



RHODESIA

ACT

To provide for a new Constitution for Rhodesia; to provide for the entrenchment of certain provisions of the laws to be enacted relating to electoral matters and land tenure; and to provide for matters incidental to the foregoing.

ARRANGEMENT OF SECTIONS

CHAPTER I

HEAD OF STATE

Section

1. The President.
2. Powers and duties of President.
3. Appointment of President.
4. Tenure of office of President.
5. Acting President.
6. Deputy President.
7. Oath of office.
8. Protection of dignity and reputation of President.
9. Salary and allowances of President.

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CHAPTER II

PART I

THE LEGISLATURE

Section

10. Legislative power.
11. The Parliament.
12. Electoral Law.

PART II

THE SENATE

13. Constitution of Senate.
14. The Senate Legal Committee.
15. Election of President of Senate.
16. Tenure of office of President of Senate.
17. Election of Deputy President of Senate.

PART III

THE HOUSE OF ASSEMBLY

18. Constitution of House of Assembly.
19. Election of Speaker.
20. Tenure of office of Speaker.
21. Election of Deputy Speaker.

PART IV

SENATE AND HOUSE OF ASSEMBLY

22. Remuneration of President of Senate and Speaker.
23. Powers of Ministers and Deputy Ministers in Senate and House of Assembly.
24. Vacating of seats by members.
25. Tenure of seat of member of Senate or House of Assembly.
26. Members sentenced to death or to imprisonment.
27. Expulsion or suspension of members convicted of certain offences.
28. Validity of proceedings.
29. General elections.

PART V

GENERAL POWERS AND PROCEDURE

Section

30. Power to make laws.
31. Standing Orders.
32. Oath of loyalty.
33. Presiding in Parliament.
34. Quorum in Parliament.
35. Voting in Parliament.
36. Parliamentary records and translation of debates.
37. Privileges of Parliament and members.
38. Secretary to Parliament and other staff of Parliament.
39. President and other persons may address Parliament.

PART VI

PROCEDURE IN REGARD TO BILLS, ETC.

40. Introduction of Bills, motions and petitions.
41. Procedure in regard to Bills.
42. Disagreement between Senate and House of Assembly.
43. Functions of Senate Legal Committee in regard to Bills.
44. Reports of Senate Legal Committee.
45. Procedure in regard to Bills where certificate of urgency is issued.
46. Money Bills.
47. Provisions relating to amendments to Bills.
48. Assent to Bills.
49. Further provisions relating to enactment of Bills.
50. Enrolment of Acts.

PART VII

SUMMONING, PROROGATION AND DISSOLUTION

51. Sessions of Parliament.
52. Prorogation and dissolution.

CHAPTER III

THE EXECUTIVE

Section

53. Executive government vested in President acting on advice of Executive Council.
54. Executive powers.
55. Ministers and Deputy Ministers.
56. Executive Council.
57. Exercise of functions of President.
58. Appointment, etc. of officers.
59. Disposal of land.
60. Prerogative of mercy.
61. Declarations relating to public emergencies.

CHAPTER IV

THE JUDICATURE

62. Constitution and powers of High Court of Rhodesia.
63. Chief Justice of Rhodesia.
64. Appointment of judges.
65. Qualifications of judges.
66. Oath of office.
67. Tenure of office of judges.
68. Removal from office of judges.
69. Remuneration of judges.
70. Law to be administered.

CHAPTER V

FUNCTIONS OF SENATE LEGAL COMMITTEE IN REGARD
TO SUBSIDIARY LEGISLATION

71. Statutory instruments to be referred to Senate Legal Committee.
72. Senate Legal Committee to report.
73. Senate to consider report.
74. Procedure after report considered.
75. Report on draft statutory instruments.

CHAPTER VI

AMENDMENT OF THE CONSTITUTION AND ENTRENCHED
PROVISIONS OF OTHER LAWS*Section*

76. General power to amend the Constitution.
77. Constitutional Bill not to amend other laws.
78. Constitutional Bill to require two-thirds majority.
79. Submission of constitutional Bill for assent.
80. Amendment of entrenched provisions of electoral and land tenure laws.

CHAPTER VII

MISCELLANEOUS PROVISIONS

PART I

GENERAL

81. English language.
82. Public Seal of Rhodesia.
83. The Consolidated Revenue Fund.
84. Declaration of Rights not enforceable in court.
85. Pensions and gratuities of public officers.
86. Rights in relation to local authority elections.
87. Legal force of Constitution.
88. Date of commencement of Constitution.
89. Repeal of 1965 Constitution.
90. Transitional provisions.
91. Citation.

PART II

INTERPRETATION

92. Interpretation of terms.
93. Supplementary provisions.

FIRST SCHEDULE: Oaths.

SECOND SCHEDULE: Declaration of Rights.

THIRD SCHEDULE: Entrenched Provisions.

FOURTH SCHEDULE: Transitional Provisions.

DEDICATION

The peoples of Rhodesia humbly acclaim the supremacy and omnipotence of Almighty God and acknowledge the ultimate direction by Him of the affairs of men.

PREAMBLE

WHEREAS a referendum of voters was held on the 20th June, 1969, for the purpose of determining the opinion of the voters on the following questions—

- (a) whether the voters are in favour of or against the adoption of a republican form of government for Rhodesia; and
- (b) whether the voters are in favour of or against the proposals for a new Constitution for Rhodesia as set out in White Paper (C.S.R. 32—1969) which were published in a *Gazette Extraordinary* on the 21st May, 1969;

AND WHEREAS the voters of Rhodesia are in favour of the adoption of a republican form of government for Rhodesia and are in favour of the above-mentioned constitutional proposals;

AND WHEREAS the Legislature of Rhodesia was empowered by the Constitution Amendment (No. 2) Act, 1969, to enact such laws as may be deemed necessary or desirable to give effect to the wishes of the voters of Rhodesia:

BE IT ENACTED by His Excellency the Officer Administering the Government, as representative of the Queen's Most Excellent Majesty, by and with the advice and consent of the Parliament of Rhodesia, as follows:—

CHAPTER I

HEAD OF STATE

1. There shall be a President in and over Rhodesia who shall be Commander-in-Chief of the Armed Forces of Rhodesia.

2. The President shall have such powers and duties as are conferred or imposed upon him by or under this Constitution or any other law of the Legislature.

3. (1) The President shall be appointed by the Executive Council.

(2) A person holding public office who is appointed as the President shall vacate such public office with effect from the date on which he is so appointed.

The
President.

Powers and
duties of
President.

Appoint-
ment of
President.

4. (1) The President shall hold office for such period not exceeding five years as may be fixed by the Executive Council on his appointment and shall, on the termination of his period of office, be eligible for reappointment; Tenure of
office of
President.

Provided that a President who has held office for two terms shall not be eligible for reappointment for a third term of office,

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

(3) The President shall cease to hold office on a resolution passed by two-thirds of the total membership of the House of Assembly after a report prepared by a committee of that House appointed at the request of the Prime Minister has recommended his removal on the grounds of misconduct or inability to discharge efficiently the functions of his office.

(4) There shall be no debate on a motion moved in the House of Assembly in pursuance of the provisions of subsection (3).

5. (1) During any period when the office of the President is vacant or the President is absent from Rhodesia or is for any reason unable to perform the functions of his office, those functions shall during that period be assumed and performed by such person as the Executive Council may appoint. Acting
President.

(2) Any person appointed in terms of subsection (1) shall cease to perform the functions of the President after the President has informed him that he is about to resume his functions or when a new President assumes office in terms of this Constitution.

(3) The President or any person acting as the President shall not, for the purpose of this section, be regarded as absent from Rhodesia or as unable to perform the functions of the office of the President at any time when there is a subsisting appointment of a deputy under section six.

6. (1) Whenever the President—

(a) has occasion to be absent from the seat of Government but not from Rhodesia; or

(b) has occasion to be absent from Rhodesia for a period which he has reason to believe will not exceed one month; or

Deputy
President.

(c) is suffering from an illness which he has reason to believe will be of short duration;

he may, by instrument under the Public Seal of Rhodesia, appoint any person in Rhodesia to be his deputy during such absence or illness, and in that capacity to perform on his behalf such of the functions of the office of the President as may be specified in that instrument.

(2) The power and authority of the President shall not be abridged, altered or in any way affected by the appointment of a deputy under this section and a deputy shall conform to and observe all instructions that the President may from time to time address to him:

Provided that the question whether or not a deputy has in any matter conformed to or observed any such instructions shall not be inquired into in any court.

(3) A person appointed as a deputy under this section shall hold the appointment for such period as may be specified in the instrument by which he is appointed, save that his appointment may be revoked at any time by the President.

Oath of office.

7. Before entering on any of the duties of his office the President or Acting President, as the case may be, shall take the oaths of loyalty and for the due execution of his office in the forms set out in the First Schedule, which oaths shall be administered by the Chief Justice or another judge of the High Court.

Protection of dignity and reputation of President.

8. Any person who commits any act which is calculated to violate the dignity or injure the reputation of the President or Acting President or deputy shall be guilty of an offence and liable to a fine not exceeding one thousand pounds or to imprisonment for a period not exceeding five years.

Salary and allowances of President.

9. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President and any Acting President such salary as may from time to time be prescribed by a law of the Legislature and such allowances as may be prescribed by or under any such law.

(2) The salary payable to the President or an Acting President shall not be reduced during his continuance in office.

CHAPTER II

PART I

THE LEGISLATURE

10. The legislative power of Rhodesia shall be vested in the Legislature which shall consist of the President and the Parliament. Legislative power.

11. The Parliament of Rhodesia shall consist of a Senate and a House of Assembly. The Parliament.

12. A law of the Legislature shall, subject to the other provisions of this Constitution, make provision for the election or appointment of Senators and the election of members of the House of Assembly for the purposes of this Constitution. Electoral Law.

PART II

THE SENATE

13. (1) The Senate shall consist of such persons as are qualified for election or appointment as Senators and are duly elected or appointed thereto in accordance with the Electoral Law. Constitution of Senate.

(2) There shall be twenty-three Senators, of whom—

(a) ten shall be Europeans, duly elected by an electoral college consisting of the European members of the House of Assembly referred to in paragraph (a) of subsection (2) of section *eighteen*;

(b) ten shall be African Chiefs, five of whom shall be Chiefs in Matabeleland and five of whom shall be Chiefs in Mashonaland, duly elected by an electoral college consisting of Chiefs who are members of the Council of Chiefs;

(c) three shall be persons appointed by the President.

(3) The qualifications and disqualifications of candidates for election or appointment in terms of subsection (2) and the procedure for the nomination and election of candidates in terms of paragraph (a) or (b) of subsection (2) and the filling of vacancies shall be as prescribed in the Electoral Law.

(4) If there are no elected Senators with the legal qualifications referred to in subsection (3) of section *fourteen* or the number of elected Senators with such legal qualifications is not sufficient

for the purposes of that subsection, the President shall appoint, in terms of paragraph (c) of subsection (2), as Senators one or more persons who have such legal qualifications as may be required for the purposes of subsection (3) of section *fourteen*.

The Senate
Legal
Committee.

14. (1) After a general election and as soon as practicable after the election of the President of the Senate in terms of section *fifteen* and the election of the Deputy President of the Senate in terms of section *seventeen* the President of the Senate shall, subject to the provisions of this section, appoint a committee to be known as the Senate Legal Committee.

(2) The Senate Legal Committee shall consist of such number of Senators as the President may determine and the President may, at any time after the appointment of the Senate Legal Committee, direct that the membership thereof shall be increased or decreased, as the case may be, by such number as he may specify:

Provided that at no time shall the Senate Legal Committee consist of less than three members.

(3) A majority of the members of the Senate Legal Committee shall consist of persons holding such legal qualifications as may be prescribed by a law of the Legislature for the purposes of this section.

Election of
President
of Senate.

15. (1) At such time on such day as may be fixed by the Secretary to Parliament, being a day not later than the day fixed in terms of section *fifty-one* for the first meeting of Parliament after a general election, and, before the Senate proceeds to the dispatch of any other business, the Senate shall elect a person to be the President of the Senate and, whenever the office of the President of the Senate becomes vacant otherwise than by reason of the dissolution of Parliament, the Senate shall not transact any other business until a person to fill that office has been elected.

(2) The President of the Senate shall be elected in accordance with the Standing Orders, either from among the members of the Senate or the House of Assembly who are neither Ministers nor Deputy Ministers, or from among persons who are not members of the Senate or the House of Assembly:

Provided that a person who is not a member of the Senate shall not be elected President of the Senate unless, in terms of the Electoral Law, he possesses the qualifications and none of the disqualifications for election as a Senator.

(3) Before a person who has been elected as the President of the Senate enters upon the duties of his office he shall, unless he has already done so in accordance with the provisions of section *thirty-two*, take and subscribe before the Senate the oath of loyalty in the form set out in the First Schedule.

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

Tenure of
office of
President
of
Senate.

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

- (a) on the dissolution of Parliament next following his election; or
- (b) if he becomes a Minister or a Deputy Minister; or
- (c) if he is elected or appointed as a Senator; or
- (d) if he is elected as a member of the House of Assembly or as the Speaker; or
- (e) if any circumstance arises that, if he had been a Senator—

(i) the provisions of paragraph (e), (f) or (g) of subsection (1) of section *twenty-five* would apply to him and his seat as a Senator would become vacant; or

(ii) he would be required, by virtue of the provisions of section *twenty-six*, to cease to exercise any of his functions as a Senator.

(3) The office of the President of the Senate shall become vacant if the Senate, by an affirmative vote of not less than two-thirds of the total membership of the Senate, resolves that the office of the President of the Senate shall become vacant.

(4) Any function of the President of the Senate, whether authorized by law or otherwise, which is required to be performed on the polling day after a dissolution of Parliament or between that day and the day when the Senate first meets thereafter shall be performed by the person who was the President of the Senate immediately before that polling day:

Provided that if at any time after the dissolution of Parliament the person who was the President of the Senate immediately before such dissolution relinquishes the functions of that office by notice in writing to the President or is for any reason unable

to perform them, those functions shall be performed by the Secretary to Parliament or by some other person appointed by the President in that behalf.

Election of
Deputy
President
of
Senate.

17. (1) After a general election and as soon as practicable after the election of the President of the Senate in terms of section *fifteen* the Senate shall elect a Senator, not being a Minister or a Deputy Minister, to be the Deputy President of the Senate and to be chairman when the Senate is in Committee and, whenever the office of the Deputy President of the Senate becomes vacant otherwise than by reason of a dissolution of Parliament, the Senate shall as soon as convenient elect another such Senator to that office.

(2) The Deputy President of the Senate shall be elected in accordance with the Standing Orders.

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

- (a) if he ceases to be a Senator; or
- (b) if he is required by virtue of the provisions of section *twenty-six* or *twenty-seven* to cease to exercise any of his functions as a Senator; or
- (c) if he becomes a Minister or a Deputy Minister.

PART III

THE HOUSE OF ASSEMBLY

Constitution
of House of
Assembly.

18. (1) The House of Assembly shall consist of such persons as are qualified for election as members of the House of Assembly and are duly elected thereto in accordance with the Electoral Law.

(2) Subject to the provisions of subsection (4), there shall be sixty-six members of the House of Assembly, of whom—

- (a) fifty shall be European members duly elected thereto by the Europeans enrolled on the rolls of European voters for fifty European Roll constituencies;
- (b) sixteen shall be African members, of whom—
 - (i) eight are duly elected thereto, four by the Africans enrolled on the rolls of African voters for four African Roll constituencies in Mashonaland and four by the Africans enrolled on the rolls of African voters for four African Roll constituencies in Matabeleland;

(ii) eight are duly elected thereto, one by each of four electoral colleges in Mashonaland and four electoral colleges in Matabeleland, each electoral college comprising such Chiefs, headmen and elected councillors of the African Councils in the Tribal Trust Lands in Mashonaland and Matabeleland, respectively, as may be prescribed in the Electoral Law.

(3) The qualifications and disqualifications and the procedure for the nomination and election of candidates in terms of subsection (2) and the filling of vacancies shall be as prescribed in the Electoral Law.

(4) When a Delimitation Commission establishes, by virtue of the certificate referred to in subsection (5) furnished by the Commissioner of Taxes, that the aggregate of the income tax assessed on the income of Africans exceeds sixteen sixty-sixths of the aggregate of the income tax assessed on the income of Europeans and of Africans, the number of African members referred to in paragraph (b) of subsection (2) shall, with effect from the next dissolution of Parliament, be increased as follows—

- (a) the number of African members shall, subject to the provisions of paragraphs (b), (c), (d) and (e), be increased so that it bears the same proportion to the total number of members in the House of Assembly as the aggregate of the income tax assessed on the income of Africans bears to the aggregate of the income tax assessed on the income of Europeans and of Africans;
- (b) the number of African members shall be increased by two or an integral multiple of two in such manner that at no time does the proportion of African members to the total number of members in the House of Assembly exceed the proportion of the aggregate of the income tax assessed on the income of Africans to the aggregate of the income tax assessed on the income of Europeans and of Africans;
- (c) the first two Africans in any such increase shall be elected, one by an additional electoral college for Mashonaland and one by an additional electoral college for Matabeleland such as is referred to in subparagraph (ii) of paragraph (b) of subsection (2), and the next two African members shall be elected, one for an additional African Roll constituency for Mashonaland and one for an additional African Roll constituency for Matabeleland such as is referred to in subpara-

graph (i) of paragraph (b) of subsection (2), and this sequence shall apply to all further such increases;

- (d) whenever the number of African members is increased in terms of this subsection, the number of electoral colleges or African Roll constituencies, as the case may be, referred to in paragraph (b) of subsection (2) shall be increased accordingly;
- (e) when the number of African members in the House of Assembly equals the number of European members in the House of Assembly there shall be no further increase of African members in terms of this subsection.

(5) A Delimitation Commission shall, in accordance with the provisions of the Electoral Law, require the Commissioner of Taxes to furnish a certificate showing the aggregate of the income tax assessed on the income of Europeans and the aggregate of the income tax assessed on the income of Africans—

- (a) if the Delimitation Commission is appointed on or after the 1st October in any calendar year, in respect of the income tax assessed during the period of twelve months ended on the 30th June of that year based on the returns of income for the assessment year ended on the 31st March in the previous calendar year; or
- (b) if the Delimitation Commission is appointed prior to the 1st October in any calendar year, in respect of the income tax assessed during the period of twelve months ended on the 30th June of the immediately preceding calendar year based on the returns of income for the assessment year ended on the 31st March in the next preceding calendar year.

(6) For the purposes of the certificate referred to in subsections (4) and (5), the Commissioner of Taxes—

- (a) shall, subject to the provisions of paragraph (b), include all tax which is chargeable in terms of the Income Tax Law; and
- (b) shall disregard any income tax assessed on the income of a person other than an individual.

(7) For the purposes of this section—

“Commissioner of Taxes” means the public officer who is appointed for the purposes of the Income Tax Law to be the Commissioner of Taxes, and includes any person acting for the Commissioner of Taxes;

“income tax assessed” means the tax chargeable in terms of the Income Tax Law;

“Income Tax Law” means the Income Tax Act, 1967 or any Act amending or replacing the same, as read with the Finance Act, 1965 or any Act amending or replacing the same, in so far as it relates to income tax;

“returns of income” means the returns of income required to be submitted in terms of the Income Tax Law.

19. (1) At such time on such day as may be fixed by the Secretary to Parliament, being a day not later than the day fixed in terms of section *fifty-one* for the first meeting of Parliament after a general election, and, before the House of Assembly proceeds to the dispatch of any other business, the House of Assembly shall elect a person to be the Speaker and, whenever the office of the Speaker becomes vacant otherwise than by reason of the dissolution of Parliament, the House of Assembly shall not transact any other business until a person to fill that office has been elected.

Election of Speaker.

(2) The Speaker shall be elected in accordance with the Standing Orders, either from among the members of the Senate or the House of Assembly who are neither Ministers nor Deputy Ministers, or from among persons who are not members of the Senate or the House of Assembly:

Provided that a person who is not a member of the House of Assembly shall not be elected as the Speaker unless, in terms of the Electoral Law, he possesses the qualifications and none of the disqualifications for election as a member of the House of Assembly.

(3) Before a person who has been elected as the Speaker enters upon the duties of his office, he shall, unless he has already done so in accordance with the provisions of section *thirty-two*, take and subscribe before the House of Assembly the oath of loyalty in the form set out in the First Schedule.

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

Tenure of office of Speaker.

(2) The Speaker shall vacate his office—

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

- (b) if he becomes a Minister or a Deputy Minister; or
- (c) if he is elected or appointed as a Senator or elected as the President of the Senate; or
- (d) if he is elected as a member of the House of Assembly; or
- (e) if any circumstance arises that, if he had been elected as a member of the House of Assembly—
 - (i) the provisions of paragraph (e), (f) or (g) of subsection (1) of section *twenty-five* would apply to him and his seat as a member would become vacant; or
 - (ii) he would be required, by virtue of the provisions of section *twenty-six*, to cease to exercise any of his functions as a member.

(3) The office of the Speaker shall become vacant if the House of Assembly, by an affirmative vote of not less than two-thirds of the total membership of the House of Assembly, resolves that the office of the Speaker shall become vacant.

(4) Any function of the Speaker, whether authorized by law or otherwise, which is required to be performed on the polling day after a dissolution of Parliament or between that day and the day when the House of Assembly first meets thereafter shall be performed by the person who was the Speaker immediately before that polling day:

Provided that if at any time after the dissolution of Parliament the person who was the Speaker immediately before such dissolution relinquishes the functions of that office by notice in writing to the President or is for any reason unable to perform them, those functions shall be performed by the Secretary to Parliament or by some other person appointed by the President in that behalf.

Election of
Deputy
Speaker.

21. (1) After a general election and as soon as practicable after the election of the Speaker in terms of section *nineteen* the House of Assembly shall elect a member of the House of Assembly, not being a Minister or a Deputy Minister, to be the Deputy Speaker and to be chairman when the House of Assembly is in Committee and, whenever the office of the Deputy Speaker becomes vacant otherwise than by reason of a dissolution of Parliament, the House of Assembly shall as soon as convenient elect another such member to that office.

(2) The Deputy Speaker shall be elected in accordance with the Standing Orders.

(3) The Deputy Speaker may at any time resign his office by notice in writing to the Secretary to Parliament and shall vacate his office—

- (a) if he ceases to be a member of the House of Assembly; or
- (b) if he is required, by virtue of the provisions of section *twenty-six* or *twenty-seven*, to cease to exercise any of his functions as a member of the House of Assembly; or
- (c) if he becomes a Minister or a Deputy Minister.

PART IV

SENATE AND HOUSE OF ASSEMBLY

22. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the President of the Senate and to the Speaker such salaries as may from time to time be prescribed by a law of the Legislature and such allowances as may be prescribed by or under any such law.

Remuneration of
President
of Senate
and
Speaker.

(2) The salary of the President of the Senate or of the Speaker shall not be reduced during his continuance in office.

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

- (a) the President of the Senate in the circumstances referred to in subsection (4) of section *sixteen*; or
- (b) the Speaker in the circumstances referred to in subsection (4) of section *twenty*;

as the case may be.

23. A Minister or Deputy Minister who is a member of the Senate or the House of Assembly shall have the right to sit and speak both in the Senate and in the House of Assembly but shall vote only in the House of which he is a member.

Powers of
Ministers
and Deputy
Ministers
in Senate
and House

Vacating of seats by members.

24. (1) A member of the Senate who is elected as a member of the House of Assembly or as the Speaker shall vacate his seat as a Senator with effect from the date on which he becomes a member of the House of Assembly or is elected as the Speaker, as the case may be.

(2) A member of the House of Assembly who is elected or appointed as a member of the Senate or elected as the President of the Senate shall vacate his seat as a member of the House of Assembly with effect from the day on which he becomes a member of the Senate or is elected as the President of the Senate, as the case may be.

Tenure of seat of member of Senate or House of Assembly.

25. (1) The seat of a member of the Senate or the House of Assembly shall become vacant—

- (a) on the dissolution of Parliament next following his election or appointment; or
- (b) if he resigns his seat by notice in writing to the President of the Senate or the Speaker, as the case may be, or, in the case of the death, incapacity or absence from Rhodesia of the President of the Senate or the Speaker, to the Secretary to Parliament; or
- (c) if he is absent from twenty-one consecutive sittings during any session without the leave of the Senate or the House of Assembly, as the case may be, and the Senate or the House of Assembly has resolved by a majority of the total membership of the Senate or the House of Assembly that the seat shall become vacant; or
- (d) if he is elected as the President of the Senate or the Speaker; or
- (e) if he accepts any public office; or
- (f) if he ceases to be qualified for election to the Senate or the House of Assembly, as the case may be, in terms of the Electoral Law; or
- (g) in the circumstances set out in section *twenty-six*; or
- (h) if he is required, by virtue of the provisions of section *twenty-seven*, to vacate his seat.

(2) The resignation of a member of the Senate or the House of Assembly shall not become effective to render the seat of that member vacant under the provisions of paragraph (b) of subsection (1) in any case in which—

- (a) proceedings are pending in respect of that member's election if it is alleged that illegal or corrupt practices took place at such election; or
- (b) proceedings in the Senate or the House of Assembly, as the case may be, are contemplated or pending in respect of that member's conduct in or as a member of the Senate or the House of Assembly;

unless the Senate or the House of Assembly, as the case may be, by resolution accepts the resignation.

(3) For the purposes of paragraph (e) of subsection (1), a person shall not be deemed to have accepted a public office by reason of—

- (a) accepting appointment as a Minister or a Deputy Minister; or
- (b) being an officer or member of any of the defence forces of Rhodesia whose services in peace time are not wholly in the employ of the Government; or
- (c) being an officer or member of the reserve forces of the British South Africa Police whose services are not wholly in the employ of the Government; or
- (d) holding any office for which no remuneration is paid other than payment by way of travelling or subsistence allowances or out-of-pocket expenses.

26. (1) In the event of a member of the Senate or the House of Assembly being convicted—

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

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

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

Members sentenced to death or to imprisonment.

application or appeal, whereupon the member shall forthwith vacate his seat unless—

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

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

(4) For the purposes of this section—

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

27. (1) If—

- (a) a member of the Senate or the House of Assembly is convicted of an offence described in subsection (1) of section *twenty-six* and is sentenced to imprisonment for a lesser period than that specified in that subsection or to a fine or other punishment not specified in that subsection; and

Expulsion
or
suspension
of members
convicted
of certain
offences.

- (b) the Senate or the House of Assembly, as the case may be, after taking into account the nature of the offence and the sentence imposed, resolves by the affirmative votes of not less than two-thirds of its total membership that the member is unfit to continue as a member or that the member should be suspended from the service of the Senate or the House of Assembly, as the case may be, for such period, not exceeding six months, as the Senate or the House of Assembly may specify;

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

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

28. Subject to the provisions of section *thirty-four*, the Senate or the House of Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof, including any vacancy not filled when the Senate or the House of Assembly is reconstituted at any time or when a member is suspended in terms of section *twenty-six* or *twenty-seven*, and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Senate or the House of Assembly or otherwise took part in the proceedings.

Validity of
proceedings.

29. (1) A general election of members of the House of Assembly shall be held on such day or days within a period not exceeding four months after the issue of a proclamation dissolving Parliament as the President may in that proclamation fix.

General
elections.

(2) In fixing the day or days for a general election of the members of the House of Assembly the President may fix one day for the election of the European members referred to in paragraph (a) of subsection (2) of section *eighteen* and of the African members referred to in subparagraph (i) of paragraph (b) of subsection (2) of section *eighteen* and a later day or days for the election of the African members referred to in subparagraph (ii) of paragraph (b) of subsection (2) of section *eighteen*.

PART V

GENERAL POWERS AND PROCEDURE

Power to
make laws.

30. (1) The Legislature shall be the sovereign legislative power in and over Rhodesia.

(2) The Legislature shall have power to make laws, to be entitled "Acts", for the peace, order and good government of Rhodesia.

(3) The powers of the Legislature shall extend to the making of laws having extra-territorial operation.

(4) Without derogation from the generality of the powers conferred by this section, the Legislature shall have power to make laws providing for the division of Rhodesia into provinces and other regional divisions, the creation of provincial councils and other regional bodies and the allocation of functions and powers to such councils and bodies for the purpose of the administration of the divisions.

Standing
Orders.

31. Subject to the provisions of this Constitution, the Senate and the House of Assembly may, jointly or severally as may be appropriate, make Standing Orders with respect to—

- (a) the passing, intituling and numbering of Bills;
- (b) the notification to the President of any vacancy in the membership of the Senate or the House of Assembly;
- (c) any matter in connexion with which Standing Orders may be made in terms of this Constitution;

and, generally, with respect to the regulation and orderly conduct of proceedings and business in and between the Senate and the House of Assembly.

Oath of
loyalty.

32. Every member of the Senate or the House of Assembly shall, before taking part in any proceedings thereof, other than proceedings necessary for the purpose of this section, make and subscribe before the Senate or the House of Assembly, as the case may be, the oath of loyalty in the form set out in the First Schedule.

33. (1) The President of the Senate or, when he is unable to act, the Deputy President of the Senate or, when they are both unable to act, a Senator, not being a Minister or a Deputy Minister, elected or appointed in accordance with the Standing Orders, shall preside over the deliberations of the Senate: Presiding in
Parliament.

Provided that the President of the Senate or the Deputy President of the Senate or other Senator, as the case may be, when acting for the President of the Senate shall not preside over the deliberations of the Senate in Committee.

(2) The Speaker or, when he is unable to act, the Deputy Speaker or, when they are both unable to act, a member of the House of Assembly, not being a Minister or a Deputy Minister, elected or appointed in accordance with the Standing Orders, shall preside over the deliberations of the House of Assembly:

Provided that the Speaker or the Deputy Speaker or other member of the House of Assembly, as the case may be, when acting for the Speaker shall not preside over the deliberations of the House of Assembly in Committee.

34. (1) If objection is taken by a member of the Senate present that there are present, besides the President of the Senate or the Senator presiding, fewer than six Senators and, after such interval as may be prescribed in the Standing Orders, the President of the Senate or Senator presiding ascertains that the number of Senators present is less than six, the Senate shall thereupon be adjourned in accordance with the Standing Orders. Quorum in
Parliament.

(2) If objection is taken by a member of the House of Assembly present that there are present, besides the Speaker or the member presiding, fewer than ten members and, after such interval as may be prescribed in the Standing Orders, the Speaker or member presiding ascertains that the number of members present is less than ten, the House of Assembly shall thereupon be adjourned in accordance with the Standing Orders.

Voting in
Parliament.

35. (1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Senate or the House of Assembly shall be determined by a majority of the votes of the members present and voting.

(2) If, upon any question before the Senate or the House of Assembly, the votes of the members are equally divided, the motion shall be lost unless the person who is presiding has, by virtue of the proviso to subsection (3), a casting vote.

(3) The person presiding at a sitting of the Senate or of the House of Assembly, as the case may be, shall not have an original or a casting vote:

Provided that a Senator or a member of the House of Assembly when presiding at a sitting of the Senate or the House of Assembly, as the case may be, shall have and exercise a casting but not an original vote.

Parliamentary records
and
translation
of debates.

36. (1) Subject to the provisions of subsection (2), all debates and proceedings in the Senate or the House of Assembly shall be conducted and all records thereof shall be kept in the English language.

(2) The President of the Senate may, if he considers it to be necessary or desirable for the convenience of those Senators who are Chiefs, permit debates or other proceedings in the Senate to be conducted in Chishona and Sindebele, as well as in English, in which case he shall ensure that adequate provision is made for the translation of any language so used into the two other languages.

Privileges
of
Parliament
and
members.

37. Subject to the other provisions of this Constitution, a law of the Legislature may make provision to determine and regulate the privileges, immunities and powers of the Senate, the House of Assembly and the members thereof and to provide for penalties

for a person who sits or votes in the Senate or the House of Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so.

38. (1) There shall be a Secretary to Parliament appointed by the Speaker after consulting the President of the Senate and subject to the approval of the House of Assembly.

Secretary to
Parliament
and other
staff of
Parliament.

(2) A person appointed as the Secretary to Parliament shall not be removable from office except in pursuance of a resolution of the House of Assembly.

(3) The salary of the Secretary to Parliament shall not be reduced during his continuance in office.

(4) Subject to any wishes which may be expressed from time to time by the House of Assembly, the Speaker shall, after consulting the President of the Senate, appoint such number of other staff of Parliament as the Speaker may from time to time consider necessary.

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

39. (1) The President may at any time—

- (a) attend and address the Senate or the House of Assembly; or
- (b) call a joint meeting of the Senate and the House of Assembly and attend and address such joint meeting.

President
and other
persons
may address
Parliament.

(2) The President may send messages to the Senate or the House of Assembly and any such message shall be read by a Minister designated by the President at the first convenient sitting of the Senate or the House of Assembly, as the case may be, after it is received.

(3) When acting in terms of subsection (1) or (2) the President shall have regard to such constitutional conventions and practices referred to in subsection (3) of section fifty-four, if any, as are relevant and appropriate in the circumstances.

(4) The Senate and the House of Assembly may, either jointly or severally, pursuant to a resolution, invite any person to address the Senate or the House of Assembly or, as the case may be, a joint meeting of the Senate and the House of Assembly.

PART VI

PROCEDURE IN REGARD TO BILLS, ETC.

40. (1) Any Bill may originate in the House of Assembly.

Introduction
of Bills,
motions and
resolutions.

(2) Any Bill, other than a Money Bill or a private Bill, may originate in the Senate.

(3) Subject to the provisions of this Constitution and the Standing Orders—

- (a) any member of the Senate may introduce any Bill into or move any motion for debate in or present any petition to the Senate and the same shall be debated and disposed of according to the Standing Orders of the Senate;
- (b) any member of the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to the House of Assembly and the same shall be debated and disposed of according to the Standing Orders of the House of Assembly;
- (c) any Minister or Deputy Minister who is a member of the Senate or the House of Assembly may introduce any Bill into or move any motion for debate in or present any petition to either the Senate or the House of Assembly and the same shall be debated and disposed of according to the Standing Orders of the Senate or the House of Assembly, as the case may be.

(4) Except on the recommendation of the President signified by a Minister or a Deputy Minister, the Senate or the House of Assembly shall not—

- (a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the President of the Senate or the Speaker, as the case may be, makes provision for any of the following matters—
 - (i) imposing or increasing any tax;
 - (ii) imposing or increasing any charge on the Consolidated Revenue Fund or other public funds of Rhodesia or altering any such charge otherwise than by reducing it;
 - (iii) compounding or remitting any debt due to the Government of Rhodesia;
 - (iv) authorizing the making or raising of any loan by the Government of Rhodesia;

or

- (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the President of the Senate or the Speaker, as the case

may be, is that provision should be made for any of the matters specified in paragraph (a); or

- (c) receive any petition which, in the opinion of the President of the Senate or the Speaker, as the case may be, requests that provision be made for any of the matters specified in paragraph (a).
- (5) The provisions of subsection (4) shall not apply to—
 - (a) any Bill introduced, motion moved or petition presented by a Minister or a Deputy Minister; or
 - (b) any amendment moved by a Minister or a Deputy Minister to a Bill or motion.

41. (1) Immediately after a Bill which originates in the House of Assembly has been given a final reading and passed by the House of Assembly, the Speaker shall cause an authenticated copy of the Bill to be transmitted to the Senate for consideration and the day on which it is transmitted to be recorded in the journal of the House of Assembly.

Procedure
in regard
to Bills.

(2) A Bill transmitted to the Senate in terms of subsection (1) shall be introduced forthwith into the Senate and, subject to the provisions of section *forty-six*, the Senate may reject the Bill or pass the Bill, with or without amendments.

(3) A Bill introduced into the Senate in terms of subsection (2) which has been given a final reading and passed by the Senate with amendments shall be returned forthwith to the House of Assembly with the amendments duly certified by the Secretary to Parliament and the House of Assembly may reject, agree to or amend the amendments made to the Bill by the Senate.

(4) Immediately after a Bill which originates in the Senate has been given a final reading and passed by the Senate, the President of the Senate shall cause an authenticated copy of the Bill to be transmitted to the House of Assembly for consideration and the day on which it is transmitted to be recorded in the journal of the Senate.

(5) A Bill transmitted to the House of Assembly in terms of subsection (4) shall be introduced into the House of Assembly as soon as may be convenient and the House of Assembly may reject the Bill or pass the Bill, with or without amendments.

(6) A Bill introduced into the House of Assembly in terms of subsection (5) which has been given a final reading and passed by the House of Assembly with amendments shall be returned to the Senate with the amendments duly certified by the Secretary to

Parliament and the Senate may reject, agree to or amend the amendments made to the Bill by the House of Assembly.

Dis-
agreement
between
Senate and
House of
Assembly.

42. (1) If—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originates in the House of Assembly before the expiration of a period of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate; or
- (b) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill which originates in the Senate before the expiration of a period of one hundred and eighty days beginning on the day of the return of the Bill to the Senate; or
- (c) a Bill which originates in the House of Assembly has been rejected or has not been passed by the Senate before the expiration of a period of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed:

Provided that if, in the opinion of the Speaker, a Bill which—

- (i) originates in the House of Assembly; and
- (ii) is introduced into the House of Assembly after the expiration of a period of one hundred and eighty days beginning on the day of the introduction into the Senate of a previous Bill originating in the Senate;

contains provisions identical with those contained in that previous Bill, except for minor changes required by the passage of time, the provisions of this subsection shall be construed and have effect as though the references in paragraphs (a) and (c) to a period of one hundred and eighty days were references to a period of eight sitting days.

(2) A Bill referred to in subsection (1) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly—

- (a) in the case of a Bill referred to in paragraph (a) or (c) of that subsection, after the expiration of a period of one hundred and eighty days beginning on the day of the introduction of the Bill into the Senate;
- (b) in the case of a Bill referred to in paragraph (b) of that subsection, after the expiration of a period of one hundred and eighty days beginning on the day of the return of the Bill to the Senate;
- (c) in the case of a Bill referred to in the proviso to that subsection, after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(3) The provisions of subsection (1) shall not apply to a constitutional Bill.

(4) A Bill referred to in subsection (1) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the relevant provisions of subsections (1) and (2) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(5) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (2) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(6) In the calculation of any period of one hundred and eighty days referred to in this section, no account shall be taken of any period during which Parliament is prorogued.

(7) For the purposes of this section—

- (a) a Bill originating in the House of Assembly shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-one*;
- (b) a Bill originating in the Senate shall be deemed to have been returned to the Senate on the sitting day next following the day on which the Bill is returned for the first time to the Senate in terms of subsection (6) of section *forty-one*.

43. (1) Subject to the provisions of subsection (6), every Bill shall, immediately after its introduction into the Senate, be referred to the Senate Legal Committee.

Functions
of Senate
Legal
Committee
in regard
to Bills.



(2) It shall be the duty of the Senate Legal Committee to examine every Bill referred to it in terms of subsection (1) and, subject to the provisions of subsection (3), to report to the Senate, within the period of twenty-one sitting days beginning on the day the Bill is referred to the Committee, whether or not, in the opinion of the Committee, any provision of the Bill, would, if enacted, be inconsistent with the Declaration of Rights.

(3) The President of the Senate may, on the application of the Chairman of the Senate Legal Committee, extend for a further period not exceeding twenty-one sitting days, as he thinks fit, the period specified in subsection (2) if he considers it proper to do so on account of the length or complexity of a Bill or the number of matters for the time being under consideration by the Committee or for any other sufficient reason and any extension of time so granted shall be recorded in the journal of the Senate.

(4) The Senate shall not proceed upon a Bill after the introduction of the Bill into the Senate unless a report of the Senate Legal Committee on the Bill has been presented to the Senate:

Provided that if no report on a Bill has been presented to the Senate within the period specified in subsection (2) or any extension of that period which may have been granted in terms of subsection (3), it shall be presumed that the Committee is of the opinion that no provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights and, accordingly, the Senate may proceed upon the Bill.

(5) The provisions of this section shall, *mutatis mutandis*, apply to a provision of a Bill which is amended by the House of Assembly after the Bill has been given a final reading in the House of Assembly or in the Senate.

(6) The provisions of subsection (1) shall not apply to—

- (a) a Money Bill; or
- (b) a constitutional Bill; or
- (c) a Bill to which the proviso to subsection (1) of section *forty-two* applies.

(7) A Minister may, if he sees fit, transmit to the Secretary to Parliament for examination by the Senate Legal Committee a draft of any Bill he proposes to introduce into the Senate or the House of Assembly and the Secretary to Parliament shall forthwith refer the Bill to the Senate Legal Committee and the

Senate Legal Committee shall consider the Bill and cause the Minister to be informed whether or not, in the opinion of the Committee, any, and if so which, provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights but nothing herein contained shall affect the provisions of subsections (1) to (6) in so far as they apply should that Bill be introduced into the Senate.

44. (1) It shall be the duty of the Senate to consider any report presented to the Senate in terms of section *forty-three* which states that, in the opinion of the Senate Legal Committee, a provision of a Bill would, if enacted, be inconsistent with the Declaration of Rights.

Reports of
Senate
Legal
Committee.

(2) After considering the report, if any, presented to the Senate in terms of section *forty-three* in relation to a Bill the Senate may resolve that a provision of that Bill would, if enacted, be inconsistent with the Declaration of Rights.

(3) If the Senate resolves that a provision of a Bill would, if enacted, be inconsistent with the Declaration of Rights the Senate shall not pass the Bill containing that provision or, as the case may be, agree to that provision unless the Senate has further resolved that the enactment of that provision is necessary in the national interest.

45. (1) The Prime Minister may, subject to the provisions of subsection (4), certify that a Bill originating in the House of Assembly which has been given a final reading and passed by the House of Assembly is so urgent that it is not in the national interest to delay the enactment of the Bill.

Procedure
in regard
to Bills
where
certificate
of urgency
is issued.

(2) If—

- (a) the Senate and the House of Assembly have not agreed upon the amendments to be made to a Bill in respect of which a certificate has been issued in terms of subsection (1) before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate; or
- (b) a Bill in respect of which a certificate has been issued in terms of subsection (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate;

the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as the Senate and the House of Assembly may have agreed.

(3) A Bill referred to in subsection (2) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(4) The provisions of this section shall not apply to—

- (a) a constitutional Bill; or
- (b) a Bill referred to in section *eighty*.

(5) A Bill referred to in subsection (2) shall not be presented to the President for assent unless it is accompanied by a certificate from the Speaker stating that the Bill is a Bill to which the provisions of subsections (2) and (3) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(6) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (3) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(7) For the purposes of this section a Bill in respect of which a certificate has been issued in terms of subsection (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-one*.

(8) If, in the case of a Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (3), the Senate has not considered that Bill in the form in which it was presented to the President for assent, a copy of that Bill certified by the Secretary to Parliament to be in the form in which it was presented to the President for assent shall be transmitted to the Senate immediately after its enactment and the provisions of sections *forty-three* and *forty-four* shall, *mutatis mutandis*, apply in relation to that Bill.

(9) The provisions of subsections (10) and (11) shall apply to a Bill to which the President has assented in pursuance of the provisions of this section if the Senate—

- (a) resolved before the day on which that Bill was enacted that a provision of that Bill, as enacted, was a provision which would, if enacted, be inconsistent with the Declaration of Rights and was not necessary in the national interest; or
- (b) resolves within a period of thirty sitting days beginning on the day on which that Bill was enacted that a provision of that Bill is inconsistent with the Declaration of Rights and is not necessary in the national interest.

(10) If, before the expiration of a period of eight sitting days beginning on—

- (a) the day of the resolution of the Senate referred to in subsection (9); or
- (b) the day on which the Bill is enacted;

whichever is the later day, the House of Assembly has not passed a resolution such as is referred to in subsection (11), the President shall forthwith cause to be published in the *Gazette* a notice annulling the provision to which the resolution of the Senate relates.

(11) If, before the expiration of the period referred to in subsection (10), the House of Assembly has, by the affirmative votes of more than one-half of the total membership of the House of Assembly, resolved that the provision of the Bill to which the resolution of the Senate relates shall remain in force, the provision shall, unless it is sooner repealed or has had its effect, continue in force for a period of two hundred and seventy days beginning on the day of the resolution or the day on which the Bill is enacted; whichever is the later day:

Provided that, if—

- (a) the resolution of the House of Assembly referred to in this subsection was passed by the affirmative votes of not less than two-thirds of the total membership of the House of Assembly; or
- (b) before the expiration of the period of two hundred and seventy days referred to in this subsection the House of Assembly has, by the affirmative votes of not less than two-thirds of the total membership of the House of Assembly, passed a further resolution that the provision shall remain in force;

the provision shall continue in force after the expiration of the period of two hundred and seventy days, unless it is sooner repealed or has had its effect.

(12) Where the Senate or the House of Assembly passes a resolution in pursuance of the provisions of subsection (9), (10) or (11), the Secretary to Parliament shall cause to be published in the *Gazette* a notice of such resolution and of the effect thereof.

(13) The annulment of any provision of an Act in terms of this section shall not affect the operation thereof as respects things previously done or omitted to be done in terms of that provision and no action, indictment or other legal proceedings whatsoever shall be brought or instituted in any court of law for or on account of or in respect of any act or thing whatsoever in good faith done or omitted to be done under that provision.

Money Bills.

46. (1) The Senate shall not have power to amend a Bill which is certified by the Speaker to be a Money Bill but may recommend amendments to the House of Assembly.

(2) An amendment to a Bill referred to in subsection (1) which is recommended by the Senate shall be duly certified by the Secretary to Parliament and transmitted to the House of Assembly for its consideration.

(3) After the House of Assembly has considered amendments to a Bill referred to in subsection (1) which have been recommended by the Senate the Bill shall be presented to the President for assent in the form in which it was passed by the House of Assembly with such amendments, if any, as may have been made by the House of Assembly on the recommendation of the Senate.

(4) If a Bill referred to in subsection (1) has not been passed by the Senate before the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate, the Bill may, subject to the provisions of this section, be presented to the President for assent in the form in which it was passed by the House of Assembly.

(5) A Bill referred to in subsection (4) shall not be presented to the President for assent unless a resolution that the Bill be presented to the President for assent has been passed by the House of Assembly after the expiration of a period of eight sitting days beginning on the day of the introduction of the Bill into the Senate.

(6) A Bill referred to in subsection (4) shall not be presented to the President for assent unless it is accompanied by a certificate

from the Speaker stating that the Bill is a Bill to which the provisions of subsections (4) and (5) apply and that the Bill may lawfully be presented for assent by virtue of those provisions.

(7) A Bill presented to the President for assent in pursuance of a resolution of the House of Assembly referred to in subsection (5) shall be deemed to have been duly passed by Parliament in the form in which it is presented to the President.

(8) For the purposes of this section, a Bill referred to in subsection (1) shall be deemed to have been introduced into the Senate on the sitting day next following the day on which a copy of the Bill is transmitted to the Senate in terms of subsection (1) of section *forty-one*.

47. Subject to the provisions of this Constitution and the Standing Orders, after a Bill has been returned to the House in which it originated, the Senate or the House of Assembly may, by message to the other House pursuant to a resolution, agree to any amendment or withdraw any amendment which has been made to the Bill.

Provisions relating to amendments to Bills.

48. (1) No Bill shall become law unless the President has assented thereto and has signed it in token of such assent.

Assent to Bills.

(2) A Bill shall be presented to the President for assent when it has been duly passed by Parliament, subject always to compliance with any other requirements of this Constitution that apply to such Bill.

(3) Subject to the provisions of subsection (5) of section *forty-two*, subsection (6) of section *forty-five*, subsection (7) of section *forty-six* and Chapter VI, a Bill shall be duly passed by Parliament if the Bill has been agreed by the Senate and the House of Assembly in the form in which it is presented to the President for assent.

(4) When a Bill is presented to the President for assent he shall declare, subject to the law and constitutional convention, that he assents or refuses assent thereto.

(5) In every Bill presented to the President for assent the words of enactment shall be—

“Be it enacted by the President and the Parliament of Rhodesia”.

Further provisions relating to enactment of Bills.

49. (1) Where in this Constitution there is a provision that a Bill of a specified description shall not be presented to the President for assent unless it is accompanied by a prescribed certificate, the President shall not assent to such Bill unless it is accompanied by the prescribed certificate.

(2) A law assented to by the President shall come into operation on the day of its publication in the *Gazette* or on such other day as may be specified in or under that or some other law.

Enrolment of Acts.

50. (1) As soon as may be after a Bill has been assented to by the President, the Secretary to Parliament shall cause a fair copy of the Act, duly authenticated by the signature of the President and the Public Seal of Rhodesia, to be enrolled on record in the Office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of such Act.

(2) Notwithstanding the provisions of subsection (1), a law of the Legislature may provide that a revised edition of the laws in force on any specified day shall be compiled and published and that, upon publication, the laws therein printed shall in all courts of justice and for all purposes whatever be the sole and authentic version of such laws and be conclusive evidence thereof, and the President shall cause a duly authenticated copy of such revised edition of the laws to be deposited in the Office of the Registrar of the High Court.

(3) The validity of an Act of the Legislature or of a revised edition of the laws shall not depend upon the enrolment or deposit thereof in pursuance of the provisions of this section.

PART VII

SUMMONING, PROROGATION AND DISSOLUTION

Sessions of Parliament.

51. (1) Subject to the provisions of this section, the sessions of Parliament shall be held in such place and shall begin at such time and on such day as the President may direct by proclamation published in the *Gazette*.

(2) There shall be a session of Parliament beginning in every calendar year so that a period of more than twelve months shall not intervene between the last sitting of either House in any one session and the first sitting of Parliament in the next session.

52. (1) The President may at any time, by proclamation published in the *Gazette*, prorogue or dissolve Parliament.

Prorogation and dissolution.

(2) Parliament shall be dissolved in pursuance of a proclamation issued in terms of subsection (1) on the day preceding the day fixed in that proclamation for the holding of a general election of European members of the House of Assembly referred to in section *twenty-nine*.

(3) A proclamation dissolving Parliament shall be issued by the President before the expiration of the period of five years beginning on the day when Parliament first met after the holding of the last preceding general election unless Parliament has sooner been dissolved.

(4) The President shall prorogue or dissolve Parliament when so advised by the Prime Minister.

(5) If at any time the President is of the opinion that according to any constitutional convention referred to in subsection (3) of section *fifty-four* Parliament should be dissolved and there is no Prime Minister or the Prime Minister has not advised the dissolution of Parliament, the President, acting in his discretion in accordance with such convention, may dissolve Parliament.

(6) On the dissolution of Parliament all proceedings pending at the time shall be terminated and accordingly every Bill, motion, petition or other business shall lapse.

CHAPTER III

THE EXECUTIVE

53. The executive government of Rhodesia in regard to all aspects of its internal and external affairs is vested in the President acting, subject to the provisions of this Chapter, on the advice of the Executive Council.

Executive government vested in President acting on advice of Executive Council.

54. (1) In addition to the powers conferred by this Constitution and any other law, the President shall, as the Head of State, have such powers and functions as were, immediately before the appointed day, possessed by the Officer Administering the Government of Rhodesia by way of prerogative.

Executive powers.

(2) Without derogation from the generality of the powers conferred by subsection (1), the President shall, subject to the provisions of this Constitution, have power—

- (a) to appoint and to accredit, to receive and to recognize ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers; and
- (b) to enter into and to ratify international conventions, treaties and agreements; and
- (c) to proclaim and to terminate martial law; and
- (d) to declare war and to make peace; and
- (e) to confer honours and precedence.

(3) Subject to the provisions of this Constitution and any other law by which powers or duties are conferred or imposed, the President shall do and execute all things that belong to his office according to such constitutional conventions and practices as were applicable in Rhodesia immediately before the appointed day.

Ministers
and
Deputy
Ministers.

55. (1) The President—

- (a) acting in his discretion in the manner prescribed in proviso (ii) to subsection (1) of section *fifty-seven* shall appoint a Prime Minister;
- (b) acting on the advice of the Prime Minister—
 - (i) shall appoint other Ministers of the Government and may assign functions to such Ministers, including the administration of any Act or of any department of government; and
 - (ii) may appoint Deputy Ministers of any specified department of government or of such other description as the President may determine.

(2) A Deputy Minister may be appointed to exercise or perform on behalf of a Minister any of the powers, functions and duties entrusted to such Minister under any law or otherwise which may, subject to the directions of the President, be assigned to him from time to time by such Minister.

(3) A Minister or Deputy Minister appointed under paragraph (b) of subsection (1) shall hold office during the pleasure of the President and may be removed from office by the President acting on the advice of the Prime Minister.

(4) A person who holds office as a Minister or a Deputy Minister for any period of four consecutive months without also being a member of the House of Assembly or of the Senate shall

cease to be a Minister or a Deputy Minister, as the case may be, at the end of that period:

Provided that if that period expires at a time when Parliament is dissolved, he shall cease to be a Minister or a Deputy Minister, as the case may be, on the day when Parliament first meets after the dissolution, unless he is—

- (a) elected as a member of the House of Assembly at the general election following such dissolution; or
- (b) elected or appointed as a member of the Senate immediately following that general election.

(5) A person who holds office as a Minister or a Deputy Minister and who is at no time while holding that office also a member of the House of Assembly or of the Senate shall be ineligible for reappointment as a Minister or a Deputy Minister before Parliament is next dissolved after he ceases to hold that office, unless in the meantime he has become a member of the House of Assembly or of the Senate.

(6) A Minister or a Deputy Minister may at any time by notice in writing addressed to the President and delivered to the Prime Minister resign his office.

(7) Any person appointed under this section shall, before entering upon his office, take before the President or some person authorized by the President in that behalf oaths of loyalty and for the due execution of his office in the forms set out in the First Schedule.

56. (1) To advise the President in the government of Rhodesia, there shall be an Executive Council consisting of the Prime Minister and such other persons, being Ministers, as the President, on the advice of the Prime Minister, may from time to time appoint.

Executive
Council.

(2) A member of the Executive Council shall hold office during the pleasure of the President and may be removed from office by the President, acting on the advice of the Prime Minister:

Provided that—

- (i) he shall cease to hold office if he ceases to be a Minister;
- (ii) he may at any time by notice in writing to the President and delivered to the Prime Minister resign his office.

(3) Any person appointed under this section shall, before entering upon his office, take before the President or some person authorized by the President in that behalf the oath of a member of the Executive Council in the form set out in the First Schedule.

Exercise of functions of President.

57. (1) In the exercise of his functions the President shall act in accordance with the advice of the Executive Council or the appropriate Minister or the Prime Minister on behalf of the Ministers of the Government of Rhodesia, as the case may require, except where under this Constitution or any other law he is required to act in accordance with the advice of any other person or authority:

Provided that—

- (i) in exercising his powers in terms of section *thirty-nine* the President shall, subject to the provisions of subsection (3) of that section, act in accordance with his own discretion;
- (ii) in appointing a Prime Minister in terms of paragraph (a) of subsection (1) of section *fifty-five* the President shall appoint the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly;
- (iii) in exercising his powers in terms of subsection (2) or subsection (8) of section *sixty-eight* in relation to the Chief Justice the President shall act in accordance with his own discretion.

(2) Where the President is required to act in accordance with his own discretion or the advice of any specified person or authority, a court shall not, in any case, inquire into any of the following questions or matters—

- (a) on whose advice the President acted;
- (b) whether any advice was tendered or acted on;
- (c) the nature of any advice tendered;
- (d) the manner in which the President has exercised his discretion as referred to in the provisos to subsection (1).

(3) Save where expressly provided that the President shall act in accordance with his own discretion, the provisions of this Constitution or any other law referring to the President shall be construed as referring to the President acting on the advice of the

Executive Council or other authority as provided in this Constitution or that law, as the case may be, and where he acts on the advice of any other authority by or under this Constitution or any other law, that fact may be stated in the relevant instrument but no act of the President, acting within the powers conferred upon him by or under this Constitution or any other law, shall be invalid by reason of the omission to state on whose advice he has acted.

58. The President, acting on the advice of the Prime Minister, may constitute such offices for Rhodesia as may lawfully be constituted and, subject to the provisions of this Constitution and of any other law, the President may—

Appointment, etc. of officers.

- (a) make appointments, to be held during pleasure, to any office so constituted; and
- (b) dismiss any person so appointed or take such other disciplinary action in relation to him as the President may think fit.

59. (1) Subject to the provisions of any law of the Legislature relating to land, including Tribal Trust Land, any land or other immovable property which is vested in the President may be granted, sold, leased or otherwise disposed of—

Disposal of land.

- (a) in terms of any enactment relating to the grant, sale, lease or other disposition of such land; or
- (b) if there is no enactment relating to the grant, sale, lease or other disposition of such land, by the President or by such Minister or other authority as the President may authorize to make such grants, sales, leases or other dispositions on his behalf.

(2) In granting any authorization in terms of paragraph (b) of subsection (1) the President may fix terms and conditions subject to which any particular immovable property or class of immovable property may be granted, sold, leased or otherwise disposed of by the authority concerned.

60. (1) The President may, subject to such lawful conditions as he may deem fit—

Prerogative of mercy.

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

- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any sentence passed on that person for such an offence; or
- (c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or
- (d) remit the whole or part of any sentence passed for such an offence or any penalty or forfeiture otherwise imposed on account of such an offence.

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

Declarations relating to public emergencies.

61. (1) The President may at any time, by proclamation published in the *Gazette*, declare that—

- (a) a state of public emergency exists; or
- (b) a situation exists which, if it is allowed to continue, may lead to a state of public emergency.

(2) A declaration in terms of subsection (1), if not sooner revoked, shall cease to have effect—

- (a) in the case of a declaration made when the House of Assembly is meeting for the transaction of business, at the expiration of a period of seven days beginning with the day of the publication of the proclamation in the *Gazette*;
- (b) in any other case, at the expiration of a period of thirty days beginning with the day of the publication of the proclamation in the *Gazette*;

unless, before the expiration of that period, the declaration is approved by a resolution passed by the House of Assembly:

Provided that, if Parliament is dissolved during the period of thirty days referred to in paragraph (b), the declaration, unless sooner revoked, shall cease to have effect at the expiration of a period of sixty days beginning with the day of the publication of the proclamation in the *Gazette* unless, before the expiration of that period, the declaration is approved by a resolution passed by the House of Assembly.

(3) Where a declaration in terms of subsection (1)—

- (a) is not approved by a resolution passed by the House of Assembly in pursuance of the provisions of sub-

section (2), the President shall forthwith after the House of Assembly has considered the resolution and failed to approve it or, if the House of Assembly has not considered the resolution, on the expiration of the appropriate period specified in subsection (2), by proclamation published in the *Gazette*, revoke such declaration;

- (b) is approved by a resolution passed by the House of Assembly in pursuance of the provisions of subsection (2), such declaration shall, subject to the provisions of subsections (4) and (5), continue in force for a period of twelve months beginning with the day of the publication of the proclamation in the *Gazette*:

Provided that, where the House of Assembly has in the resolution in pursuance of the provisions of subsection (2) specified that such declaration shall continue in force for a period of less than twelve months, the President shall, by proclamation published in the *Gazette*, declare that the declaration shall, subject to the provisions of subsection (4), be revoked at the expiration of the period specified in the resolution.

(4) If the House of Assembly resolves that it considers it expedient that a declaration in force in terms of this section should be continued in force for a further period not exceeding twelve months, the President shall forthwith, by proclamation published in the *Gazette*, extend such declaration for such further period as may be so resolved.

(5) The House of Assembly may at any time resolve that a declaration in force under this section should be revoked and the President shall forthwith, by proclamation published in the *Gazette*, revoke such declaration.

(6) A declaration in terms of this section may be continued in force in terms of this section notwithstanding that such declaration has previously been continued in force in terms of this section.

(7) For the purposes of this section the House of Assembly shall be regarded as meeting for the transaction of business during a period—

- (a) beginning on the day the House of Assembly first meets after a dissolution or prorogation or an adjournment in pursuance of the passing of a resolution such as is referred to in paragraph (b); and

- (b) ending on the day the House of Assembly next adjourns in pursuance of a resolution the purpose of which is that the House of Assembly shall stand adjourned for more than thirty days or on the day the House of Assembly is dissolved or prorogued, whichever is the sooner.

CHAPTER IV

THE JUDICATURE

Constitution and powers of High Court of Rhodesia.

62. (1) The judicial authority of Rhodesia shall be vested in a High Court, to be known as the High Court of Rhodesia.

(2) The High Court of Rhodesia shall consist of such Divisions and shall have such jurisdiction as may be prescribed by a law of the Legislature.

Chief Justice of Rhodesia.

63. There shall be a Chief Justice of Rhodesia who shall be the head of the judiciary in Rhodesia.

Appointment of judges.

64. Judges of the High Court, including acting judges, who are suitably qualified in terms of section *sixty-five* shall be appointed by the President on the advice of the Prime Minister by instrument under the Public Seal of Rhodesia on such terms and conditions as may, subject to the provisions of this Chapter, be prescribed by a law of the Legislature:

Provided that, before advising the President on the appointment of any judge other than the Chief Justice, the Prime Minister shall consult with the Chief Justice.

Qualifications of judges.

65. (1) A person shall not be qualified for appointment as a judge of the High Court unless—

- (a) he is or has been a judge of a superior court in a country in which the common law is Roman-Dutch and English is an official language; or
- (b) he is, and has been for not less than ten years, qualified to practise as an advocate in Rhodesia or in a country in which the common law is Roman-Dutch and English is an official language.

(2) In computing, for the purpose of paragraph (b) of subsection (1), the period during which any person has been qualified to practise as an advocate, any period during which he has held judicial office after having so qualified shall be included.

66. A judge of the High Court shall not enter upon the duties of his office unless he has taken before the President or some other person authorized by the President in that behalf the oath of loyalty and the judicial oath in the forms set out in the First Schedule.

Oath of office.

67. (1) Subject to the provisions of section *sixty-eight*, a judge of the High Court shall retire when he attains the age of sixty-five years unless, before attaining that age, he has elected to retire on attaining the age of seventy years:

Tenure of office of judges.

Provided that—

- (i) an election in terms of this subsection shall be subject to the submission to and acceptance by the President of a medical report as to the mental and physical fitness of the judge so to continue in office;
- (ii) the provisions of this subsection shall not apply to a person who has been appointed to act as a judge of the High Court for a specified or unspecified period.

(2) A judge of the High Court may at any time resign his office by notice in writing to the President.

(3) The office of a judge of the High Court shall not, without his consent, be abolished during his tenure of office.

(4) Nothing done by a judge of the High Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

68. (1) A judge of the High Court may be removed from office by the President only for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour and shall not be so removed unless the question of the removal of that judge from office has been referred to an independent tribunal and that tribunal has recommended that the judge be removed from office for inability as aforesaid or misbehaviour.

Removal from office of judges.

(2) If the President, acting in accordance with his own discretion, considers that the question of the removal from office of the Chief Justice for inability as referred to in subsection (1) or misbehaviour ought to be investigated, the President shall appoint a tribunal in terms of subsection (4) to inquire into the matter.

(3) If, in the case of a judge of the High Court other than the Chief Justice, the Chief Justice advises the President that the question of removal from office of the judge concerned for inability as referred to in subsection (1) or misbehaviour ought to be investigated, the President shall appoint a tribunal in terms of subsection (4) to inquire into the matter.

(4) A tribunal referred to in subsection (2) or (3) shall consist of not less than three members selected by the President from the following—

- (a) the Speaker;
- (b) persons who have held office as a judge of the High Court or of the High Court of Southern Rhodesia;
- (c) persons who hold or have held office as a judge of a superior court of a country other than Rhodesia in which the common law is Roman-Dutch and English is an official language;
- (d) an advocate of not less than ten years' standing who has been nominated in terms of subsection (5) by the association representing advocates practising in Rhodesia;
- (e) an attorney of not less than ten years' standing who has been nominated in terms of subsection (5) by the association representing attorneys practising in Rhodesia;

one of whom shall be designated by the President as chairman.

(5) It shall be the duty of the association referred to in paragraph (d) or (e) of subsection (4) to nominate a panel containing the names of not less than three advocates or attorneys, as the case may be, for the purposes of the said paragraph when so required by the President.

(6) A tribunal appointed in terms of subsection (2) or (3) shall inquire into the matter and report on the facts thereof to the President and recommend to the President whether or not the judge concerned should be removed from office.

(7) The provisions of the Commissions of Inquiry Act [Chapter 61] or any other law substituted for the same shall, *mutatis mutandis*, apply in relation to a tribunal appointed under subsection (2) or (3) as they apply to commissioners appointed under that Act, and for that purpose those provisions shall have effect as if they formed part of this Constitution:

Provided that a law which amends, adds to or repeals or is substituted for any such provision shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter VI.

(8) If the question of removing a judge of the High Court from office has been referred to a tribunal under subsection (2) or (3), the President—

- (a) in the case of the Chief Justice, acting in accordance with his own discretion;
- (b) in the case of a judge of the High Court other than the Chief Justice, acting on the advice of the Chief Justice;

may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the tribunal does not recommend to the President that the judge be removed from office.

(9) If the tribunal appointed in terms of subsection (2) or (3) recommends that the judge be removed, the President shall, by order under the Public Seal of Rhodesia, remove that judge from office.

69. (1) There shall be charged upon and paid out of the Consolidated Revenue Fund to the judges of the High Court such salary as may from time to time be prescribed by a law of the Legislature and such allowances as may be prescribed by or under any such law.

Remuneration of judges.

(2) The salary payable to a judge of the High Court shall not be reduced during his continuance in office.

70. Subject to the provisions of any law relating to the application of African customary law, the law to be administered by the High Court and by any court in Rhodesia subordinate to the High Court shall be the law in force in the Colony of the Cape of Good Hope on the tenth day of June, 1891, as modified by subsequent legislation having in Rhodesia the force of law.

Law to be administered

CHAPTER V

FUNCTIONS OF SENATE LEGAL COMMITTEE IN REGARD TO SUBSIDIARY LEGISLATION

71. (1) Subject to the provisions of subsection (4) of section seventy-four, an authenticated copy of every statutory instrument

Statutory instruments to be referred to Senate Legal

published in the *Gazette* shall be transmitted by the prescribed authority in the prescribed manner to the Secretary to Parliament within such period of the day of the coming into force of the statutory instrument as may be prescribed and the Secretary to Parliament shall forthwith refer such statutory instrument to the Senate Legal Committee.

(2) The President shall by notice in the *Gazette* prescribe the matters which are required by subsection (1) to be prescribed.

Senate Legal
Committee
to report.

72. (1) It shall be the duty of the Senate Legal Committee to examine every statutory instrument referred to the Committee in terms of section *seventy-one* and, subject to the provisions of subsections (2) and (3), to report to the President of the Senate and to the prescribed authority referred to in that section within the period of twenty-one days beginning on the day the statutory instrument is referred to the Committee whether or not, in the opinion of the Committee, any provision of the statutory instrument is inconsistent with the Declaration of Rights.

(2) The President of the Senate may on the application of the Chairman of the Senate Legal Committee extend for a further period not exceeding twenty-one days, as he thinks fit, the period specified in subsection (1) if he considers it proper to do so on account of the length or complexity of a statutory instrument or the number of matters for the time being under consideration by the Committee or for any other sufficient reason, and any extension of time so granted shall be recorded in the journal of the Senate.

(3) The Senate Legal Committee shall not report any provision of a statutory instrument to be inconsistent with the Declaration of Rights if such inconsistency is expressly or by necessary implication authorized by the enactment in terms of which that statutory instrument is made.

Senate to
consider
report.

73. (1) The President of the Senate shall cause every report of the Senate Legal Committee on a statutory instrument which is received by him within the time prescribed in or any extension thereof granted in terms of subsection (1) of section *seventy-two* to be laid before the Senate as soon as may be after receiving that report.

(2) It shall be the duty of the Senate to consider any report presented to the Senate in terms of subsection (1) which states that, in the opinion of the Senate Legal Committee, a provision

of a statutory instrument is inconsistent with the Declaration of Rights.

74. (1) If, after considering a report in terms of subsection (2) of section *seventy-three*, the Senate resolves, within seven sitting days after that report was laid before the Senate in terms of subsection (1) of section *seventy-three*, that a provision of the statutory instrument is inconsistent with the Declaration of Rights and that the provision is not necessary in the national interest the President shall, subject to the provisions of subsection (3), as soon as possible after the expiration of the period of twenty-one sitting days after such resolution cause to be published in the *Gazette* a notice that the provision in question is annulled with effect from the day of the publication of that notice, unless prior to that day the provision has been revoked or amended by the authority empowered to revoke or amend it.

Procedure
after
report
considered.

(2) Where the Senate has passed a resolution referred to in subsection (1) the President of the Senate shall cause the House of Assembly forthwith to be informed thereof.

(3) If, within twenty-one sitting days beginning on the day that the Senate has passed the resolution referred to in subsection (1), the House of Assembly resolves by the affirmative votes of not less than two-thirds of its total membership that the provision in question is necessary in the national interest, the President shall not annul the provision in terms of subsection (1).

(4) If, in the case of a provision of a statutory instrument which has been annulled by the President in terms of subsection (1) the House of Assembly resolves, after the expiration of one hundred and eighty days beginning on the day on which that provision was annulled, that the provision in question should again become law, the authority empowered to amend the provision shall cause it to be published in the *Gazette* and it shall become of full force and effect and shall not be transmitted to the Secretary to Parliament in terms of section *seventy-one*.

(5) The annulment of any provision of a statutory instrument in terms of this section shall not affect the operation thereof as respects things previously done or omitted to be done in terms of that provision and no action, indictment or other legal proceedings whatsoever shall be brought or instituted in any court of law for or on account of or in respect of any act or thing whatsoever in good faith done or omitted to be done under that provision.

Report on
draft
statutory
instruments.

75. (1) An authority empowered to make a statutory instrument may, if it sees fit, transmit to the Secretary to Parliament for examination by the Senate Legal Committee a draft of any such statutory instrument it proposes to make and the Secretary to Parliament shall forthwith refer the statutory instrument to the Senate Legal Committee and the Senate Legal Committee shall consider the statutory instrument and cause that authority to be informed whether or not, in the opinion of the Committee, any, and if so which, provision of the statutory instrument would, if made, be inconsistent with the Declaration of Rights.

- (2) Nothing in subsection (1) contained shall relieve—
- (a) the prescribed authority from complying with the provisions of section *seventy-one* when the statutory instrument is published in the *Gazette*; or
 - (b) the Senate Legal Committee from reporting on that statutory instrument in accordance with the provisions of section *seventy-two*.

CHAPTER VI

AMENDMENT OF THE CONSTITUTION AND ENTRENCHED PROVISIONS OF OTHER LAWS

General
power to
amend the
Constitution.

76. Subject to compliance with the other provisions of this Constitution, a law of the Legislature may amend, add to or repeal any of the provisions of this Constitution:

Provided that no Act of the Legislature shall be deemed to amend, add to or repeal any provisions of this Constitution unless it does so in express terms.

Constitu-
tional Bill
not to
amend other
laws.

77. A constitutional Bill shall not in express terms purport to amend, add to or repeal any law other than this Constitution.

Constitu-
tional Bill
to require
two-thirds
majority.

78. (1) No constitutional Bill shall be deemed to have been duly passed by Parliament unless—

- (a) subject to the provisions of subsection (2), at the final vote thereon in the Senate it receives the affirmative votes of not less than two-thirds of the total membership of the Senate; and
- (b) at the final vote thereon in the House of Assembly it receives the affirmative votes of not less than two-thirds of the total membership of the House of Assembly.

(2) If in the case of a constitutional Bill which at the final vote thereon in the Senate did not receive the affirmative votes of not less than two-thirds of the total membership of the Senate, the House of Assembly resolves, after the expiration of a period of one hundred and eighty days beginning on the day on which that Bill was first introduced into the Senate, that that Bill should be again transmitted to the Senate for further consideration and that Bill is then passed by the Senate and at the final vote thereon in the Senate receives the affirmative votes of more than one-half of the total membership of the Senate, that Bill shall, subject to the provisions of subsections (3), (4) and (5), be deemed to have been duly passed by Parliament.

(3) Subject to the provisions of subsections (4) and (5), the provisions of subsection (2) shall not apply to a constitutional Bill which amends any of the provisions of this Constitution enumerated in the Third Schedule as being specially entrenched provisions of this Constitution or any other provision which may hereafter be declared by an amendment of this Constitution to be a specially entrenched provision of this Constitution.

(4) A constitutional Bill which amends section *thirteen* so as to increase the number of Senators and does not amend any other specially entrenched provision of this Constitution, other than section *eighteen* in a manner specified in subsection (5), shall not be regarded for the purposes of subsection (3) as a constitutional Bill which amends a specially entrenched provision of this Constitution if, after such amendment—

- (a) the number of elected European Senators in the enlarged Senate is equal to the number of African Senators in the enlarged Senate; and
- (b) the proportion of appointed Senators in the Senate to the total number of Senators in the Senate immediately before the increase is not increased.

(5) A constitutional Bill which amends section *eighteen* so as to increase the number of members in the House of Assembly and does not amend any other specially entrenched provision of this Constitution, other than section *thirteen* in a manner specified in subsection (4), shall not be regarded for the purposes of subsection (3) as a constitutional Bill which amends a specially entrenched provision of this Constitution if, after such amendment—

- (a) the proportion of African members in the House of Assembly to the total number of members in the House of Assembly immediately before the increase is maintained; and
- (b) the total number of African members in the enlarged House of Assembly is an integral multiple of two; and
- (c) if the number of European members is not an integral multiple of two provision is made that at the time the number of African members in the House of Assembly is increased in terms of subsection (4) of section *eighteen* so as to equal the number of European members, there shall be an increase by one in the number of European members so that there will be equality of numbers of African members and European members.

(6) If in calculating the proportion of African members for the purposes of paragraph (a) of subsection (5), the resulting number of African members is—

- (a) a fraction of a number, such fraction shall be ignored or increased to the next integral number, as the case may be, in order to arrive at the nearest integral multiple of two; or
- (b) an integral number not being an integral multiple of two, the number of African members shall be increased by one.

79. A constitutional Bill shall not be submitted to the President for assent unless it is accompanied by—

- (a) a certificate from the President of the Senate that at the final vote thereon in the Senate the Bill—
 - (i) received the affirmative votes of not less than two-thirds of the total membership of the Senate; or
 - (ii) being a Bill to which the provisions of subsection (2) of section *seventy-eight* apply and not having received the affirmative votes of not less than two-thirds of the total membership of the Senate when first introduced into the Senate, the Bill was again introduced into the Senate subsequent to a resolution of the House of Assembly referred to in subsection (2) of section *seventy-eight* and thereafter received the affirmative votes of more

Submission
of constitu-
tional Bill
for assent.

than one-half of the total membership of the Senate;

and

- (b) a certificate from the Speaker that at the final vote thereon in the House of Assembly the Bill received the affirmative votes of not less than two-thirds of the total membership of the House of Assembly.

80. (1) Any Bill containing a provision which, if enacted, would have the effect of amending—

- (a) any provision of the Electoral Law which is specified in that law to be an entrenched provision for the purposes of this section shall, subject to the provisions of subsection (4), be subject to the same procedure in all respects as if it were a constitutional Bill;
- (b) any provision of the law relating to tenure of land, including Tribal Trust Land, which is specified in that law to be a specially entrenched provision for the purposes of this section shall, subject to the provisions of subsection (4), be subject to the same procedure in all respects as if it were a constitutional Bill to amend a specially entrenched provision of this Constitution specified in the Third Schedule.

Amendment
of
entrenched
provisions
of electoral
and land
tenure laws.

(2) A Bill enacted after the appointed day which declares any provision of the Electoral Law to be an entrenched provision for the purposes of this section shall, subject to the provisions of subsection (4), be subject to the procedure specified in paragraph (a) of subsection (1).

(3) A Bill enacted after the appointed day which declares any provision of a law specified in paragraph (b) of subsection (1) to be a specially entrenched provision for the purposes of this section shall, subject to the provisions of subsection (4), be subject to the procedure specified in paragraph (b) of subsection (1).

(4) A Bill referred to in subsection (1), (2) or (3) shall, immediately after its introduction into the Senate, be referred to the Senate Legal Committee and the provisions of subsections (2) to (5) of section *forty-three* shall, *mutatis mutandis*, apply in relation to that Bill.

(5) No Bill to which the provisions of subsection (1), (2) or (3) refer shall be presented to the President for assent unless the

Bill is accompanied by a certificate from the President of the Senate and a certificate from the Speaker such as is referred to in section *seventy-nine*.

(6) No Act of the Legislature shall be deemed to amend, add to or repeal any provision referred to in paragraph (a) or (b) of subsection (1) of a law referred to in that paragraph unless it does so in express terms.

CHAPTER VII

MISCELLANEOUS PROVISIONS

PART I

GENERAL

English
language.

81. The English language shall be the only official language of Rhodesia.

Public Seal
of Rhodesia.

82. (1) There shall be a Public Seal of Rhodesia showing the coat of arms of Rhodesia with the inscription "Rhodesia".

(2) The Public Seal of Rhodesia shall be kept by the President and used for sealing all things whatsoever that shall pass the Public Seal of Rhodesia.

The
Consolidated
Revenue
Fund.

83. (1) All taxes, fees and other revenues of the Government of Rhodesia from whatever source arising (not being moneys which are required by law to be paid into a separate fund) including the proceeds of all loans raised by the Government, shall form one Consolidated Revenue Fund.

(2) The costs and charges and expenses incidental to the collection and management of the Consolidated Revenue Fund shall form the first charge thereon.

(3) No money shall be withdrawn from the Consolidated Revenue Fund except to meet expenditure which is charged on the Consolidated Revenue Fund by this Constitution or by any law of the Legislature or where the issue of moneys has been authorized under an Appropriation Act:

Provided that a law of the Legislature may provide for—

- (a) making moneys available in advance of appropriation by the Legislature—
- (i) to cover any period not exceeding four months between the end of a financial year and the coming

into force of the law authorizing the appropriation for the next following financial year; or

(ii) for the purpose of meeting expenditure which is unforeseen or which cannot, without detriment to the public interest, be postponed;

(b) condoning the withdrawal of moneys from the Consolidated Revenue Fund in contravention of the provisions of this section.

84. No court shall inquire into or pronounce upon the validity of any law on the ground that it is inconsistent with the Declaration of Rights.

Declaration
of Rights
not
enforceable
in court.

85. (1) The law to be applied with respect to any pensions benefits that were granted to a person in respect of service in a public office which had terminated before the appointed day and with respect to any pensions benefits granted to the widow or dependants of such a person shall be the law that was in force at the date on which the service of that person in a public office was terminated.

Pensions
and
gratuities
of public
officers.

(2) On the termination of service on or after the appointed day, whether by death or otherwise, of a person holding public office, whether he was appointed thereto before, on or after the appointed day, the pension, gratuity or other benefit payable to that person, his widow or estate or in respect of his dependants, as the case may be, and the benefits payable on the death of such a person, if he is in receipt of a pension, shall be calculated and payable according to the law in force at the time of the termination of his service or, at the election of the person to whom the pension, gratuity or other benefit is payable or his legal representative, according to any other law which was in force and applicable to the person during the period of his service in public office.

(3) The provisions of subsection (1) or (2) shall not be construed as prohibiting a person referred to in that subsection from being granted benefits under a law in force after the termination of the service of the person who held public office, if such benefits are not less favourable to the person receiving such benefits.

(4) All pensions, gratuities and other benefits referred to in subsection (1) or (2) granted, whether before, on or after the appointed day, in accordance with a law for the time being in

force to persons who have held public office or to their widows or estates or in respect of their dependants shall be charged upon and paid out of the Consolidated Revenue Fund.

Rights in relation to local authority elections.

86. (1) An African shall not be entitled to vote in any election for or to be elected or appointed as a member of a municipal council, town council, rural council or other such local authority which is established in the European Area:

Provided that a law of the Legislature may provide that an African may participate in elections in respect of a board or council established to administer services or perform local government functions for an African township or a residential area within the European Area which is set aside for occupation by both Europeans and Africans or for a commercial area which is within an African township or such a residential area.

(2) A European shall not be entitled to vote in any election for or to be elected or appointed as a member of a municipal council, town council, rural council, African council or other such local authority which is established in the African Area:

Provided that a law of the Legislature may provide that a European may participate in elections in respect of a board or council established to administer services or perform local government functions for a European township or a residential area within the African Area which is set aside for occupation by both Africans and Europeans or for a commercial area which is within a European township or such a residential area.

(3) For the purposes of this section—

“African Area” means the African Area as defined in the Land Tenure Act, 1969;

“European Area” means the European Area as defined in the Land Tenure Act, 1969.

Legal force of Constitution.

87. (1) Any provision of an Act or of an instrument made under the authority thereof, enacted or made on or after the appointed day which is inconsistent with any provision of this Constitution or any provision referred to in paragraph (a) or (b) of subsection (1) of section eighty of a law referred to in that paragraph shall be invalid to the extent of the inconsistency.

(2) The provisions of subsection (1) shall not apply to any provision of an Act with respect to which the requirements of section seventy-eight or eighty, as the case may be, were applicable and have been complied with.

(3) A provision of an Act or instrument referred to in subsection (1) which is inconsistent with the Declaration of Rights shall not be regarded as invalid on the grounds of such inconsistency.

88. This Constitution shall come into operation immediately on the expiration of the day preceding the day on which the Officer Administering the Government has, by proclamation published in the Gazette, dissolved the Parliament of Rhodesia in terms of section 39 of the Constitution of Rhodesia, 1965 and shall thereafter in Rhodesia have the full force and effect of law. Date of commencement of Constitution.

89. With effect from immediately before the appointed day the Constitution of Rhodesia, 1965 shall be deemed to be repealed and revoked by this Constitution and, subject to the provisions of section ninety, no longer operative in and for Rhodesia. Repeal of 1965 Constitution.

90. The provisions set out in the Fourth Schedule shall apply in order to enable this Constitution to have effect from the appointed day. Transitional provisions.

91. This Constitution may be cited as the Constitution of Rhodesia, 1969. Citation.

PART II

INTERPRETATION

92. (1) In this Constitution, unless the context otherwise requires— Interpretation of terms.

“Act” means a law enacted by the Legislature of Rhodesia;
“African” means—

- (a) any member of the aboriginal tribes or races of Africa and the islands adjacent thereto, including Madagascar and Zanzibar; or

(b) any person who has the blood of such tribes or races and who lives as a member of an aboriginal native community;

“African Council” means an African Council established or deemed to have been established under the provisions of the African Councils Act [*Chapter 95*] or any Act amending or replacing the same;

“appointed day” means the day this Constitution comes into operation in terms of section *eighty-eight*;

“constitutional Bill” means a Bill which, when enacted, would have the effect of amending, adding to or repealing any of the provisions of this Constitution;

“Council of Chiefs” means the Council of Chiefs of Rhodesia established under the provisions of the Council of Chiefs and Provincial Assemblies Act [*Chapter III*] or any Act amending or replacing the same or such other body representative of the Chiefs of Rhodesia as may from time to time be established by a law of the Legislature;

“Declaration of Rights” means the Declaration of Rights as set out in the Second Schedule;

“Delimitation Commission” means a commission appointed in terms of the Electoral Law—

(a) for the purpose of determining the limits of the European Roll constituencies and African Roll constituencies for the purposes of this Constitution; and

(b) for the purposes of subsection (4) of section *eighteen*;

“Electoral Law” means the law referred to in section *twelve* which is for the time being in force;

“European” means a person who is not an African;

“Executive Council” means the Executive Council established by section *fifty-six*;

“Gazette” means the official *Gazette* of the Government of Rhodesia;

“general election” means a general election of the members of the House of Assembly;

“Mashonaland” means the area in Rhodesia which is defined in the Electoral Law to constitute Mashonaland for the purposes of this Constitution;

“Matabeleland” means the area in Rhodesia which is defined in the Electoral Law to constitute Matabeleland for the purposes of this Constitution;

“Money Bill” means a public Bill which contains only provisions dealing with all or any of the following matters—

(a) the imposition, repeal, remission, alteration, administration or regulation of taxation or any exemption therefrom;

(b) the imposition, for the payment of debt or other financial purposes, including expenses of administration, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by the Legislature or the variation or repeal of any such charges;

(c) the grant of money for the services of the Government of Rhodesia, including expenses of administration, or the grant of money to any authority or person or the variation or revocation of any such grant;

(d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(e) the making or raising of any loan by the Government of Rhodesia or the repayment thereof or the establishment, alteration, administration or abolition of any sinking fund provided in connexion with any such loan;

(f) the guarantee given by or on behalf of the Government of Rhodesia in respect of any loan raised by any person and any conditions which are attached to such guarantee;

- (g) the compounding or remitting of any debt and the condoning of any failure to collect taxes;
- (h) the condoning of unauthorized expenditure;
- (i) subordinate matters which are ancillary or incidental to any of the foregoing matters;

but, save as is otherwise excepted in paragraph (f), excludes any such matter concerning any local authority or other statutory body;

“President” means the President appointed by the Executive Council in terms of subsection (1) of section *three*, and includes an Acting President and, in so far as he is authorized to act, a deputy to the President;

“President of the Senate” includes—

- (a) the Deputy President of the Senate; or
 - (b) any other Senator;
- when acting for the President of the Senate;

“public office” means, save as may otherwise be expressly provided by law, any paid office in the service of the Government of Rhodesia;

“public officer” means the holder of any public office;

“Secretary to Parliament” means the person appointed in terms of section *thirty-eight* as the Secretary to Parliament or any person acting for the Secretary to Parliament;

“Senate Legal Committee” means the Senate Legal Committee established by section *fourteen*;

“session” means the sittings of Parliament commencing when Parliament first meets after a prorogation or dissolution at any time and terminating when Parliament is next prorogued or dissolved without being prorogued;

“sitting” means a period during which the Senate or the House of Assembly, as the case may be, is sitting continuously without adjournment, including any period during which the Senate or House of Assembly is in Committee;

“sitting day” means any weekday which is prescribed in the Standing Orders of the House of Assembly to be a sitting day, whether or not the House of Assembly or the Senate, as the case may be, meets on that sitting day;

“Speaker” includes—

- (a) the Deputy Speaker; or
- (b) any other member of the House of Assembly; when acting for the Speaker;

“Standing Orders” means the Standing Orders made in terms of section *thirty-one* which are for the time being in force;

“statutory instrument” means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law made by the President, a Minister or any other person or body under the authority of an Act of the Legislature or of the legislature of the former Federation of Rhodesia and Nyasaland which is in force in Rhodesia.

(2) Any reference in this Constitution—

- (a) to a section, Chapter or Schedule shall, unless the context otherwise requires, be read and construed as a reference to a section, Chapter or Schedule, as the case may be, of this Constitution;
- (b) to a subsection shall, unless the context otherwise requires, be read and construed as a reference to a subsection of the section in which the reference is made;
- (c) to a paragraph shall, unless the context otherwise requires, be read and construed as a reference to a paragraph of the section, subsection or definition, as the case may be, in which the reference is made.

(3) In this Constitution—

- (a) words importing the masculine gender include females;
- (b) words in the singular include the plural and words in the plural include the singular;
- (c) where a period of time is expressed to begin on or to be reckoned from a particular day that day shall not be included in the period;
- (d) where the time limited for the doing of any thing expires or falls upon a Sunday or a public holiday the time so limited shall extend to and the thing may be done on the first following day that is not a Sunday or a public holiday;

- (e) a reference to a month shall be construed as a reference to a calendar month;
- (f) a reference without qualification to a year shall be construed as a reference to a period of twelve months.

(4) This Constitution shall be construed as always speaking and where any thing is expressed in the present tense it shall be applied to the circumstances as they occur so that effect may be given to each enactment according to its true spirit, intent and meaning.

(5) Any power, jurisdiction or right conferred by this Constitution may be exercised and any duty imposed by this Constitution shall be performed from time to time as occasion requires.

(6) Any reference in this Constitution to an Act or law of the Legislature shall be construed as including a reference to an Act or law enacted by the Legislature constituted under the Constitution of Rhodesia, 1965 or any previous Constitution.

Supplementary provisions.

93. (1) Where any person is required by this Constitution to take an oath he shall be permitted, if he so wishes, to comply with that requirement by making an affirmation, and, in any such case, the forms of oath set out in the First Schedule shall be varied by—

- (a) the substitution for the word "swear" of the expression "solemnly and sincerely affirm and declare"; and
- (b) the deletion of the words "So help me God".

(2) Any reference in this Constitution to the holder of any office by terms designating his office shall be construed as including any person for the time being lawfully performing the duties of that office.

(3) For the purposes of this Constitution, no person shall be deemed to be holding a public office by reason only of the fact that he is in receipt of a pension, half-pay, retired pay or any other like allowance in respect of service in a public office.

(4) If it is provided by any law of the Legislature that any office shall or shall not be a public office for the purposes of this Constitution or any specified provision thereof, this Constitution or that provision shall have effect as if that law were enacted herein:

Provided that such law or any amendment of any such law shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter VI.

(5) Any reference in this Constitution to the passage of a motion or the final vote on any Bill by the affirmative votes of not less than two-thirds of the total membership of the Senate or the House of Assembly, as the case may be, shall, when the total membership of that House is not an integral multiple of three, be interpreted to mean that the number of votes in favour of the motion or Bill in question shall be not less than two-thirds of the number next above that of such total membership which is an integral multiple of three.

(6) Unless the context otherwise requires, the Interpretation Act of Rhodesia for the time being in force shall apply for the interpretation of any rules, regulations or other subsidiary legislation made by the President or other authority in Rhodesia in the exercise of any power to make rules, regulations or other subsidiary legislation conferred by this Constitution and for the interpretation of any such power.

FIRST SCHEDULE (Sections 7, 15, 19, 32, 55, 56, 66 and 93)

OATHS

1. Oath of loyalty

I,
do swear that I will be faithful and bear true allegiance to Rhodesia and observe the laws of Rhodesia. So Help Me God.

2. Oath for the due execution of office

I,
do swear that I will well and truly serve Rhodesia in the office of
So help Me God.

3. Oath of a member of the Executive Council

I,
being chosen and admitted to the Executive Council of Rhodesia, do swear that I will to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the President of Rhodesia for the good management of the public affairs of Rhodesia, that I will not, directly or indirectly, reveal such matters as may be debated in the Executive Council and committed to my secrecy, but that I will in all things be a true and faithful member thereof. So Help Me God.

4. *Judicial Oath*

I,,
do swear that I will well and truly serve Rhodesia in the office
of,
and that I will do right to all manner of people after the laws
and usages of Rhodesia, without fear or favour, affection or
illwill, So Help Me God.

SECOND SCHEDULE (Section 92)

DECLARATION OF RIGHTS

WHEREAS it is desirable to ensure that every person in Rhodesia enjoys the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, political opinions, colour or creed, to life, liberty, security of the person, the enjoyment of property and the protection of the law, and to freedom of conscience, of expression and of assembly and association, and to respect for his private and family life;

AND WHEREAS the exercise of these rights and freedoms gives rise to duties and responsibilities and should be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputations, rights and freedoms of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary;

AND WHEREAS, in particular, it is the duty of every person to respect and abide by the Constitution and the laws of Rhodesia and to respect the rights and freedoms of others and the public interest;

AND WHEREAS loyalty to Rhodesia is a fundamental duty of every citizen;

NOW, THEREFORE, the following provisions of this Schedule shall have effect for the purpose of prescribing the aforesaid rights and freedoms, duties and responsibilities for the purposes of this Constitution:—

1. (1) No person shall be deprived of his life intentionally, save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted or as the result of a lawful act of war. Protection of right of right to life.

(2) A law shall not be construed to be inconsistent with subparagraph (1) of this paragraph to the extent that it provides for the use of force against a person—

- (a) which is reasonably justified in the circumstances—
 - (i) for the defence of any person from violence or for the defence of property; or
 - (ii) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
 - (iii) for the purpose of suppressing a riot, insurrection, mutiny or terrorism or of dispersing an unlawful gathering; or
 - (iv) in order to prevent the commission by that person of a criminal offence;
- or
- (b) in circumstances in which such force might lawfully have been used in Rhodesia under the law in force immediately before the promulgation of that law.

2. (1) No person shall be deprived of his personal liberty, save in accordance with law. Protection of right to personal liberty.

(2) No law shall authorize the deprivation of the personal liberty of any person, save to the extent that it is reasonably justifiable for the purposes of—

- (a) national defence, public safety or public order;
- (b) the apprehension of a person who is suspected on reasonable grounds of having committed or being about to commit a criminal offence;
- (c) the preservation of the dignity of Parliament or of a court, statutory tribunal or quasi-judicial authority or of a commission appointed to inquire into a matter which is in the public interest or public welfare;
- (d) the administration of the functions of Parliament or of a court, statutory tribunal or quasi-judicial authority or of a commission referred to in subparagraph (c) of this subparagraph;
- (e) the prevention of the unlawful entry of persons into Rhodesia or effecting the expulsion, extradition, deportation or other lawful removal from Rhodesia of persons who are not citizens of Rhodesia;

- (f) the protection, control, care or treatment of persons in need or reasonably suspected to be in need thereof by reason of minority, physical or mental incapacity, vagrancy, destitution or addiction to drugs or alcohol;
- (g) the maintenance of public health.

(3) No law shall deprive a person who has been arrested or detained of—

- (a) his right to be informed as soon as reasonably practicable of the reason for his arrest or detention;
- (b) his entitlement to compensation from the person responsible for his arrest or detention if it is shown to be unlawful:

Provided that any person acting reasonably and in good faith and without culpable ignorance or negligence may be protected from liability for such compensation.

(4) No law shall deprive a person who has been arrested or detained—

- (a) for the purpose of bringing him before a court or other authority; or
- (b) upon reasonable suspicion of his having committed or being about to commit a criminal offence;

of his right to be brought without undue delay before the appropriate authority.

(5) If any law authorizes the detention of a person in a specified place or area or the restriction of a person to or from a specified place or area on the grounds that such detention or restriction is reasonably justifiable for the purposes of national defence, public safety or public order, such law shall also provide that the case of any person so detained or restricted shall—

- (a) if so requested by that person within three months beginning on the date on which his detention or restriction, as the case may be, was ordered, be submitted to an impartial tribunal for its recommendations concerning the necessity or expediency of continuing his detention or restriction, as the case may be; and
- (b) whether or not his case has been submitted for review in terms of subparagraph (a) of this subparagraph, be submitted at intervals of not more than twelve months from the date on which the detention or res-

triction, as the case may be, of that person was ordered, to an impartial tribunal for its recommendations concerning the necessity or expediency of continuing his detention or restriction, as the case may be.

(6) A tribunal referred to in subparagraph (5) of this paragraph shall be established by law and its members shall be appointed by the President and shall include at least one person who is or has been a judge of the High Court of Rhodesia or is qualified in terms of section *sixty-five* for appointment as a judge of the High Court.

(7) The authority by whom the detention was ordered shall be obliged to act in accordance with any recommendations of the aforesaid tribunal unless the President directs otherwise.

(8) Where the President has directed that the authority referred to in subparagraph (7) of this paragraph shall not act in accordance with any recommendation of the aforesaid tribunal, that authority shall cause to be published in the *Gazette* a notice that the President has so directed.

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

Protection
from slavery
and forced
labour.

(2) For the purposes of subparagraph (1) of this paragraph—

“forced labour” does not include—

- (a) any labour required in consequence of the sentence or order of a court;
- (b) work required of any person while he is lawfully detained which is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained or for his care, treatment, rehabilitation, education or welfare;
- (c) any work or service required of a member of a disciplined force;
- (d) any work or service required during any period that a declaration under section *sixty-one* is in force;
- (e) any work or service which forms part of normal communal or civic obligations.

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

Protection
from
inhuman
treatment.

(2) A law shall not be construed to be inconsistent with subparagraph (1) of this paragraph—

- (a) to the extent that it authorizes the doing of anything by way of punishment or other treatment which might lawfully have been so done in Rhodesia immediately before the promulgation of that law; or
- (b) on the grounds of being degrading, to the extent that it provides for treatment which is reasonably justifiable in the circumstances to prevent the escape from custody of a person who has been lawfully detained.

Protection
from
deprivation
of property.

5. (1) No property of any description shall be compulsorily taken possession of and no interest in or right over property of any description shall be compulsorily acquired except in accordance with law.

(2) No law shall authorize the compulsory taking of possession or acquisition by the State or by an authority established by or under the control of the State of any property or interest in or right over property of any description belonging to another save—

- (a) by way of imposition or enforcement of any tax, rate or due; or
- (b) by virtue of an order of a court; or
- (c) by way of penalty for breach of any law, including African customary law, whether under civil process or after conviction of an offence; or
- (d) upon the attempted removal of the property in question out of or into Rhodesia in contravention of any law; or
- (e) as an incident of a contract, including a lease or mortgage, or of a title deed to land; or
- (f) by way of the administration of moneys payable or owing to a person outside Rhodesia or to the Government of a country other than Rhodesia where restrictions have in the national interest been placed on the transfer of moneys outside Rhodesia;
- (g) by way of the vesting or administration of any property belonging to or used by or on behalf of an enemy or an organization which is prescribed or declared by or in terms of a law of the Legislature to be an unlawful organization, whether such property belonged to such organization or was so used before or after

it was so prescribed or declared to be an unlawful organization;

- (h) as an incident of a composition in insolvency or a deed of assignment entered into by a debtor; or
- (i) for the purpose of its administration, care or custody on behalf and for the benefit of the person entitled to the beneficial interest therein; or
- (j) by reason of the property being in a dangerous state or prejudicial to the health or safety of human beings, animals or plants; or
- (k) in relation to the limitation of actions, acquisitive prescription or derelict land; or
- (l) for the marketing of property in the common interest of persons otherwise entitled to dispose of that property; or
- (m) for the purpose of an examination, investigation, trial or inquiry; or
- (n) as a condition in connexion with the granting of permission for the utilization of that or other property in any particular manner; or
- (o) for the purpose of or in connexion with the prospecting for or exploitation of minerals, mineral oils, natural gases, precious metals or precious stones which are vested in the President on terms which provide for the respective interests of the persons affected; or
- (p) where the property consists of an animal, upon its being found trespassing or straying; or
- (q) in the case of land, for the carrying out of work thereon for the purpose of the conservation of natural resources of any description or agricultural development or improvement; or
- (r) in circumstances not referred to in subparagraphs (a) to (q) of this subparagraph where provision is made in the law for the giving of adequate compensation within a reasonable time.

Provided that such provision for the giving of compensation may be omitted from any law for the compulsory acquisition of any property held by a body corporate in which no moneys are invested other than moneys appropriated by a law of the Legislature.

6. (1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or to entry into or the search of his dwelling-house.

Protection
from search
and entry.

(2) A law shall not be construed to be inconsistent with subparagraph (1) of this paragraph to the extent that it makes provision which is necessary—

- (a) for the enforcement of the law in circumstances where there are reasonable grounds for believing that the entry or search is necessary for the prevention or detection of a criminal offence or for the lawful arrest of a person;
- (b) in the interests of defence, public safety, public order, public morality, public health or town and country planning;
- (c) to enable a public authority or body corporate established directly by law to enter the dwelling-house in question in order to carry out work connected with any property of that authority or body which is in that dwelling-house;
- (d) for the purpose of the valuation of the dwelling-house in question in connexion with any tax, rate or due;
- (e) for the purpose of protecting the rights and freedoms of other persons.

Protection
of law.

7. (1) Every person is entitled to the protection of the law and to be afforded a fair hearing within a reasonable time by an independent and impartial court or other adjudicating authority established by law in the determination of his civil rights and obligations or of any criminal charge brought against him.

(2) No law shall deprive a person who is charged with a criminal offence of his right—

- (a) to be presumed to be innocent until he is proved or has pleaded guilty; or
- (b) to be informed as soon as reasonably practicable and with sufficient particularity of the nature of the offence charged; or
- (c) to be afforded adequate time and facilities for the preparation of his defence; or
- (d) to defend himself in person or, save in proceedings before a tribal court, at his own expense by a legal representative of his choice who has right of audience before the court or authority concerned; or
- (e) to be present at his trial unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable; or

- (f) to have the free assistance of an interpreter if he cannot understand the language used before the court or authority; or
- (g) to examine or to have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf.

(3) No law shall authorize—

- (a) the conviction of a person of a criminal offence on account of any act or omission which did not at the time it took place constitute a criminal offence; or
 - (b) the imposition of a heavier penalty than the one that was applicable at the time the criminal offence was committed; or
 - (c) that a person who shows that he has been tried by a competent court for a criminal offence upon a good indictment, summons or charge upon which a valid judgment could be entered and, either convicted or acquitted on the merits in fact or in law and not on a technicality, shall be tried again for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save—
 - (i) where the conviction is set aside on appeal or review on the grounds that evidence was admitted which should not have been admitted or that evidence was rejected which should have been admitted or on the ground of any other irregularity or defect in the procedure; or
 - (ii) upon the order of a superior court; or
 - (iii) where a member of a disciplined force has been convicted or acquitted under a disciplinary law of an offence under that law, and it is provided in that law that in any subsequent trial the court shall take into account any punishment awarded him under that law;
- or
- (d) the trial of a person for a criminal offence if he shows that he has been pardoned for that offence; or
 - (e) except with the agreement of all the parties thereto, the exclusion of the public generally or any class thereof from the proceedings of any court or of any other adjudicating authority for the determination of

the existence or extent of any civil right or obligation, save in circumstances where—

(i) publicity may prejudice—

- A. the interests of justice, defence, public safety, public order or public morality or the economic interests of the State; or
- B. the welfare of persons under the age of twenty-one years; or
- C. the private lives of persons concerned in the proceedings;

or

(ii) a certificate in writing is produced to the court signed by a Minister of the Government of Rhodesia that it would not be in the public interest for any matter to be publicly disclosed; and the provision relates to arrangements that are necessary or expedient to prevent the publicity or the disclosure of that matter, as the case may be.

(4) Nothing in this section shall be construed as prohibiting a law from imposing upon any person charged with a criminal offence the burden of proving particular facts.

(5) For the purposes of subparagraph (1) of this paragraph, a tribal court shall not be regarded as not being an independent and impartial court—

- (a) by reason of the fact that a member of the court has an interest in the proceedings because of his position in the tribal society; or
- (b) by reason of the traditional or customary tribal practices and procedures.

Freedom of conscience.

8. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, that is to say, freedom of thought and religion and to manifest and propagate his religion or belief through worship, teaching, practice and observance.

(2) No law shall require a person attending any place of education to take part in any religious activity if such activity relates to a religion other than his own.

(3) No law shall be construed to be inconsistent with subparagraph (1) or (2) of this paragraph to the extent that the law in question makes provision which is necessary in the

interests of defence, public safety, public order, public morality or public health or to protect the rights and freedoms of other persons.

9. (1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of—

- (a) his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference and freedom from interference with his correspondence; or
- (b) his freedom of peaceful assembly and association, that is to say, his right to assemble freely and associate with other persons and, in particular, to form or belong to trade unions or other associations for the protection of his interests.

(2) No law shall be construed to be inconsistent with subparagraph (1) of this paragraph to the extent that the law in question makes provision which is necessary in the interests of defence, public safety, public order, public morality or public health or the economic interests of the State or to protect the rights and freedoms of other persons or which imposes restrictions upon public officers which are necessary in the public interest.

(3) No law shall be construed to be inconsistent with subparagraph (a) of subparagraph (1) of this paragraph to the extent that the law in question makes provision which is necessary—

- (a) for the purpose of protecting the reputations of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating telephony, telegraphy, posts, wireless broadcasting, television, newspapers or other publications, public exhibitions or public entertainments;
- (b) in the case of correspondence, for the purpose of preventing the unlawful dispatch therewith of other matter.

10. (1) Every person is entitled to the enjoyment of the rights and freedoms set forth in this Schedule without unjust discrimination on the grounds of race, tribe, political opinion, colour or creed.

(2) For the purposes of subparagraph (1) of this paragraph, a law shall not be construed to discriminate unjustly to the extent that it permits different treatment of persons or communities if

Freedoms of expression and assembly and association.

Protection from discrimination.

such treatment is fair and will promote harmonious relations between such persons or communities by making due allowance for economic, social or cultural differences between them.

(3) No law shall be construed to be inconsistent with any of the following provisions, that is to say, paragraphs 2, 5, 6, 7 (other than subparagraphs (a) and (b) of subparagraph (3) thereof), 8 and 9 of this Schedule to the extent that the law in question provides for—

- (a) the application in the case of Africans of African customary law; or
- (b) the exercise by tribal courts of their jurisdiction; or
- (c) restrictions on the ownership, occupation or use of land.

Derogation from fundamental rights and freedoms.

11. A law shall not be construed to be inconsistent with any of the following provisions, that is to say, paragraphs 2, 5, 6, 7 (other than subparagraphs (a) and (b) of subparagraph (3) thereof), 8, 9 and 10 of this Schedule, to the extent that the law in question—

- (a) authorizes the taking, during any period when Rhodesia is at war or any period that a declaration under section *sixty-one* is in force, of measures that are reasonably justifiable for the purpose of dealing with any situation which has arisen or may arise during that period:

Provided that where any such law authorizes the detention or restriction of a person in the circumstances described in subparagraph (5) of paragraph 2 of this Schedule, the provisions of subparagraphs (5), (6), (7) and (8) of the said paragraph 2 shall, *mutatis mutandis*, apply;

- (b) is a disciplinary law relating to persons who are members of a disciplined force or who are lawfully detained in terms of any law.

Inter-pretation of Declaration of Rights.

12. In this Schedule, unless the context otherwise requires—
- “African customary law” means the tribal law and custom of Africans, whether or not indigenous to Rhodesia;
 - “court” means any court of law in Rhodesia, including a tribal court but not including a court established under a disciplinary law;
 - “disciplinary law” means a law providing for the regulation of the discipline—
 - (a) of any disciplined force; or

(b) of persons serving prison sentences; or

(c) of persons whose detention has been authorized in terms of a law;

“disciplined force” means—

(a) a naval, military or air force; or

(b) a police force; or

(c) a prison service; or

(d) any other body established for public purposes by a law providing for the regulation of the discipline of that body and declared by that law to be a disciplined force for the purposes of this Schedule;

“law” means—

(a) any Act of the Legislature or of the former Federal Legislature and any statute included in the Revised Edition of the Statutes prepared under the authority of the Revised Edition of the Laws Act, 1962, which is in force in Rhodesia;

(b) any instrument having the force of law made in terms of an Act or statute referred to in paragraph (a);

(c) any unwritten law in force in Rhodesia other than African customary law;

and “lawful” and “lawfully” shall be construed accordingly;

“member”, in relation to a disciplined force, includes any person who, under a law relating to the discipline of that force, is subject to that discipline;

“parental discipline” includes school or other quasi-parental discipline;

“public order” includes public security, the maintenance of law and order and the maintenance of any service essential to the life or well-being of the community;

“tribal court” means a tribal court or tribal appeal court constituted by or under an Act of the Legislature.

THIRD SCHEDULE (Section 78)
SPECIALLY ENTRENCHED PROVISIONS

Chapter	Section
II	13 18
IV	62 to 70
VI	78 80
VII	81 86
Second Schedule	The whole
This Schedule	The whole

FOURTH SCHEDULE (Section 90)

TRANSITIONAL PROVISIONS

Convening
of new
Parliament.

1. In pursuance of the provisions of subsection (1) of section *fifty-one* the President shall direct that the first session of Parliament shall begin within the period of three months beginning on the appointed day.

Saving for
existing
laws.

2. Save as otherwise provided in this Constitution, all laws in force in Rhodesia immediately before the appointed day shall remain in full force and effect on and after the appointed day subject to the exercise of any power to amend or repeal the same as is vested in the Legislature or other authority.

Adaptation
of existing
laws.

3. (1) The President may by order published in the *Gazette* provide that any law in force in Rhodesia immediately before the appointed day shall be read and construed with such modifications and adaptations as may appear to the President to be necessary for bringing the provisions of that law into conformity with the provisions of this Constitution or otherwise for giving effect or enabling effect to be given to those provisions and that law shall have effect accordingly from such day as may be specified in the order, not being a day earlier than the appointed day.

(2) An order made under subparagraph (1) of this paragraph may be revoked or amended by a further order made under that subparagraph or in relation to any law or instrument affected thereby by the authority having power to repeal, revoke or amend that law or instrument.

Acting
President.

4. The person who immediately before the appointed day holds the office of Officer Administering the Government under

the Constitution of Rhodesia, 1965 shall assume and perform the functions of the office of President until such time as the Executive Council has appointed a President in terms of subsection (1) of section *three*.

5. The persons who immediately before the appointed day are members of the Executive Council constituted under the Constitution of Rhodesia, 1965 shall be the first members of the Executive Council established by section *fifty-six* and shall be deemed to be appointed thereto and to hold office therein in accordance with the relevant provisions of this Constitution, and any proceedings commenced in the former Executive Council before the appointed day may be continued and completed in the latter Executive Council.

6. (1) Any person who immediately before the appointed day holds the office of Prime Minister, Minister, Deputy Minister or judge of the High Court constituted by the Constitution of Rhodesia, 1965 shall continue to hold the like office as if he had been appointed thereto under the corresponding provisions of this Constitution.

(2) The person who immediately before the appointed day holds the office of Clerk of Parliament constituted by the Constitution of Rhodesia, 1965 shall be deemed to have been duly appointed as Secretary to Parliament in terms of section *thirty-eight*.

(3) Any person who immediately before the appointed day is a member of the staff of Parliament in terms of section 33 of the Constitution of Rhodesia, 1965 shall continue as a member of the staff of Parliament and shall be regarded as if he had been appointed thereto in terms of section *thirty-eight* and his conditions of service shall, *mutatis mutandis*, continue to apply.

(4) Any person who immediately before the appointed day holds any public office, including the office of Chief, which public office continues on and after the appointed day to be a public office shall continue to hold the like office as if he had been appointed thereto under this Constitution.

(5) Any person who immediately before the appointed day holds a commission or commissioned rank in the Defence Forces of Rhodesia or the British South Africa Police shall be deemed to have been commissioned under this Constitution.

(6) Any person who under the provisions of this section holds a public office or commissioned rank from the appointed

day by virtue of being the holder of that office or rank immediately before the appointed day shall be deemed to have complied with the requirements of this Constitution or any other law in force in Rhodesia relating to the taking of oaths on appointment to such office or rank.

High Court
of Rhodesia.

7. The High Court of Rhodesia in existence immediately before the appointed day shall be deemed to have been duly constituted as the High Court of Rhodesia under Chapter IV.

Statutory
instruments
to be
referred to
Senate Legal
Committee.

8. Any statutory instrument which has been published in the *Gazette* before the appointed day and—

- (a) has not been considered by the Constitutional Council in terms of section 95 of the Constitution of Rhodesia, 1965; or
- (b) contains a provision in respect of which an adverse report has been made by the Constitutional Council in terms of the said section 95 and which has not been revoked, amended, annulled or confirmed in pursuance of the provisions of the said section 95;

shall, within seven days of the appointment of the Senate Legal Committee in terms of section *fourteen*, be transmitted to that Committee and the provisions of Chapter V shall apply as if that statutory instrument had been published in the *Gazette* after the appointed day.

Tribal Trust
Land.

9. With effect from the appointed day the Tribal Trust Land which immediately before that day had vested in the Board of Trustees shall become vested in the President and, subject to the provisions of any law of the Legislature, shall be held in trust by the President for the sole and exclusive use and occupation of tribesmen.

Transfer of
moneys in
old
Consolidated
Revenue
Fund.

10. The moneys which immediately before the appointed day are standing to the credit of the Consolidated Revenue Fund established under the Constitution of Rhodesia, 1965 shall be transferred to and become the Consolidated Revenue Fund established by section *eighty-three*.

Assets of
former
Government.

11. (1) All stocks, cash, bankers' balances and securities for money, Crown lands, Government lands, public works and all property, movable or immovable, and all rights of whatever description, including all rights in and to mines, minerals, mineral oils, natural gases, precious metals and precious stones and all rights in connexion with the searching for, working for or disposing

of minerals, mineral oils, natural gases, precious metals or precious stones which immediately before the appointed day belonged to or vested in the Officer Administering the Government on behalf of the Government of Rhodesia shall belong to or vest in the President on behalf of the Government of Rhodesia.

(2) Any property which in terms of a law in force immediately before the appointed day is liable to be forfeited or confiscated to the Officer Administering the Government shall, as from the appointed day, be liable to be forfeited or confiscated to the President on behalf of the Government of Rhodesia.

(3) Where immediately before the appointed day any person holds any property or assets in trust for or on behalf of the Officer Administering the Government, that person shall, as from the appointed day, hold such property or assets on the like trust for or on behalf of the President.

12. (1) Subject to the provisions of subparagraph (3) of this paragraph, as from the appointed day the Government of Rhodesia established under this Constitution shall assume all debts and liabilities of the Government of Rhodesia existing immediately before the appointed day subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on creditors of the said prior Government.

Liabilities
of former
Government.

(2) Subject to the provisions of subparagraph (3) of this paragraph, the rights of stockholders to undertakings given by the Government of Southern Rhodesia at the time of the issue of any Rhodesian Government stock registered under the Colonial Stock Act, 1877 of the United Kingdom or any Act amending or replacing the same shall be maintained and there shall be no departure from the original contract in respect of such stock.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, while circumstances preventing the repayment of obligations to the Government of the United Kingdom or of stock referred to in subparagraph (2) of this paragraph remain, a law of the Legislature may provide—

(a) that no repayments shall be made by the Government of Rhodesia in relation to—

(i) any loan made by the Government of the United Kingdom or any agency or authority of that

Government or which has been guaranteed by that Government; or

(ii) any stocks issued in London by the Government of Rhodesia or of the former Federation of Rhodesia and Nyasaland;

whether in respect of interest payments or redemption of capital; and

(b) that the Government of Rhodesia shall not be obliged to pay any moneys into a sinking fund established for the purpose of redeeming a loan raised by means of stocks issued in London,

(4) For the purposes of subparagraph (2) of this paragraph—

“Rhodesian Government stock” means stock forming any part of the public debt of Rhodesia.

Existing conventions and agreements.

13. All rights and obligations under any convention or agreement existing immediately before the appointed day shall devolve upon the Government established by this Constitution.

Legal proceedings to continue.

14. (1) All criminal proceedings which immediately before the appointed day were required to be instituted in the name of Her Majesty shall be instituted in the name of Rhodesia.

(2) Any criminal proceedings which have not been concluded before the appointed day or which, having been so concluded, are thereafter reopened shall be continued in all respects as if this Constitution had not come into operation, except that the proceedings shall thereafter be conducted as if they were instituted in the name of Rhodesia.

(3) All suits, civil or criminal, pending in any court in Rhodesia immediately before the appointed day shall continue in that or the corresponding court as from the appointed day:

Provided that where any such suit has been partly heard by a judicial officer before the appointed day and such officer is not available to preside in that or the corresponding court after the appointed day the hearing shall commence afresh and, in the case of a criminal suit, the accused person, unless released on bail, shall remain in custody and be tried again.

(4) Any civil proceedings instituted before the appointed day by or against a Minister as representing the Government of Rhodesia which have not been disposed of before the appointed day or, having been disposed of, are thereafter reopened may be

proceeded with without interruption by or against that Minister as representing the Government established by this Constitution.

(5) All judgments or orders of any court given or made prior to the appointed day shall have the same force and effect as if they had been given or made by that or the corresponding court existing on or after the appointed day.

15. (1) As from the appointed day any reference in any law in force in Rhodesia immediately before that day to the Officer Administering the Government shall be read and construed as a reference to the President.

Construction of references to Officer Administering the Government.

(2) Any statutory instrument made or thing done or deemed to have been made or done by the Officer Administering the Government in terms of a law referred to in subparagraph (1) of this paragraph which was in force or of effect immediately before the appointed day shall continue to have force or be of effect as though it had been made or done by the President.

(3) Any appointment made or deemed to have been made by the Officer Administering the Government in terms of any law referred to in subparagraph (1) of this paragraph which was in force immediately before the appointed day in respect of an office which continues in existence on and after the appointed day shall continue to have force as though it had been made by the President.

16. Any provision of any law in terms of which a person is required to take an oath or solemn declaration of allegiance to the King or the Queen shall be construed as a provision requiring such person to take an oath or solemn declaration in the form of the oath of loyalty set out in the First Schedule.

Oath of loyalty.

17. (1) References in any law to Parliament shall be construed as references to the Senate or the House of Assembly or to both the Senate and the House of Assembly, as the context may require.

References to Parliament.

(2) References in any law to the Clerk of Parliament shall be construed as references to the Secretary to Parliament.

18. (1) If, immediately before the appointed day, a proclamation by the Officer Administering the Government under section 3 of the Emergency Powers Act [Chapter 33] is in force, there shall be deemed to be in force from the appointed day a declaration in terms of subsection (1) of section sixty-one that has been

Declaration of emergency.

approved by the House of Assembly at the appointed day and that declaration shall, unless it is sooner revoked or unless it is extended in terms of subsection (4) of that section, continue in force until the expiration of a period of thirty days beginning with the day that the first session of Parliament is convened in accordance with the provisions of paragraph 1 of this Schedule.

(2) Any regulations, orders or directions made under the provisions of the Emergency Powers Act [*Chapter 33*] which were in force immediately before the appointed day shall, unless sooner revoked, continue in force so long as the declaration continues in force in terms of subparagraph (1) of this paragraph.

Interim
Standing
Orders.

19. The President may make interim Standing Orders with respect to the regulation and orderly conduct of the business and proceedings of the Senate and of the House of Assembly and such interim Standing Orders shall apply in relation to the business and proceedings of the Senate and of the House of Assembly and be deemed to be Standing Orders made in terms of section *thirty-one* until such time as the Senate and the House of Assembly have made Standing Orders in terms of that section.



RHODESIA

ACT

To provide for the classification of land in Rhodesia into a European Area, an African Area and a National Area; to establish a Board of Trustees for the European Area and a Board of Trustees for the African Area and to prescribe their functions; to provide for the transfer of land from one Area to another Area; to regulate the ownership, leasing and occupation of land, including Tribal Trust Land; to provide for the establishment of tribal land authorities in Tribal Trust Land and to control the occupation and use of such land; to provide for the vesting of certain land in the President; to repeal the Transfer of Land (Tribal Trust Land) Act [*Chapter 114*], the Land Apportionment Act [*Chapter 257*] and the Tribal Trust Land Act, 1967; to amend the African Development Fund Act [*Chapter 96*], the African Land Husbandry Act [*Chapter 103*], the Town and Country Planning Act [*Chapter 133*] and certain Acts relating to local authorities; and to provide for matters incidental to the foregoing.