of the candidates, election agents or polling agents, if any, who wish to affix their seals to the ballot box, all the relevant documents such as unused ballot papers, spoilt ballot papers, copy of the register of voters, counterfoils of used ballot papers, the ballot paper account, the official marks and official seals.

(2) A presiding officer shall, in accordance with such directions as may be issued by the Commission, dispatch each envelope sealed and the ballot boxes sealed in safe custody to the returning officer for the constituency, district or ward in respect of which the poll was conducted.

(3) The returning officer for a constituency, district or ward in which a poll has been taken shall take into custody and issue a receipt for all the packets and ballot boxes delivered to the returning officer by a presiding officer in accordance with subregulation (2).

Counting to be done at polling stations

44. (1) The returning officer for constituency, district or ward shall ensure that the counting takes place as soon as practicable after the close of the poll in the respective polling stations in the constituency.

(2) A presiding officer for a polling station shall, as soon as practicable, conduct the count at the polling station immediately after the close of the poll at the polling station.

Counting of votes

45. (1) A presiding officer for a polling station in which a poll has been taken shall, with the assistance of the polling assistants for that polling station, count all the votes cast in the election in that polling station in accordance with the provisions of this regulation.

(2) The counting of the votes shall, so far as circumstances permit, proceed continuously until the count is completed, allowing only a reasonable time for refreshments.

(3) The procedure for counting shall be as follows:

(a) the presiding officer shall open each ballot box and, after removing all the ballot papers, shall count and record the total number of ballot papers contained in each ballot box, without reference to the manner in which the ballot papers are marked;

(b) the presiding officer shall then count and record the total number of valid ballot papers in respect of each candidate, commencing with the election to the office of the President, Member of Parliament and councillor; and

(c) the presiding officer shall ensure that, while counting the ballot papers, the polling assistants keep the side of each ballot paper on which the vote is recorded upwards, and shall take all precautions for preventing any person present at the count from seeing the number printed on each ballot paper.

Rejection of ballot papers

46. (1) A presiding officer shall, subject to subregulation (2) reject as invalid, and shall not count, a ballot paper—

(a) which does not bear the official mark, unless the presiding officer is satisfied that the omission is a *bona fide* error;

(b) which contains more than one vote;

(c) on which anything other than the number printed on the ballot paper is written or marked in such manner that the voter can be identified; or

(d) which is unmarked or invalid for uncertainty.

(2) A ballot paper on which the vote is marked—

(a) elsewhere than in the proper place;

(b) otherwise than by means of a cross; or

(c) by more than one mark;

shall not by that reason be invalid if the intention of the voter clearly appears on it, and the manner in which the paper is marked does not of itself identify the voter and it is not shown that the voter can be identified.

(3) The presiding officer shall stamp the word "rejected" on a ballot paper which is not to be counted under this regulation.

(4) The presiding officer shall draw up a statement in Form GEN 19 set out in the Schedule showing the number of ballot papers rejected under the several heads of—

(a) absence of official mark;

(b) more than one vote;

(c) writing or mark by which voter could be identified; and

(d) unmarked or invalid for uncertainty.

(5) The presiding officer of a polling station may

give a candidate, election agent or polling agent present at the polling station a copy of the statement referred to in sub-regulation (4).

Re-counting of votes

47. A candidate, an election agent or polling agent may, if present when the counting or recounting of the votes is completed, request the presiding officer to have the votes re-counted, or the presiding officer may, have the votes re-counted or again re-counted, except that the presiding officer may refuse the request if, in the opinion of the presiding officer, it is unreasonable.

Equality of votes

48. (1) Where an equality of votes is found to exist between two or more candidates and the addition of one vote would entitle any one of the candidates to be declared elected, the returning officer shall immmediately decide between those candidates by lot in such manner as the Commission may determine and shall proceed as if the candidate on whom the lot falls has received an additional vote.

(2) This regulation shall not apply to an election to the office of President.

Sealing of ballot papers

49. (1) The presiding officer shall, on completion of the counting and totalling of votes cast in an election, seal in separate marked envelopes the ballot papers counted in respect of each candidate, and shall place the rejected ballot papers in separate envelopes.

(2) The presiding officer shall announce how the votes have been cast for each candidate in Form GEN 20 set out in the Schedule, and how many have been rejected in the polling station and may require if present, election agents or monitors to countersign the results, except that failure to countersign the election results does not render the results invalid.

(3) The presiding officer shall deliver the envelopes referred to in sub-regulation (1) to the returning officer of the constituency, district or ward concerned with all the documents and materials referred to in regulation 45.

Announcement and declaration of the results

50. (1) The returning officer shall, after the returning officer receives the votes counted at the polling stations in the constituency, district or ward, total the votes of the poll for each candidate from the ballot paper accounts of each polling station.

(2) In every constituency where a poll in respect of an election to the office of President, mayor or council chairperson has been taken, the returning officer for that constituency shall, without delay after the totalling of the votes has been completed, announce the results of each candidate in Form GEN 20 set out in the Schedule and inform the Commission of the number of valid votes cast in the election and the number of valid votes cast for each candidate and votes rejected.

(3) When the totalling of the votes for National Assembly or local government elections has been completed and the result of the poll ascertained, the returning officer shall

(a) complete in duplicate a declaration of the results of the poll in Form GEN 21 set out in the Schedule;

(b) declare to be elected as Member of Parliament, mayor, council chairperson or councillor, the candidate to whom the majority of votes were cast by reading aloud in public at the place where the totalling was conducted; and

(c) cause to be delivered to the Commission, without delay, the original of the completed form.

Declaration of President-elect

51. (1) If, on an initial ballot for a presidential election, no candidate receives more than fifty percent of the valid votes cast at the election, the Returning Officer shall announce the results of the initial ballot in Form GEN 22 set out in the Schedule, and the Commission shall appoint a day for taking a second ballot in accordance with the Constitution. Cap. 1

(2) For the purpose of determining whether any presidential candidate is entitled to be declared elected under the Constitution, Cap. 1 the Returning Officer shall ascertain the total number of valid votes cast in favour of each candidate and if a presidential candidate

records more than fifty percent of the valid votes cast, the Returning Officer shall declare that candidate to be President-elect in Form GEN 23 set out in the Schedule.

(3) The presidential candidate who obtains more than fifty percent of the valid votes cast in the initial ballot or second ballot shall be declared President-elect by the Returning Officer.

Notice of result

52. (1) The Commission shall, in respect of each candidate declared elected in accordance with regulations, give notice in the *Gazette* of—

(a) the full names of those candidates; and

(b) the constituency, district or ward in which the candidate was elected.

(2) A person validly nominated and unopposed in accordance with regulation 20(3) shall be deemed to have been elected with effect from the date appointed for the taking of the poll at the election in the constituency, district or ward concerned.

Verification of ballot papers

53. (1) The returning officer for a constituency, district or ward in which a poll is taken shall appoint a time and place at which the verification of the ballot paper accounts completed in that constituency, district or ward shall take place and shall give notice, in writing, of the time and place to the candidate in such election.

(2) The returning officer shall, at the time and place appointed under subregulation (1), in the presence of the assistant returning officer for that constituency, district or ward and candidates and their election agents, monitors or observers present, proceed with the verification of the ballot paper accounts.

(3) The returning officer conducting a verification in accordance with sub-regulation (2) shall—

(a) open the envelopes containing the unused ballot papers together with their counterfoils and the spoilt ballot papers and the envelopes delivered to the returning officer in respect of each polling station in the constituency;

(b) in respect of each polling station, compare the ballot papers contained in the ballot boxes as recorded under regulation 45 and with the total number of unused and spoiled ballot papers contained in an envelope for that polling station;

(c) re-seal all the envelopes with their respective contents; and

(d) place ballot paper account forms for that constituency, district or ward in one envelope and seal that envelope.

(3) The returning officer shall prepare and deliver to the Commission a report on the verification of the ballot paper accounts in Form GEN 24 set out in the Schedule, and shall permit the candidates, monitors, observers and election agents present at the verification to make a copy of the report.

Custody and destruction of election materials

54. (1) The returning officer shall, upon the completion of the verification of the ballot paper accounts, immediately deliver to the Commission all sealed envelopes in connection with the election.

(2) The Commission shall retain the envelopes delivered under subregulation (1) in respect of any poll in an election for a period of six months after the day on which the result of the election was declared, and shall then cause them to be destroyed by any efficacious method.

(3) Where the Commission has been informed under section 100 (4)of the Act that an election petition has been presented in respect of an election, the packets shall not be destroyed until the trial of that election petition is finally determined.

PART IV
General Provisions

Election agents

55. (1) A candidate shall name an election agent in the nomination paper and, subject to the other provisions of this regulation, the person named shall be the election agent of the candidate for the purpose of that election.

(2) A candidate may revoke the appointment of an election agent at any time, or an election agent may resign from the appointment, by giving written notice to the other party.

(3) Where the election agent of a candidate ceases to be the candidate's election agent for any reason,

that election agent shall give written notice of the cessation to the returning officer for the constituency concerned and if another person is appointed to be the candidate's election agent, the notice shall set out the full name and address of the new election agent.

(4) A person who is not appointed in accordance with the provisions of this regulation shall not exercise the rights of an election agent.

(5) A candidate in a presidential election may, for the purposes of that election, appoint one person in each constituency to be the candidate's election agent for that constituency or appoint the same election agent to be the election agent for two or more constituencies, and the other provisions of this regulation shall apply to that candidate and election agent.

Polling agents

56. (1) Subject to the other provisions of this regulation, a candidate, or the candidate's election agent may, in respect of each polling station within the constituency in which the candidate is nominated, appoint a person to be that candidate's polling agent.

(2) A candidate or the candidate's election agent shall, at least four days before the day appointed as polling day for the constituency, district or ward concerned, give written notice to the returning officer for the constituency, district or ward stating the names and addresses of the polling agents appointed under sub regulation (1) and specifying the polling station for which each person is appointed as polling agent.

(3) A person who is not appointed in accordance with the provisions of this regulation shall not exercise the rights of a polling agent.

(4) A candidate in a presidential election may, for the purposes of that election, appoint a person to be that candidate's polling agent in respect of a polling station or to be that candidate's election agent.

(5) A person may, in respect of a polling station in the constituency for which that person is election agent, appoint a person to be the polling agent of a candidate and the other provisions of these regulations shall apply to that candidate, that candidate's election agent and polling agents.

Offences by election officers

57. An election officer or person who wilfully fails to perform the functions of that office or fails to comply with any of the requirements of these Regulations commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Revocation of S.I. No. 92 of 2006

58. The Electoral (General) Regulations, 2006, are revoked.

SCHEDULE

(*Regulations* 4, 9, 11(1), 11(2), 11(4), 11(6)(a), 11 (6)(b), 12(1), 12(2), 13(a), 13(b),12(3)(a), 14(1)(a), 14(2),27(1), 27(2), 38(3), 38(5), 40(1), 43(1), 46(3), 49, 50, 51(1), 51(2) and 53(3))

PRESCRIBED FORMS

GEN 1
(*Regulations* 5 and 32)
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

OATH ( ) OR AFFIRMATION ( )

I..... .....
Surname Other Names

having been appointed .....do hereby

*swear/solemnly and sincerely affirm that—

(a) I will carry out the duties required of me as a result of my appointment impartially and to the best of my ability without fear or favour to any person or persons;

(b) I will not directly or indirectly reveal to any person any matter that may come to my knowledge or notice as a result of my appointment unless so authorised by law; and

(c) I will diligently discharge my duties in accordance with the law and shall abide with the Electoral Code of Conduct.

Signed:.....

*Sworn/Affirmed before me this ..... day of 20

Signed.....

Name in CAPITALS .....

*Subordinate Court Magistrate/Local Court Magistrate/Election Officer/Returning Officer/ Commissioner for Oaths/Head of Government School/Principal of a College.

+ In case of candidate, election agent or polling agent delete paragraph *(a)*

*Delete as necessary

GEN. 2
(*Regulation* 11(1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

PRESIDENTIAL ELECTION NOMINATION PAPER

PART A

To: The Returning Officer,.....
We the undersigned being registered voters do hereby nominate:
Surname (in BLOCK CAPITALS)
First name (in BLOCK CAPITALS)
** Other Names
National Registration Card No.
Voter's Card No.
Gender: Mobile Phone No.
Residential Address:.....
Postal Address:.....
to stand as a candidate for election in the .....election.

Please Fill the Section in Block Capitals

I, (Surname).....(First name).....

(Other Names):.....
Hereby declare:

(a) that I accept the nomination;
(b) * that my nomination is supported by the .....political party and the party symbol is .....
*that I am an independent candidate and my symbol is .....
(c) that I appoint, (Surname).....
(Other Names).....(NRC Number).....
as my running mate in the election.
(d) that I have appointed the persons listed in Part C in accordance with Regulation 50, as my Election Agents in the named constituencies.
(e) An affidavit stating that I qualify for election as President is hereby lodged.

....
(Date) (Signature of Candidate)

Received by me at ..... hours on the ..... day of .....20.....

*VALID/INVALID Receipt No: .....
Rejection Reason (if invalid):.....

....
(Name of Returning Officer) (Signature of Returning Officer)

*Delete whichever is not applicable
** Note that only initials will be used for other names on the ballot paper

PART B

We being registered voters, support the candidature of.....for elections as President of the Republic of Zambia on.....(date)

Province	Full Name in Block Capitals	Voter's Card Number	Signature or thumb-print

Page.....of.....pages

Verified before me.....

Name:.....

Assistant Returning Officer

Date:.....

Witness: Name:.....

Signature.....

Designation:.....

PART C

Constituency	Name of election agent	Signature	Mobil number

GEN. 3
(*Regulations* 11 (3))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016
The Electoral Process (General) Regulations, 2016

PRESIDENTIAL ELECTION NOMINATION PAPER RUNNING MATE

To: The Returning Officer,.....

I, the undersigned being Presidential candidate, do hereby nominate:

Surname (in BLOCK CAPITALS)

First name (in BLOCK CAPITALS)

** Other Names

National Registration Card No.

Voter's Card No.

Gender: Mobile Phone No.

Residential Address:.....
Postal Address:.....
to stand as my Running Mate for the Presidential Election

....
(Date) (Signature of Candidate)

Please Fill the Section in Block Capitals

I, (Surname).....(First name).....

(Other Names):.....
Hereby declare that:

(a) I accept the nomination as a Running Mate to .....
..... (full names of candidate).

(b) an affidavit stating that I qualify for election as President is hereby lodged.

....
(Date) (Signature of Running Mate)

Received by me at ..... hours on the ..... day of .....20.....

*VALID/INVALID
Rejection Reason (if invalid):.....

....
(Name of Returning Officer) (Signature of Returning Officer)

*Delete whichever is not applicable

** Note that only initials will be used for other names on the ballot paper

GEN. 4
(*Regulations* 11 (4))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

AFFIDAVIT FOR PRESIDENTIAL CANDIDATE/RUNNING MATE *

I, ..., a Zambian Citizen nominated to contest Presidential election/ as a running mate*, do hereby make OATH/solemnly affirm and state that:

1. I am a Zambian Citizen by birth/descent* and attach a certified copy of my green National Registration Card marked 1.
2. I have been ordinarily resident in Zambia and I reside at .....
   (Physical address, town, province)
3. I am a registered voter and a certified copy of my voter's card is attached and marked 2.
4. I am .....years of age.
5. I am fluent in the official language.
6. I have obtained, as a minimum academic qualification, a Grade twelve certificate or its equivalent and attached is a certified copy of my Grade twelve certificate/equivalent* marked 3.
7. I have paid all my personal taxes/ made arrangements satisfactory* to the appropriate tax authority for the payment of taxes. Attached hereto is a certified copy of the tax clearance certificate/proof of arrangement of paying taxes marked 4.
8. I have declared my assets and liabilities and the statement of the assets and liabilities is attached and marked 5.
9. I qualify for nomination as a Presidential candidate and the disqualifications in Article 100 (2) do not apply to me.
10. I swear this affidavit conscientiously believing the same to be true and correct to the best of my knowledge.

Sworn by the said .....at Lusaka this..... day of .....

Before Me: .....

Commissioner for Oaths

*delete whichever is not applicable.

GEN. 5
(*Regulations* 11 (6) (a) and 12(2)*(a)*)
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

STATUTORY DECLARATION OF ASSETS AND LIABILITIES

(Presidential Candidate/Running Mate/Member of Parliament/Mayor/Council Chairperson*)

I, ... (full names) being a candidate for election to the office of the President of the Republic of Zambia/Running Mate* do solemnly and sincerely declare that the statement annexed hereto is made by me for the purposes of Article 100/70* of the Constitution and is a true and complete statement of my assets and liabilities.

AND I make this solemn declaration conscientiously believing the same to be true.

Signed.....

Subscribed and solemnly declared before me this ..... day of ..... 20.....

.....

Returning Officer

Note: A typed or clearly printed/written statement of assets and liabilities must be annexed to this declaration.

*Delete whichever is not applicable

GEN. 6
(*Regulation* 11 (6)(b), 12(3)(b) and 14(3)*(b)*)
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

DECLARATION OF COMPLIANCE WITH ELECTORAL CODE OF CONDUCT

I, ... do solemnly and sincerely declare that:

(1) I am a citizen of .....

(2) My National Registration Card Number is.....

(3) *I am the Secretary General of.....a political party registered under the Societies Act, and intending to participate in the elections.

*I am an independent candidate intending to participate in the elections.

(4) *I shall ensure that the ..... as a political party and its supporters, shall observe the Code of Conduct during campaigns and elections.

*I shall comply and be bound by the provisions of the Electoral (Code of Conduct) Regulations.

(5) I make this solemn declaration conscientiously believing the same to be true.

Signed: .....

Name:.....

Residential Address:.....

Subscribed to and solemnly declared before me at..... this.....day of ..... 20.....

Local Court Magistrate, Subordinate Court Magistrate, Head of Primary or Secondary School, Principal of a College, commissioner for Oaths, electoral Officer or Head of any government isntitutition

**Delete where inapplicable*

GEN. 7
(*Regulation* 12(1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016
NATIONAL ASSEMBLY NOMINATION PAPER

PART A

To: The Returning Officer,.....Constituency,.....District.
We the undersigned being registered voters in the above-named constituency, do hereby nominate:

Surname (in BLOCK CAPITALS) ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

First name (in BLOCK CAPITALS) ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

** Other Names ☐☐☐☐☐☐☐☐☐ ☐☐☐☐☐☐☐☐☐

National Registration Card No. ☐☐☐☐☐☐ ☐☐ ☐

Voter's Card No. ☐☐☐☐☐☐☐☐☐

Gender: ☐ Mobile Phone Number: ☐☐☐☐☐☐☐☐☐☐

Residential Address:.....
Postal Address:.....
to stand as a candidate for election in the .....Constituency in ....
..... District

Please Complete this Section in Block Capitals

I, (Surname).....(First Name).....
(Other Names):.....
Hereby declare:-

(a) that I accept the nomination;
(b) * that my nomination is supported by the.....political party and I have been a member for ..... The symbol .....
* that I am an independent candidate and my symbol is .....
(c) (i) that I have appointed (full name).....
of (address).....
(ii) that I have appointed (full name).....
of (address).....
to be my Election Agents in accordance with the regulations.
(d) An Affidavit stating that I qualify for election as a Member of Parliament is hereby lodged.

....
(Date) (Signature of Candidate)

Received by me at .....hours on the ..... day of .....20.....

*VALID/INVALID Receipt No:.....Amount.....
Rejection Reason (If invalid):.....

....
(Name of Returning Officer) (Signature of Returning Officer)

*Delete whichever is not applicable
** Note that only initials for Other Names will be used on the ballot paper

PART B

We, being registered voters in the.....Constituency.....

District, support in the candidature of.....

Full Name in Block Capitals	Voter's registration card number	Signature or thumb-print

NOTES

1. Candidates are advised to acquant themselves with the provisions of regulations 14 to 24, 57 and 58 before competting this nomination paper.
2. When this nomination paper is lodged it must be accompanied by the sum of K.....in cash as non refundable nomination fee.
3. A candidate may authorise another person to countersign a Nomination Paper on his behalf to lodge it with the Returning Officer, but, in that event, the written authorisation of the candidate's digital and printed photograph (34mm (high) x 30mm (wide)) must be presented with the Nomination Paper.
4. The statutory Declaration on FORM GEN 2a must be completed by the candidate himself before a Commissioner for Oaths.

GEN. 8
(*Regulation* 13)
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

AFFIDAVIT IN SUPPORT OF NOMINATION AS A MEMBER OF PARLIAMENT

I, ... a Zambian Citizen nominated to contest elections as a Member of Parliament, do hereby make OATH/solemnly affirm and state that-

1. I am a Zambian Citizen and I attach a certified copy of my green national registration card marked 1.
2. I reside at.....

(*Physical address, town, province*)

3. I am a registered voter and a certified copy of my voter's card is attached and marked 2.
4. I am .....years old.
5. I have obtained, as a minimum academic qualification, a Grade twelve certificate or its equivalent and a certified copy of my Grade twelve certificate/equivalent* is attached and marked 3.
6. I have declared my assets and liabilities and the statement of the assets and liabilities is attached and marked 4.
7. I am not a member of a political party and I have not been a member of a political party for at least two months immediately before the date of the election**.
8. I qualify for nomination as a Member of Parliament and the disqualifications in Article 70 (2) do not apply to me.
9. I swear this affidavit conscientiously believing the same to be true and correct to the best of my knowledge.

Sworn by the said ..... at ..... this ..... day of ..... 20.....

Before Me .....

Commissioner for Oaths

* delete whichever is not applicable.
** applies only to independent candidate, delete if not applicable.

GEN. 9
(*Regulation* 12(2))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

LOCAL GOVERNMENT NOMINATION PAPER

MAYOR/COUNCIL CHAIRPERSON

PART A

To: The Returning Officer,.....District.
We the undersigned being registered voters in the above-named district, do hereby nominate:

Surname (in BLOCK CAPITALS)

First name (in BLOCK CAPITALS)

** Other Names

National Registration Card No.

Voter's Card No.

Gender: Mobile Phone Number:

Residential Address:.....
Postal Address:.....
To stand as a candidate for election as Mayor/Council Chairperson* in ..... District

Please Complete this Section in Block Capitals

I, (Surname).....(First Name).....
(Other Names):.....
Hereby declare:-

(a) that I accept the nomination;
(b) * that my nomination is supported by the.....political party and the symbol is.....

* that I am an independent candidate and my symbol is .....
(c) (i) that I have appointed (full name).....
of (address).....
(ii) that I have appointed (full name).....
of (address).....
to be my Election Agents in accordance with the regulations.
(d) An affidavit stating that I qualify for election as Mayor/Council Chairperson is hereby lodged.

....
(Date) (Signature of Candidate)

Received by me at .....hours on the ..... day of .....20.....

*VALID/INVALID Receipt No:.....Amount.....
Rejection Reason (If invalid):.....

....
(Name of Returning Officer) (Signature of Returning Officer)

*Delete whichever is not applicable
** Note that only initials for Other Names will be used on the ballot paper

PART B

We, being registered voters in the.....District, support the candidate of

.....

Full Name in Block Capitals	Voter's registration card number	Signature or thumb-print

NOTES

1. Candidates are advised to acquant themselves with the provisions of regulations 15 to 24 and 58 before completing this nomination on paper.
2. When this nomination paper is lodged it must be accompanied by the sum of K.....in cash as non refundable nomination fee.
3. A candidate may authorise another person to countersign a Nomination Paper on his or her behalf and to lodge it with the Returning Officer, but, in that event, the written authorisation of the candidate and the candidate's digital and printed photograph (34 mm (high) x 30 mm (wide)) must be presented with the Nomination Paper.
4. An affidavit FORM GEN 3c must be completed by the candidate himself or hereself before a Commissioner for Oaths.

GEN 10
(*Regulation* 13*(b)*)
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

AFFIDAVIT IN SUPPORT OF NOMINATION AS MAYOR/COUNCIL CHAIRPERSON*

I,....., a Zambian Citizen nominated to contest election as a Mayor/Council Chairperson* do hereby make OATH/ solemnly affirm and state that:—

1. I am a Zambian Citizen and I attach a certified copy of my green National Registration Card marked 1
2. I reside at ..... (Physical address, town, province).
3. I am a registered voter and a certified copy of my voter's card is hereto attached and marked 2.
4. I have obtained, as a minimum academic qualification, a Grade twelve certificate or its equivalent and a certified copy of the Grade twelve certificate/equivalent* is hereto attached and marked 3.
5. I have declared my assets and liabilities and the statement of the said assets and liabilities is attached and marked 4.
6. I qualify for nomination as a Mayor/ Council Chairperson*.
7. I swear this affidavit conscientiously believing the same to be true and correct to the best of my knowledge.

Sworn by the said .....at .....this ..... day of .....

Before Me .....
Commissioner for Oaths

*delete whichever is not applicable.

GEN. 11
(*Regulation* 14(1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

THE LOCAL GOVERNMENT NOMINATION PAPER

COUNCILLOR
PART A

To: The Election Officer, ...Ward,
.....Constituency, ...District.

We the undersigned being registered voters in the above-named ward, do hereby nominate:

Surname (in BLOCK CAPITALS) ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

First name (in BLOCK CAPITALS) ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

** Other Names ☐☐☐☐☐☐☐☐☐ ☐☐☐☐☐☐☐☐☐

National Registration Card No. ☐☐☐☐☐☐ ☐☐ ☐

Gender: ☐ Mobile Phone Number: ☐☐☐☐☐☐☐☐☐

Residential Address:.....

Postal Address:.....

To stand as candidate for election as Councillor in the .....Ward of the ..... Council

Please Complete this Section in Block Capitals

I, (Surname).....(First Name).....

(Other Names):.....

Hereby declare:-

(a) that I accept the nomination;

(b) * that my nomination is supported by the.....political party and the symbol is .....

* that I am an independent candidate and my symbol is.....

(c) (i) that I have appointed (full name).....
of (address).....

(ii) that I have appointed (full name).....
of (address).....
to be my Election Agents in accordance with the regulations.

(d) An affidavit stating that I qualify for election as a Councilor is hereby attached.

....
(Date) (Signature of Candidate)

Received by me at .....hours on the ..... day of .....20.....

*VALID/INVALID Receipt No:.....Amount: K.....

Reason for Rejection (If invalid):.....

....
(Name of Returning Officer) (Signature of Returning Officer)

*Delete whichever is not applicable

** Note that only initials for Other Names will be used on the ballot paper

PART B

We, being registered voters in the.....Ward of the.....Council, support the candidature of.....

Full Name in Block Capitals	Voter's registration card number	Signature or thumb-print

NOTES

1. Candidates are advised to acquant themselves with the provisions of regulations 16 to 24 and 57, and 58 of the regulations before completing this nominated paper.
2. When this nomination paper is lodged it must be accompanied by the sum of K.....(City Council), K.....(Municipal Council) or K.....(District Council) in cash as non refundable nomination fees.
3. A candidate may authorise another person to countersign a Nomination Paper on his or her behalf and to lodge it with the Returning Officer, but, in that event, the written authorisation of the candidate and the candidate's digital and printed photograph (34 mm (high) x 30 mm (wide)) must be presented with the Nomination Paper.
4. An affidavit FORM GEN 3d must be completed by the candidate himself or hereself before a Commissioner for Oaths.

GEN. 12
(*Regulation* 14(2))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

AFFIDAVIT IN SUPPORT OF NOMINATION AS A COUNCILLOR

I, ...,
nominated to contest election as a Councillor do hereby make OATH/solemnly affirm and state that:—

I am a Zambian Citizen /holder of a resident permit/ resident in the district* and, a certified copy of my green National Registration Card/resident permit * is hereby attached and marked 1.

(1) I reside at.....
(*Physical address, town, province*)

(2) I am not a Member of Parliament or nominated to stand as a Member of Parliament.

(3) I am ..... years of age.

(4) I have obtained, as a minimum academic qualification, a Grade twelve certificate or its equivalent and a certified copy of my Grade twelve certificate/equivalent* is hereto attached and marked 2.

(5) I have paid all my council taxes and I attach hereto a certified copy of tax clearance from the Council, marked 3

(6) I qualify for nomination as a Councillor.

(7) I swear this affidavit conscientiously believing the same to be true and correct to the best of my knowledge.

Sworn by the said ..... at ..... this ..... day of ....., 20 .....

Before Me
Commissioner for Oaths

* delete whichever is not applicable.

GEN 13
(*Regulation* 27 (1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

BALLOT PAPER FOR PRESIDENTIAL ELECTION

Serial No.....

Constituency .....

Instructions: **Vote** for **ONE** candidate **ONLY** by marking one cross in the blank box opposite the name and symbol of the candidate for whom you wish to vote. **DO NOT** make any other mark on this paper by which you can be identified.

PORTRAIT OF CANDIDATE	NAME OF CANDIDATE Name of Running Mate	POLITICAL PARTY/INDEP	SYMBOL	MARK/ CROSS

*Official Mark to be stamped on reverse side of ballot paper

GEN 14
(*Regulation* 27 (2))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

BALLOT PAPER FOR NATIONAL ASSEMBLY/MAYORAL/COUNCIL CHAIRPERSON/COUNCILLORS

Serial No.....

Constituency .....

Instructions: **Vote** for **ONE** candidate **ONLY** by marking one cross in the blank box opposite the name and symbol of the candidate for whom you wish to vote. **DO NOT** make any other mark on this paper by which you can be identified.

PORTRAIT OF CANDIDATE	NAME OF CANDIDATE Name of Running Mate	POLITICAL PARTY/INDEP	SYMBOL	MARK/ CROSS

*Official Mark to be stamped on reverse side of ballot paper
*Delete where inapplicable

GEN. 15
(Regulation 38(3))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

OBJECTION AND DECISION CONCERNING VOTING

I.....being *an election agent/ voter hereby objects to .....of voter's card no ..... being *allowed/refused to vote at..... polling station for the following reasons:

.....

.....

.....

Name of objector.....

NRC No..... Voter's Card No:.....

Signed:.....

Date:.....

I ..... being the duly appointed Presiding Officer for ..... polling station hereby *allow/refuse the above objection on the ground(s) that:

.....

.....

.....

Signed:.....

Date:.....

*delete where inapplicable.

GEN. 16
(*Regulation* 38 (4))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

APPEAL TO THE RETURNING OFFICER

To: The Returning Officer
..... Constituency
..... District

I ..... an *election agent/voter
at.....polling station hereby

appeal against the decision of the Presiding Officer at the said polling station

*allowing/refusing .....of voter's
card no ..... to Vote.

My appeal is based on the ground(s) that .....

.....

.....

Signed.....

Appellant

Date.....

I ..... duly appointed

Returning Officer for ..... Constituency hereby

*allow/dismiss the appeal on the ground(s) that.....

.....

Signed:.....

Date: .....

*delete where inapplicable.

GEN. 17
(*Regulation* 40(1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

CERTIFICATE OF AUTHORITY TO VOTE AT A POLLING STATION FOR PERSONS EMPLOYED ON ELECTION DUTIES

To: Presiding Officer ..... Polling Station
.....Constituency

In accordance with Regulation 42 authority is hereby given for the person specified below to cast his vote at the above polling station:

(i) Full name of voter as shown in the Voters' Roll .....
.....

(ii) Election duty .....

(iii) Name of polling station at which voter entitled to vote.....
.....

(iv) Voter's Card No.....

(v) National Registration Card No.....

....
Name of Returning Officer *Signature of Returning Officer*

Date ..... 20.....

INSTRUCTIONS

1. This certificate may only be issued to a person who is unable to vote at the polling station at which the person is entitled to vote owing to the fact that he or she is employed in an official capacity on election duties at some other polling station.
2. In addition to this certificate, the national registration card and the voter's card must be produced to the Presiding Officer when application is made for a ballot paper.
3. Upon the issue of a ballot paper to the voter this certificate must be surrendered to the Presiding Officer who must attach it to the marked copy of the Voters' Roll.

GEN. 18
(*Regulation* 43 (1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

BALLOT PAPER ACCOUNT

PRESIDENTIAL/MEMBER OF PARLIAMENT/ MAYOR/COUNCIL CHAIRPERSON/ COUNCILLOR*

Polling Station:..... Constituency: .....
Stream:..... Council:.....
Date:.....

To be completed by Returning Officer on issue of Ballot Papers		To be completed by Presiding/Assistant Presiding Officer at the close of the poll			
Ballot Papers Numbered	Total Number Supplied (1)	Number of used excluding Spoilt ballot papers (2)	Number of Spoilt ballot papers (3)	Number of unused ballot papers (4)	Total Columns 2-4 (This must equal (1))
to					
to					
to					
to					
to					
to					
to					
to					
to					
to					
to					
to					
to					
TOTAL					
Ballot boxes supplied: ..... Ballot boxes used ..... Unused ballot boxes:					

I hereby certify that this is the correct statement of all ballot papers and boxes supplied to me.
Name: .....
Signed: .....
Presiding Officer

*Delete where inapplicable

GEN. 19
(*Regulation* 46 (4))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

STATEMENT OF REJECTED BALLOT PAPERS
PRESIDENTIAL/MEMBER OF PARLIAMENT/ MAYOR/COUNCIL CHAIRPERSON/ COUNCILLOR*

.....Polling Station
..... Constituency
.....Polling Station

Date of Poll .....

Reasons for rejection by Presiding Officer	Total
1. No official Mark	.....
2. Votes shown for more than one candidate	.....
3. Voter identification by mark	.....
4. Unmarked or invalid due to uncertainty	.....
Total number of rejected ballot papers	.....

I .....hereby certify that this is a correct statement of the ballot papers rejected by me as invalid.

Date..... 20 ....

Signature of Presiding Officer

INSTRUCTIONS

1. To be completed by the Presiding Officer at the conclusion of the count after results and before announcement of the results.
2. The rejected ballot papers must be placed together in a marked envelope which must be sealed by the Presiding Officer.

*Delete where inapplicable

GEN. 20
(*Regulations* 49 and 50)
(Complete in triplicate)

REPUBLIC OF ZAMBIA
The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

ANNOUNCEMENT OF THE RESULT OF THE POLL
PRESIDENTIAL/MEMBER OF PARLIAMENT/ MAYOR/COUNCIL CHAIRPERSON/ COUNCILLOR*

I ..... being the Presiding Officer for..... .....
(Presiding Officer's Name in full in BLOCK CAPITAL (Name and Number of Polling Station)
in ..... Constituency do hereby announce that I have, in accordance with the law, counted the votes of the poll in the said polling station and that they have been given to:

	Name of Candidate	Party/Independent	Votes(in figures)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

I further declare that a total of.....ballot papers have been rejected by me as invalid and that a total of..... votes were cast.
Dated this ..... day of .....20.....
Signed: .....

Name / Party) (Signature	(Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
(Name and Signatures of Agents)	(Name and Signatures of Agents)	(Name and Signatures of Monitors)

Witnessed by:

INSTRUCTIONS

1. This form must be completed in sufficient quantities to give **one** copy to each polling agent by the Presiding Officer. The Presiding Officer must read out aloud the text from the original to the public outside and inside the polling station.
2. The full names of the candidates, party and votes received in figures must be inserted in the columns above, with the successful candidate's name at No. 1.
3. The original of this form must be delivered to the Returning Officer together with other material at the conclusion of the count. Copies can be given to each candidate/party agents and monitors.

*Delete where inapplicable

GEN. 21
(*Regulations* 49 and 50)
(Complete in triplicate)

REPUBLIC OF ZAMBIA
The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

ANNOUNCEMENT OF THE RESULT OF THE POLL
PRESIDENTIAL/MEMBER OF PARLIAMENT/ MAYOR/COUNCIL CHAIRPERSON/ COUNCILLOR*

I ..... being the Presiding Officer for..... District/Constituency/ward,
(Presiding Officer's Name in full in CAPITAL LETTERS
do hereby announce that I have, in accordance with the law, counted the votes of the poll in the said polling station and that they have been given to:.....

	Name of Candidate	Party/Independent	Votes(in figures)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

I further declare that a total of.....ballot papers have been rejected as invalid and that a total of..... votes were cast.

*The tie of votes recorded has been broken by casting a lot in accordance with the provision of the law. (Delete if not applicable).

I therefore declare that the said.....to be this day duly elected as.....for

Dated this ..... day of .....20.....

Signed: .....

Witnessed by:

Name / Party) (Signature	(Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature
Name / Party) (Signature	Name / Party) (Signature	Name/Organization) (Signature

INSTRUCTIONS

1. This form must be completed in sufficient quantities to give one copy to each candidate or their polling agent by the Returning Officer. The Returning Officer must read out aloud the text from the original to the public at the place where the totaling of the votes takes place.
2. The full names of the candidates, party and votes received in figures must be inserted in the columns above, with the successful candidate's name at No. 1.
3. The original of this form must be delivered to the Electoral Commission of Zambia by the quickest possible means and copy must be retained by the Returning Officer.

*Delete where inapplicable

GEN 22
(*Regulation* 51(1))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016
DECLARATION OF RESULT OF THE INITIAL BALLOT- PRESIDENTIAL

Whereas Parliament was dissolved on the ..... day of ....., 20.....
AND WHEREAS an Election to the Office of President was conducted on the ..... day of....., 20.....
NOW THEREFORE,
I (full name of Returning Officer) .....being the Returning Officer for the election to the office of President do hereby DECLARE that I have, in accordance with the law, ascertained the result of such election and the results have been given to:
1. .....
2 .....
3 .....
4. .....
5. .....
6. .....
7. .....
AND WHEREAS, no candidate has received more than fifty percent of the valid votes cast in accordance with Article 101(2) of the Constitution. AND WHEREAS
1. .....
2. .....
3. .....
received the highest and second highest numbers of the valid votes cast.
NOW THEREFORE I, the said Returning Officer do hereby ANNOUNCE THAT the second ballot shall be held on the ..... day of .....20.....
And the candidates shall be,
1. .....
2. .....
3. .....

Signed.....
Returning Officer

Date.....

GEN. 23
(*Regulation* 51 (2))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

DECLARATION OF PRESIDENT-ELECT

WHEREAS Parliament was dissolved on the..... day of ..... 20..... AND WHEREAS an Election to the office of President was conducted on the ..... day of ....., 20.....

NOW THEREFORE, I *(full name of Returning Officer)* ..... being the Returning Officer for the Election to the office of President do hereby declare that I have, in accordance with the law, ascertained the result of such election and the valid votes were given to.

1. .....
2. .....
3. .....
4. .....

I, THEREFORE DECLARE, *(name of elected candidate in block letters)* .....

to be PRESIDENT- ELECT of the Republic of Zambia, this ..... day of ....., 20.....

Signed .....
Returning Officer

Lusaka
Zambia

*delete whichever is not applicable

GEN. 24
(*Regulation* 53 (3))
(Complete in triplicate)

REPUBLIC OF ZAMBIA

The Electoral Process Act, 2016
(Act No. 35 of 2016)

The Electoral Process (General) Regulations, 2016

REPORT ON VERIFICATION OF BALLOT PAPER ACCOUNT PRESIDENTIAL/ MEMBER OF PARLIAMENT/MAYOR/COUNCIL CHAIRPERSON/COUNCLLOR

TO: Chief Electoral Officer
Electoral Commission of Zambia
P.O. Box 50274
LUSAKA

I,....., being the Returning Officer for .....

Constituency/district, hereby report that I have, in accordance with Regulation 46 of the above Regulations verified the Ballot Paper Account forms received from the Presiding Officers of every Polling Station in the constituency by comparing them with the total number of ballot papers contained in each ballot box and the total number of unused and spoilt ballot papers delivered to me by Presiding Officers.

The result of such verification is as follows:

1. Total number of ballot papers issued by me to Presiding Officers .....

Details obtained from Ballot Paper Account forms	*Details obtained from physical check by Returning Officer*
2. Number used excluding spoilt ballot papers: ..... 3. Number of spoilt ballot Papers: ..... 4. Number of unused ballot Papers:	5. Total number of ballot papers contained in the ballot boxes: ..... 6. Total number of spoilt ballot papers:..... 7. Total number of unused ballot papers returned by Presiding Officers:.....
TOTAL	**TOTAL**

..... Constituency/Ward
..... District

Date: .....

.....
Signature of Returning Officer

Made by the Electoral Commission of Zambia this 9th day of August, 2016.

JUSTICE E. E. CHULU,
Chairperson

JUSTICE C. S. MUSHABATI,
Member

DR. F. NG'NDU,
Member

DR. E.J SIKAZWE,
Member

D. MATONGO,
Commissioner

LUSAKA
[EC/101/5/2 CONF]

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 31 OF 2026

The Electoral Process Act
(Laws, Volume 1, Cap. 13)

The High Court (Election Petition) Rules, 2026
Arrangement of Rules

PART I
PRELIMINARY PROVISIONS

Rule

1. Title
2. Interpretation
3. Practice and procedure

PART II
NOMINATION PETITIONS

4. Petition to challenge nomination of candidate for election as Member of Parliament
5. Answer to nomination petition
6. Trial of nomination petition
7. Decision of Court on nomination
8. Appeal against decision of Court on nomination petition

PART III
ELECTION PETITIONS

9. Petition to challenge election of Member Parliament
10. Answer to election petition
11. Trial of election petition
12. Conclusion of trial of election petition
13. Appeal against decision of Court on election petition

Copies of this Statutory Instrument can be obtained from the Government Printer, P.O. Box 30136, 10101 Lusaka. Price K36.00 each.

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PART IV

GENERAL PROVISIONS

14. Service
15. Scheduling conference
6. Status conference
17. Interlocutory applications
18. Consolidation of election petitions
19. Adjournments
20. Amendment of process
21. Default of appearance
22. Withdrawal of nomination petition or election petition
23. Abatement of nomination petition or election petition
24. Commission as respondent
25. Fees
26. Revocation of S.I. No. 426 of 1968

SCHEDULES

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IN EXERCISE of the powers contained in section 102 of the Electoral Process Act, the following Rules are made:

PART I

PRELIMINARY PROVISIONS

Title

1. These Rules may be cited as the High Court (Election Petition) Rules, 2026.

Interpretation

2. In these Rules, unless the context otherwise requires—

"Commission" has the meaning assigned to the word in the Act;

"Court" means the High Court established by the Constitution; Cap. 1

"Constitutional Court" means the Constitutional Court established by the Constitution; Cap. 1

"election petition" means an election petition relating to a parliamentary election;

"District Registry" has the meaning assigned to the words in the High Court Act; Cap. 27

"legal practitioner" has the meaning assigned to the word "practitioner" in the Legal Practitioners Act; Cap. 30

"Member of Parliament" has the meaning assigned to the words in the Constitution; Cap.1

"nomination petition" means a nomination petition relating to a parliamentary election;

"petitioner" means—

(a) in relation to an election petition, a person who signs and presents an election petition and includes a person substituted for a petitioner; and

(b) in relation to a nomination petition, a person who signs and presents a nomination petition;

"Principal Registry" has the meaning assigned to the words in the High Court Act; Cap. 27

"Registrar" has the meaning assigned to the word in the High Court Act; and

"respondent" means a person against whom an election petition or nomination petition is filed in accordance with the Act. Cap. 27

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Practice and procedure

3. The jurisdiction vested in the Court to hear and determine a nomination petition or an election petition shall, as regards practice and procedure, be exercised in the manner provided by the Act, these Rules, the High Court Act or any other written law, or by such order of the Court made under the Act or any other written law.

Cap. 27

PART II

NOMINATION PETITIONS

Petition to challenge nomination of candidate for election as Member of Parliament

4. (1) A person who intends to challenge the nomination of a candidate for election as a Member of Parliament shall, within seven days of the close of nominations, file a nomination petition in Form I set out in the First Schedule on payment of a fee set out in the Second Schedule.

(2) A nomination petition referred to under subrule (1) shall disclose the—

(a) name and address of a petitioner or the petitioner's legal practitioner, if any;

(b) facts relied on;

Cap. 1

(c) provisions of the Constitution or any other written law relating to nominations relied on; and

(d) relief sought by the petitioner.

(3) A nomination petition referred to under subrule (1) shall be accompanied by—

(a) an affidavit verifying facts;

(b) skeleton arguments of not more than fifteen pages, in font size 12 and with double spacing;

(c) a list of authorities and copies of those authorities;

(d) a list and description of documents to be relied on, if any; and

(e) a bundle of documents, if any.

(4) A nomination petition shall be served on a respondent in accordance with rule 14.

(5) Subject to the Act, a nomination petition shall be personally signed by the petitioner or by all the petitioners if the petitioners are more than one.

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Answer to nomination petition

5. (1) A respondent may, within two days of receipt of a nomination petition referred to under rule 4, respond to the nomination petition by filing an answer in Form II set out in the First Schedule on payment of a fee set out in the Second Schedule.

(2) An answer referred to under subrule (1) shall be accompanied by—

(a) an affidavit in opposition;

(b) skeleton arguments of not more than fifteen pages, in font size 12 and with double spacing;

(c) a list of authorities and copies of those authorities;

(d) a list and description of documents to be relied on, if any; and

(e) a bundle of documents, if any.

(3) A respondent who does not file an answer to a nomination petition in accordance with this rule shall not participate in the proceedings of the nomination petition.

(4) A respondent shall, within twenty-four hours of filing an answer, serve that answer on the petitioner.

(5) A respondent shall prove service of an answer referred to under subrule (4) by filing an affidavit of service.

(6) A petitioner may, within two days of being served with an answer referred to under subrule (4), file a reply.

(7) A reply referred to under subrule (6) may be accompanied by—

(a) an affidavit in reply;

(b) skeleton arguments of not more than ten pages in font size 12 with double spacing; and

(c) list of authorities and copies of those authorities.

(8) A reply referred to under subrule (6), shall only respond to the issues raised in the answer filed under subrule (1).

(9) A petitioner shall, within twenty-four hours of filing a reply, serve that reply on the respondent.

(10) A petitioner shall prove service of a reply referred to under subrule (9) by filing an affidavit of service.

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Trial of nomination petition

6. (1) A nomination petition shall be heard and determined by the Court, in open Court, within twenty-one days from the date of filing the nomination petition.

(2) On the trial of a nomination petition, a verbatim record of all evidence given orally in the trial shall be taken and transcripts of the record shall, at the conclusion of the proceedings, be delivered to the Commission by the Registrar.

Decision of Court on nomination petition

7. (1) The Court shall, at the conclusion of the trial, give the Court's decision and—

(a) give reasons for the decision; or

(b) reserve the reasons for the Court's decision to a later date.

(2) The Court shall, where the Court reserves its reasons for a decision under subrule (1)*(b)* —

(a) give a summary of the decision; and

(b) the date on which the Court shall give its reasons for the decision, which date shall not exceed twenty one days from he last date of the hearing.

Appeal against decision of Court on nomination petition

8. An appeal shall not lie against the decision of the Court in respect of a nomination petition.

PART III

Election Petitions

Petition to challenge election of Member of Parliament

9. (1) A person who intends to challenge the election of a Member of Parliament shall file an election petition in Form III set out in the First Schedule on payment of a fee set out in the Second Schedule.

(2) An election petition referred to under subrule (1) shall disclose the—

(a) name and address of a petitioner or the petitioner's legal practitioner, if any;

(b) constituency in which an election being challenged was held;

(c) outcome or results of an election being challenged;

(d) date of declaration of the results of an election being challenged;

(e) grounds relied on; and

(f) relief sought by a petitioner.

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(3) An election petition referred to under subrule (1) shall be accompanied by—

(a) an affidavit verifying facts;

(b) skeleton arguments of not more than fifteen pages, in font size 12 and with double spacing;

(c) a list of authorities and copies of those authorities;

(d) a list and description of documents to be relied on, if any; and

(e) a bundle of documents, if any.

(4) An election petition shall be served on a respondent in accordance with rule 14.

(5) Subject to the Act, an election petition shall be personally signed by a petitioner or by all the petitioners, if the petitioners are more than one.

(6) Subject to the Act, a petitioner shall, within five days of filing an election petition, deposit security for costs not exceeding eight thousand fee units as the Court may order.

(7) Where a petitioner fails to deposit security for costs in accordance with subrule (6), a Court shall not hear and determine an election petition or any other proceedings relating to that election petition.

Answer to election petition

10. (1) A respondent may, within five days of receipt of an election petition referred to under rule 9, file an answer in Form II set out in the First Schedule on payment of a fee set out in the Second Schedule.

(2) An answer referred to under subrule (1) shall be accompanied by—

(a) an affidavit in opposition;

(b) skeleton arguments of not more than fifteen pages, in font size 12 and with double spacing;

(c) a list of authorities and copies of those authorities;

(d) a list and description of documents to be relied on, if any; and

(e) a bundle of documents, if any.

(3) A respondent who does not file an answer to an election petition under this rule shall not participate in the proceedings of the election petition.

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(4) A respondent shall, within two days of filing an answer, serve that answer on the petitioner.

(5) A respondent shall prove service of an answer referred to under subrule (4) by filing an affidavit of service.

(6) A petitioner may, within five days of being served with an answer under subrule (1), file a reply.

(7) A reply referred to under subrule (5) may be accompanied by—

(a) an affidavit in reply;

(b) skeleton arguments of not more than ten pages, in font size 12 and with double spacing; and

(c) a list of authorities and copies of those authorities.

(8) A reply referred to under subrule (6), shall only respond to the issues raised in the answer filed under subrule (1).

(9) A petitioner shall serve a reply referred to under subrule (6), on the respondent within two days of filing the reply.

(10) A petitioner shall prove service of a reply under subrule (9) by filing an affidavit of service.

Trial of election petition

11. (1) An election petition shall be heard and determined by the Court, in open Court, within ninety days from the date of filing of the election petition.

(2) Subject to the Act, on the trial of an election petition, a verbatim record of all evidence given orally in the trial shall be taken and transcripts of the record shall, at the conclusion of the proceedings, be delivered to the Commission by the Registrar.

Conclusion of trial of election petition

12. Subject to the Act, the Court shall, at the conclusion of the trial of an election petition, make a determination as to the validity or invalidity of an election.

Appeal against decision of Court on election petition

13. A person who is dissatisfied with the decision of the Court may, within fourteen days of the decision, appeal to the Constitutional Court.

PART IV

GENERAL PROVISIONS

Service of nomination petition or election petition

14. (1) A petition filed in accordance with—

(a) rule 4 shall be served by a petitioner on a respondent within twenty-four hours of filing the nomination petition; or

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(b) rule 9 shall be served by a petitioner on a respondent within five days of filing the election petition.

(2) Subject to subrule (5), service of a nomination petition or an election petition under subrule (1) shall be personally served on a respondent or at the address shown in the nomination papers filed with the Commission.

(3) A petitioner may, where the petitioner fails to effect personal service of a nomination petition or an election petition referred to under subrule (1) make an application for substituted service within twenty four hours of failing to effect personal service.

(4) The Court shall, on receipt of an application under subrule (3) and where the Court is satisfied that personal service cannot be effected on a respondent, order that service be effected by—

(a) a registered letter addressed to the respondent at the postal address shown in the nomination paper;

(b) advertisement in a daily newspaper of general circulation in the Republic; or

(c) electronic mail.

(5) A petitioner shall prove service of a nomination petition or an election petition under this rule by filing an affidavit of service.

Scheduling conference

15. (1) The Court shall summon the parties to a scheduling conference—

(a) in the case of a nomination petition, within twenty-four hours of the filing of the nomination petition; or

(b) in the case of an election petition, within seven days of filing the election petition.

(2) The Court shall, at a scheduling conference referred to under subrule (1), issue directions or orders—

(a) that the Court considers necessary; and

(b) which shall be strictly adhered to by the parties.

(3) The Court shall, at a scheduling conference—

(a) set a date for—

(i) a status conference; and

(ii) the hearing of a nomination petition or election petition as the case may be; and

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(b) determine any outstanding issues.

Status conference

16. The Court shall, at a status conference referred to under rule 15(3)—

(a) confirm compliance of directions or orders issued under rule 15(2); and

(b) determine any outstanding issues.

Interlocutory applications

17. (1) Subject to subrule (3), a party may make an interlocutory application to be heard and determined by the Court.

(2) The Court may give directions or orders in relation to any interlocutory matter.

(3) Despite subrule (1), an interlocutory application shall not be raised seven days before commencement of trial.

Consolidation of nomination petition or election petition

18. The Court shall, where more than one nomination petition or election petition is filed relating to the same nomination or election, consolidate the nomination petitions or election petitions and hear and determine the petitions at the same time.

Adjournments

19. (1) A party may apply to the Court to adjourn a hearing.

(2) A party who intends to apply for an adjournment in accordance with subrule (1) shall, not less than ten days before the date set for the hearing, file a notice of an intention to adjourn.

(3) The Court shall only grant an application for an adjournment in compelling and exceptional circumstances as the Court may determine.

Amendment of process

20. (1) A party may, with leave of the Court, at any stage of the proceedings and before a hearing, amend process filed by that party.

(2) The Court shall, where the Court grants leave to a party to amend process under subrule (1), allow the other party to respond to the amendment as the Court may determine.

Default of appearance

21. (1) The Court may, where a petitioner does not appear at the time and place appointed for the hearing of a nomination petition or an election petition, strike-off or dismiss the nomination petition or election petition.

(2) The Court may, where a respondent does not appear at the time and place appointed for the hearing of a nomination petition or an election petition—

(a) proceed to hear the nomination petition or election petition; or

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(b) adjourn the hearing on terms that the Court considers appropriate.

(3) A petitioner may, where a nomination petition or an election petition is struck off under subrule (1), within two days of the nomination petition or election petition being struck off, apply to the Court to restore the nomination petition or election petition, failing which the nomination petition or election petition shall stand dismissed.

(4) The Court shall restore a nomination petition or an election petition where the Court is satisfied that an application under subrule (3) has merit.

Withdrawal of nomination petition or election petition

22. (1) Subject to the Act, a petitioner may with leave of Court at any stage of the proceedings and before conclusion of the proceedings, apply to withdraw a nomination petition or an election petition.

(2) The Court may grant a party leave to withdraw a nomination petition or an election petition on terms that the Court may consider appropriate.

(3) The Court shall hear and determine an application to withdraw a nomination petition or an election petition referred to under subrule (1) within two days of receipt of the application.

(4) A petitioner shall not, where the petitioner withdraws a nomination petition or an election petition, file a fresh nomination petition or an election petition in respect of the same nomination or election.

Abatement of nomination petition or election petition

23. Subject to section 105 of the Act, where a sole petitioner or the survivor dies, no further proceedings shall be heard on a nomination petition or an election petition.

Commission as respondent

24. The Commission may be cited by a petitioner as a respondent in a nomination petition or an election petition.

Office hours

25. For purposes of filing a document under these Rules, the offices of the Court in the Principal Registry and District Registry shall be open to the public on week days, other than Saturdays, Sundays or public holidays, from 08:30 hours to 18:00 hours.

Fees

26. The fees set out in the Second Schedule are payable for the matters specified in that Schedule.

Revocation of S.I. No. 426 of 1968

27. The Electoral Petition Rules, 1968, are revoked.

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FIRST SCHEDULE

(*Rule* 5, 6, 10 and 11)

PRESCRIBED FORMS

Form I
(*Rule* 4(1))

IN THE HIGH COURT FOR ZAMBIA **20../H.../No...**

AT THE.....REGISTRY

HOLDEN AT .....

(Civil Jurisdiction)

IN THE MATTER OF:

AND

IN THE MATTER OF:

BETWEEN

..... **PETITIONER(S)**

AND

..... **RESPONDENT(S)**

NOMINATION PETITION

The Petition of .....(name of petitioner), whose address for service is ....., shows that:

1. Your petitioner is (capacity in which petitioner challenges nomination) .....

2. And your petitioner states that the nomination of ..... (name of nominated candidate) was announced on the .....day

of ..... 20..... by the Commission.

3. Facts relied on:

(here state the facts on which the petitioner relies)

And your petitioner says that:

.....

.....

4. Relief:

WHEREOF your petitioner prays that:

.....

.....

Signed (petitioner only)

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NOTE: The Petition *MUST BE* accompanied by the following documents **(Checklist):**

1. (a) affidavit verifying facts;

   (b) skeleton arguments of not more than fifteen pages in font size 12 with double spacing;

   (c) list of authorities and copies of the authorities cited;

   (d) list and description of documents to be relied on, if any; and

   (e) bundle of documents, if any.

2. *DO NOT* state any evidence

3. You can complete details on additional paper.

4. File affidavit of service after serving the respondent.

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Form II

(*Rules* 5(1) and 10(1))

HIGH COURT FOR ZAMBIA **20../H...../No....**

AT THE..... REGISTRY

HOLDEN AT.....

(Civil Jurisdiction)

IN THE MATTER OF:

AND

IN THE MATTER OF:

BETWEEN

..... **PETITIONER(S)**

AND

..... **RESPONDENT(S)**

ANSWER

The respondent responds as follows (respond to each and every allegation):

(a).....

(b).....

(c).....

Signed (respondent only)

NOTE: The Answer to the nomination petition or election petition *MUST BE* accompanied by the following documents **(Checklist):**

1. (a) affidavit in opposition;
   (b) skeleton arguments of not more than fifteen pages in font size 12 and with double spacing;
   (c) list of authorities and copies of the authorities cited;
   (d) list and description of documents to be relied on, if any; and
   (e) bundle of documents, if any.
2. *DO NOT* state any evidence.
3. You can complete details on additional paper.
4. File affidavit of service after serving the petitioner.

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Form III

(*Rule* 9(1))

IN THE HIGH COURT FOR ZAMBIA **20../H...../No....**

AT THE..... REGISTRY

HOLDEN AT.....

(Civil Jurisdiction)

IN THE MATTER OF:

AND

IN THE MATTER OF:

BETWEEN

..... **PETITIONER(S)**

AND

..... **RESPONDENT(S)**

ELECTION PETITION

The Petition of .....(name of petitioner), whose address for service is....., shows that:

1. Your petitioner is (choose which of the following is applicable)

   (a) a person who lawfully voted;

   (b) a person who lawfully had a right to vote;

   (c) a person claiming to have had a right to be nominated as a candidate at the election to which the election petition relates;

   (d) a person claiming to have had a right to be elected at the election to which the election petition relates;

   (e) a person claiming to have been a candidate at the election to which the election petition relates; or

   (f) the Attorney-General.

2. And your petitioner states that the election was held on the .....day of ..... 20.....when (name of petitioner(s))..... and (name of respondent(s)) ..... were candidates and the returning officer has returned ..... (name of elected candidate) as being duly elected.

3. Grounds relied on:

And your petitioner says that:

(here state the facts and grounds on which the petitioner relies)

.....

.....

.....

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4. Relief:

WHEREOF your petitioner PRAYS for a declaration that:

(a) the election of the respondent be declared void;

or

(b) ..... be declared duly elected.

Signed (Petitioner only)

NOTE: The Petition *MUST BE* accompanied by the following documents **(Checklist);**

1. (a) affidavit verifying facts;
   (b) skeleton arguments of not more than fifteen pages in font size 12 and with double spacing;
   (c) list of authorities and copies of the authorities cited;
   (d) a list and description of documents to be relied on, if any;
   (e) bundle of documents.
2. *DO NOT* state any evidence.
3. You can complete details on additional paper.
4. File affidavit of service after serving the respondent.

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SECOND SCHEDULE

PRESCRIBED FEES

(*Rule 26*)

No.	*Item*	*Fee Units*
1.	Sealing any amendment	85
2.	Filing summons in chambers	85
3.	Filing summons for restoration	277.5
4.	Sealing a commission or letter of examination or application not specifically provided for	112.5
5.	Filing depositions	112.5
6.	Application for copies of the notes of the Judge (per page)	55
7.	Filing a Praecipe for a writ of subpoena for each witness	85
8.	Filing a Writ of Subpoena	85
9.	Filing commissioned affidavit	27.5
10.	Personal general search for every name	27.5
11.	General search for unspecified number of times in a calendar	2, 777.5
12.	On search for appearance of any other search (including an inspection) not otherwise provided	27.5
13.	Certificate of Urgency	140
14.	Filing an order in chambers	55
15.	On setting or approving an advertisement or any other document or deed (other than Judgment or order)	85
16.	On entering or setting any matter for hearing in court, except where otherwise provided	277.5
17.	Filing any other judgment or order	85
18.	Any notice provided for	277.5
19.	For copies of documents or proceedings (per page or part thereof))	55
20.	For certifying a copy, an office copy and in addition if under seal	20
21.	On taxation of a Bill of Costs	112.5
22.	Election or nomination petition	2, 777.5
23.	On filing application for leave to the Court (the Notice)	85
24.	On leave being granted to appeal to the Court (the Order)	85
25.	On hearing an appeal (the Judgment)	112.5
26.	Commissioning or Certification	82.5
27.	Notarisation (per page)	370

NOTE: *These fees payable the High Court are stipulated in fee units. To arrive at the amount payable, a conversion rate of 40 ngwee (Statutory Instrument No. 25 of 2024) for each fee unit is used.*

M. MALILA,
Chief Justice

LUSAKA
11th May, 2026

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IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/.029**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Constitutional Jurisdiction)



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

IN THE MATTER OF: **REQULATION 47 OF THE ELECTORAL PROCESS (GENERAL) REQULATIONS, 2016**

IN THE MATTER OF: **ARTICLE 45(1)(a), (2)(a)(b)(c), 73(1) OF THE CONSTITUTION OF ZAMBIA, CHAPTER ONE OF THE LAWS OF ZAMBIA AS READ TOGETHER WITH SECTION 64, 69, 70, 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) 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 KASENENGWA CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON THE 13TH DAY OF AUGUST, 2026**

BETWEEN:

ZIWA LEVISON **PETITIONER**

AND

TWASA PHILIMON **1ST RESPONDENT**

THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
2 8 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

PETITIONER'S SKELETON ARGUMENTS IN SUPPORT OF ELECTION PETITION

MAY IT PLEASE THIS HONOURABLE COURT these are the Petitioner's Skeleton Arguments in Support to the election petition challenging the declaration of the 1st Respondent as the duly elected Member of Parliament for Kasenengwa Constituency.

LEGISLATION

1. The Constitution of Zambia;
2. The Electoral Process Act No. 35 of 2016;
3. The High Court (Election Petition) Rules, 2026.

CASES

1. Anderson Kambela Mazoka & Others v Mwanawasa & 2 Others (SCZ EP 1 of 2002; SCZ EP 2 of 2002) [2018] ZMSC 391;
2. Lewanika & Others v Frederick Jacob Titus Chiluba (Constitutional Jurisdiction) (S.C.Z. Judgment 14 of 1998) [1998] ZMSC 11;

3. Nkandu Luo & Another v Mwamba & Another (Appeal 10 of 2016) [2018] ZMCC 254 (16 November 2018);

1.0 PREFACE

1.1 By way of background, the Petitioner commenced this matter against the Respondents claiming for the following reliefs:

I. **An order for a recount of votes for the declared election results.**

II. **A Declaration that the Petitioner was duly elected; or**

III. **A declaration that the 1st Respondent was not duly elected in the Kasenengwa Constituency parliamentary election;**

IV. **Costs;**

V. **Any other relief that the Court may deem fit**

1.2 The facts relied upon by the Petitioner are set out in the Petition and the Affidavit Verifying Facts. The Petitioner shall rely upon the said facts and the evidence adduced before this Honourable Court in support of the reliefs sought.

1.3 My Lady/Lord, At the centre of this Petition is the question whether the result declared by the 2nd Respondent accurately represents the true will of the electorate of Kasenengwa Constituency.

1.4 The Petitioner's case is that serious irregularities occurred during the sorting, counting, recording and announcement of the results, and that

objections and appeals raised by the Petitioner's agents were not properly dealt with in accordance with the Electoral Process Act.

3.0 The Law

3.1 My Lady/ Lord, the Petitioner moves this Honourable Court pursuant to the provisions of **Article 73 of the Constitution of Zambia Chapter 1 of the Laws of Zambia** provides as follows:

"(1) A person may file an election petition with the High Court to challenge the election of a Member of Parliament."

3.2 My Lady/ Lord, Section 97 (1) & (2) of the Electoral Process Act provides as follows:

"(1) An election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall not be questioned except by an election petition presented under this Part.

(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(i) by a candidate; or

(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or

may have been prevented from electing the candidate in that constituency, district or ward whom they preferred;

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election; or

(c) the candidate was at the time of the election a person not qualified or a person disqualified for election"

3.3 My Lady/ Lord, it is clear that this Honourable Court is clothed with jurisdiction to hear and determine a Petition challenging an election of a member of parliament. The jurisdiction of this Honourable Court extends not only to determining whether an election ought to be declared void, but also to determining, on the evidence before it, whether a candidate was duly elected.

3.4 Section 99 of the Electoral Process Act provides for the reliefs available and provides as follows:

"Any of the following reliefs may be claimed in an election petition:

***(a)* a declaration that the election was void; or**

***(b)* a declaration that any candidate was duly elected."**

3.5 My Lady/Lord, section 69 of the Electoral Process Act provides:

69 (1) An election or polling agent may object to any alleged irregularity in the sorting of the ballot papers.

(2) An objection under subsection (1) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has commenced the count.

(3) Section Sixty-four, with the necessary modification, applies to an objection under this section.

3.6 Further, section 70(1) of the Electoral Process Act provides as follows:

"An election or polling agent may object to an alleged inaccuracy in the counting of the votes or the announcement of a result under section seventy-one."

(2) An objection under subsection (1) shall be made to a presiding officer, in the prescribed form, at any stage before the presiding officer has announced the result.

(3) A presiding officer shall determine the objection and decide whether to order a recount.

(4) A presiding officer shall notify the objector and any other party involved in the objection, of the decision made under subsection (3).

(5) If a presiding officer orders a recount, the presiding officer shall announce the result afresh.

(6) An appeal against the decision of a presiding officer may be made to the returning officer in the prescribed form.

(7) A presiding officer shall keep a written record, in the prescribed form, of each objection under subsection (1) and each decision under this section.

3.7 My Lady/Lord, it is the Petitioner's respectful submission that this Petition may be considered under two principal legal issues, namely:

1. **Whether the failure by the 2nd Respondent, through its Presiding Officers and Returning Officers, to properly receive, determine and act upon the objections and appeals raised by the Petitioner's agents constituted non-compliance with the Electoral Process Act and affected the integrity and accuracy of the declared result; and**

2. **Whether the irregularities and specific breaches of the Electoral Process Act committed by the 1st and 2nd Respondents, when considered cumulatively, affected the result and warrant a recount and nullification of the election.**

3.8 My Lady/Lord, The Petitioner has demonstrated that his agents raised objections, in the prescribed manner, concerning irregularities in the sorting and counting of the votes and the subsequent announcement of the results. The Petitioner's contention is that, notwithstanding the objections raised, the 2nd Respondent failed to satisfactorily discharge its statutory duty to properly consider and determine the objections and appeals and as required, order a recount.

3.9 My Lady/Lord, the failure to properly attend to and determine the objections raised by the Petitioner's agents constituted, a serious violation of the statutory safeguards governing the electoral process.

The purpose of sections 69 and 70 of the Electoral Process Act is to provide an effective mechanism through which irregularities in the sorting and inaccuracies in the counting of votes may be identified and corrected before the result is finally declared.

The Petitioner therefore contends that the objections were properly raised and the prescribed procedure was not effectively followed by the 2nd Responded, the resulting figures cannot be accepted without further scrutiny.

3.10 My Lady/Lord, the Petitioner further contends that the statutory procedure concerning objections and recounts is intended to ensure that any dispute concerning the accuracy of the count is resolved at the earliest possible stage. Where the Petitioner's agents raised objections and, where applicable, pursued appeals to the Returning Officer, the Returning Officer was required to consider the matter in accordance with the law. In the circumstances where the accuracy of the count remains in dispute, the Petitioner submits that a recount is the most direct and reliable means of establishing the actual number of votes cast for each candidate. The Petitioner respectfully submits that these matters go directly to the reliability of the declared result. Had recounts been conducted at the polling stations where the objections were raised, the Petitioner contends that the

discrepancies would have been exposed and corrected and that the Petitioner would have obtained a greater number of votes and ultimately emerged as the candidate with the majority of valid votes.

3.11 My Lady/Lord, the Petitioner therefore seeks an order of this Honourable Court for a recount of the votes cast in all polling stations. The purpose of the recount is not to reopen the election merely because the Petitioner is dissatisfied with the result. Rather, the purpose is to **establish the truth of the electoral outcome** by verifying the actual votes cast against the figures recorded, transmitted and declared. The Petitioner further contends that the record of proceedings and electoral documents contain inaccuracies and discrepancies which render the declared result unreliable, as demonstrated in the Affidavit Verifying Facts.

3.12 My Lady/Lord, with regard to the second legal issue, Section 89 (1) (e), of the Electoral Process Act provides as follows:

> **"On any polling day, at the entrance to or within a polling station, or in any public place or in any private place within four hundred metres from the entrance to such polling station**
>
> **(i) canvass for votes;**
>
> **(ii) solicit the vote of any person;**
>
> **(iii) induce any person not to vote; or**
>
> **(iv) induce any person not to vote for a particular candidate;"**

3.13 My Lady/ Lord, in the case of **Nkandu Luo & Another v Mwamba & Another (Appeal 10 of 2016) [2018] ZMCC 254** it was held as follows:

"In addition to proving the electoral malpractice or misconduct alleged, the petitioner has the further task of adducing cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice."

The Petitioner respectfully accepts this principle and submits that the Court must consider the evidence concerning the alleged malpractice and misconduct together with its actual or potential effect upon the result.

3.14 My Lady/Lord Article 54 of the Constitution of Zambia Chapter 1 of the Laws of Zambia Provides that:

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

3.15 My Lady/Lord The breaches referred to herein before created an environment unconducive for a free and fair election.

3.16 In the case of **Anderson Kambela Mazoka & Others v Mwanawasa & 2 Others (SCZ EP 1 of 2002; SCZ EP 2 of 2002) [2018] ZMSC 391** it was held as follows:

"The standard of proof must depend on the allegations pleaded. Given the national character of the exercise where all the votes in the country form a single electoral college, the proven defects must be

such that the majority of the voters are prevented from electing the candidate whom they preferred; or that the election is so flawed that the defects seriously affect the result which can no longer reasonably be said to represent the true free choice and free will of the majority of the voters.

As regards burden of proof, the evidence adduced must establish the issues raised to a fairly high degree of convincing clarity."

My Lady/ Lord, in the case of **Lewanika & Others v Frederick Jacob Titus Chiluba (Constitutional Jurisdiction) (S.C.Z. Judgment 14 of 1998) [1998] ZMSC 11** it was held as follows:

"that it cannot be seriously disputed that parliamentary elections petition 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 where the petition has been brought under constitutional provisions and would impact upon the governance of the nation and the deployment of the constitutional power and authority, no less a standard of proof is required. It follows also the issues raise are required to be established to a fairly high degree of convincing clarity."

The Petitioner is not inviting this Honourable Court to interfere with the declared result merely on the basis of minor or technical irregularities. Rather, the Petitioner submits that the evidence demonstrates matters going directly to the accuracy of the count and the integrity of the electoral

process, thereby warranting judicial verification of the votes. The allegations concerning the counting process are particularly significant because they relate directly to the numerical result. Where the numerical result itself is in genuine dispute and the primary evidence capable of resolving that dispute is available, the interests of justice favour a recount. The Petitioner accordingly submits that a recount would provide this Honourable Court with the most objective means of determining whether the Petitioner or the 1st Respondent obtained the majority of valid votes. If the recount establishes that the Petitioner obtained the majority, the Petitioner ought to be declared duly elected pursuant to section 99(b) of the Electoral Process Act. Alternatively, if this Honourable Court finds that the proven irregularities and non-compliance affected the result to such an extent that the election cannot reasonably be said to represent the free choice of the electorate, the election ought to be declared void pursuant to section 97 of the Electoral Process Act.

3.17 My Lady/ Lord, the burden of proof rests on the Petitioner to prove the allegations advanced. In view of the evidence presented, it is clear that there is convincing clarity from the issues raised to warrant a recount of the affected polling stations and a declaration that the Petitioner was duly elected. The said allegations of breaches to the Electoral Process Act are grave and, in the alternative, the election should be nullified.

4.0 CONCLUSION

My Lady/ Lord, due to the submissions hereinbefore, we submit that the Petitioner be granted the reliefs as prayed for.

WE HUMBLY SUBMIT

Dated at Lusaka this day of 2026

Drawn by: .....

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LUSAKA

ADVOCATES FOR THE PETITIONER

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/.....**

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

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