



REPUBLIC OF ZAMBIA

# **NATIONAL CONSTITUTIONAL CONFERENCE**

## **PUBLIC FINANCE**

### **ARTICLES ON PUBLIC FINANCE ADOPTED BY THE CONFERENCE**

National constitutional Conference

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**PART XVII  
PUBLIC FINANCE AND BUDGET**

Imposition of tax

304. (1) **Subject to the provisions of this Article, taxation shall not be imposed or altered except by or under an Act of Parliament.**

(2) **Except as provided by clauses (3) and (4), Parliament shall not confer upon any other person or authority power to impose or to alter, otherwise than by reduction, any taxation.**

(3) **Parliament may make provisions under which the President, the Vice-President or a Minister may, by order, provide that, on or after the publication of a Bill being a Bill approved by the President that it is proposed to introduce into the National Assembly and providing for the imposition or alteration of taxation, such provisions of the Bill as may be specified in the order shall, have the force of law for such period and subject to such conditions as may be prescribed by Parliament:**

**Provided that any such order shall, unless sooner revoked, cease to have effect -**

- (a) **if the Bill to which it relates is not passed;**
- (b) **within such period from the date of its first reading in the National Assembly as may be prescribed by Parliament;**
- (c) **if, after the introduction of the Bill to which it relates, Parliament is prorogued or the National Assembly is**

**dissolved;**

- (d) if, after the passage of the Bill to which it relates, the President refuses to assent to it; or**
- (e) at the expiration of a period of three months from the date on which it came into operation or such longer period from that date as may be specified in any resolution passed by the National Assembly after the Bill to which it relates has been introduced.**

**(4) Parliament may confer upon any authority established by law for the purposes of local government power to impose taxation within the area for which that authority is established and to alter taxation so imposed.**

**(5) Where the Appropriation Act in respect of a financial year has not come into force at the expiration of six months from the commencement of that financial year, the operation of any law relating to the collection or recovery of any tax upon any income or profits or any duty, customs or excise shall be suspended until that Act comes into force:**

**Provided that -**

- (a) in any financial year in which the National Assembly stands dissolved at the commencement of that year, the period of six months shall begin from the day upon which the National Assembly**

**first sits following that dissolution instead of from the commencement of the financial year; and**

- (b) **the provisions of this clause shall not apply in any financial year in which the National Assembly is dissolved after the laying of estimates in accordance with Article 307 and before the appropriation by Parliament.**

**National  
Treasury  
Account**

305. (1) **There shall be a National Treasury Account for the Republic which shall be held at the Central Bank.**

(2) Subject to clause (3), all moneys raised or received for the purposes of, on behalf of, or in trust for, the Republic shall be paid into the **National Treasury Account**.

(3) The moneys referred to in clause (2) do not include moneys –

- (a) that are payable under this Constitution or an Act of Parliament into some other public **account operated** for a specific purpose;  
or
- (b) that may, under this Constitution or an Act of Parliament, be retained by a State organ or State institution that receives it for the purpose of defraying the expenses of that State organ or State institution.

Withdrawal from  
**National  
Treasury  
Account**

**306. (1) Moneys shall not be expended from the general revenues in the National Treasury Account of the Republic unless -**

- (a) the expenditure is authorised by a warrant under the hand of the President;**
- (b) the expenditure is charged by this Constitution or any other law on the general revenues of the Republic; or**
- (c) the expenditure is of moneys received by a department of government and is made under the provisions of any law which authorises that department to retain and expend those moneys for defraying the expenses of the department.**

**(2) A warrant shall not be issued by the President authorising expenditure from the general revenues of the Republic unless -**

- (a) the expenditure is authorised by an Appropriation Act or a Supplementary Appropriation Act;**
- (b) the expenditure is necessary to carry on the services of the Government in respect of any period, not exceeding three months, beginning at the commencement of a financial year**

during which the Appropriation Act for that financial year is not in force;

(c) the expenditure has been proposed in a supplementary estimate approved by the National Assembly and is authorised in a Supplementary Appropriation Act;

(d) provision does not exist for the expenditure and the President considers that there is such an urgent need to incur the expenditure that it would not be in the public interest to delay the authorisation of the expenditure until such time as a supplementary estimate can be laid before, and approved by, the National Assembly; or

(e) the expenditure is incurred on capital projects continuing from the previous financial year and is so incurred before commencement of the Appropriation Act for the current financial year.

(3) Moneys withdrawn in any financial year from the National Treasury Account under paragraph (b) of clause (2) in respect of any service of the Republic -

(a) shall not exceed twenty-five per centum of the amount shown as required in respect of that service in the budget estimates for that financial year; and

(b) shall be set off against the amount provided in respect of that service in the Appropriation Act for that financial year when that Act comes into force.

**(4) The President shall, immediately after signing any warrant authorising expenditure from the general revenues of the Republic, cause a copy of the warrant to be transmitted to the Auditor-General.**

**(5) The issue of warrants under paragraph (d) of clause (2), the investment of moneys forming part of the general revenues of the Republic and the making of advances from such revenues shall be subject to such limitations and conditions as Parliament may prescribe.**

**(6) For purposes of this Article, the investment of moneys forming part of the general revenues of the Republic or the making of recoverable advances therefrom shall not be regarded as expenditure, and the expression “investment of moneys” means investment in readily marketable securities and deposits with a financial institution approved by the Minister responsible for finance.**

Compensation  
Fund

**307. (1) There is hereby established the Compensation Fund for purposes of paying claims against the State.**

(2) Moneys shall not be withdrawn from the Compensation Fund unless the withdrawal is authorized under an Act of Parliament.

**(3) Parliament shall enact legislation to provide**

**for -**

- (a) the operation of the Compensation Fund;**
- (b) the control and management of the Compensation Fund; and**
- (c) any other matter necessary for the efficient and effective operation of the Compensation Fund.**

Annual financial estimates

**308.** (1) The President shall, subject to clause (2), cause to be prepared and laid before the National Assembly in each financial year, not later than ninety days before the commencement of the financial year, estimates of revenue and expenditure of the Government for the next financial year.

(2) In any year where a general election takes place and an election petition has been filed challenging the election of a President-elect, the President shall cause to be prepared and laid before the National Assembly, within ninety days of swearing in of the President, estimates of revenue and expenditure of the Government for that financial year.

(3) Not later than six months before the end of each financial year, the heads of each State organ and State institution shall submit estimates of revenue and expenditure for the following financial year to the Minister responsible for finance.

(4) In the preparation of estimates **of revenue** and

expenditure under clause **(1) or (2)**, the inputs of the people in the wards, **constituencies** or districts and provinces shall be sought.

(5) The estimates of **revenue and expenditure** prepared under clause **(1) or (2)** shall be laid before the National Assembly by the Minister responsible for finance, on behalf of the President.

(6) Notwithstanding clause (1), the President **shall** cause to be prepared and laid before the National Assembly –

- (a) fiscal and monetary programmes and plans for economic and social development covering periods exceeding one year; and
- (b) estimates of revenue and expenditure covering periods exceeding one year.

(7) Before the National Assembly considers the estimates of revenue and expenditure, laid before it by the Minister responsible for finance, the appropriate committee of the National Assembly shall discuss and review the estimates and make appropriate recommendations to the National Assembly.

(8) The committee referred to under clause (7) shall, in considering the estimates of the revenue and expenditure, seek public opinion on the estimates and expenditure and shall take these into consideration in its recommendations to the National Assembly.

(9) The National Assembly may amend, but shall not vary, the total estimates of revenue and expenditure and

shall, in any case, subject to clause (2), approve the budget not later than the thirty-first day of December.

**Legislation on  
Budgeting and  
Planning**

309. Parliament shall enact which shall provide for matters that relate to the annual budget **and to medium and long-term development plans** and shall include -

- (a) the method for the preparation of the budget;
- (b) the preparation of medium and long-term development plans indicating corresponding sources of financing;
- (c) the participation in the formulation of medium and long-term development plans and the preparation of the annual budget of -**
  - (i) State organs and State institutions; and**
  - (ii) the people at the ward, constituency, district and provincial levels, ensuring representation of both gender;**
- (d) the submission of anticipated revenues and expenditure for each financial year by the Minister responsible for finance to the appropriate committee of the National Assembly for prior consideration before the preparation and submission of the actual

estimates for the financial year; and

- (e) ***the contents, subject to this constitution, of the financial report of the Government provided for under Article 315.***

Appropriation Bill  
and  
Supplementary  
Appropriation Bill

**310. (1) When the estimates of the expenditure have been approved by the National Assembly, the heads of the estimates together with the amount approved in respect of each head shall be included in an Appropriation Bill which shall be introduced in the National Assembly to provide for the payment of those amounts for the purposes specified, out of the general revenues of the Republic.**

(2) Where in respect of a financial year the amount appropriated under an Appropriation Act is insufficient or a need arises for expenditure for a purpose for which an amount has not been appropriated under that Act, a supplementary estimate showing the amount required **and the sources of the revenue to cover the amount** shall be laid before the National Assembly for approval **by the Minister responsible for finance:**

**Provided that subject to paragraph (d) of clause (2) of Article 306, no supplementary expenditure shall be incurred before the approval of the supplementary estimate by the National Assembly.**

**(3) Where in a financial year expenditure has been authorized by a warrant issued by the President under**

**paragraph (d) of clause (2) of Article 306, the Minister responsible for finance shall cause supplementary estimates relating to that expenditure to be laid before the National Assembly for its approval before the expiration of a period of four months from the issue of the warrant or, if the National Assembly is not sitting at the expiration of that period, at the first sitting of the National Assembly thereafter.**

**(4)** Where a supplementary estimate is approved under clause (2) **or (3)**, a Supplementary Appropriation Bill showing the estimates approved shall **immediately** be laid before the National Assembly **for approval**.

**(5)** Subject to this Constitution, the Minister responsible for finance shall release the appropriated funds, on a quarterly basis and on time, to the institutions and bodies entitled to the appropriations.

**Grants,  
donations, etc**

**311. The Minister responsible for finance shall cause to be valued all donations, gifts and aid-in-kind received in any financial year on behalf of the Republic, from any source within or outside the Republic, and shall include that value in the financial report prepared and laid before the National Assembly for that financial year under Article 315.**

**Borrowing and  
lending by  
Government**

**312. (1) Subject to this Article, the Minister responsible for finance may borrow from any source, on behalf of the Republic:**

**Provided that the Minister responsible for finance shall not, in any financial year, borrow beyond the aggregate debt stock, including interest and fees on the debt, approved by the National Assembly for that year.**

(2) **The Minister responsible for finance** shall not borrow, guarantee or raise a loan on behalf of any State organ, State institution, authority or person except as authorised by or under an Act of Parliament.

(3) Legislation enacted under clause (2) shall provide

(a) that the terms and conditions of the loan shall be laid before the National Assembly and shall not come into operation unless they have been approved by a resolution of the National Assembly.

(b) that any money received in respect of that loan shall be paid into the National Treasury Account or into some other public fund which exists or is created for the purpose of the loan.

(4) **The Minister responsible for finance** shall, at such times as the National Assembly may determine, **present** to the National Assembly information concerning any loan including -

(a) the source of the loan;

(b) the extent of the total indebtedness by way of principal and accumulated interest;

(c) the provision made for servicing or

repayment of the loan; and

(d) the utilisation and performance of the loan.

**(5)** The National Assembly may, by resolution, authorise the **Minister responsible for finance** to enter into an agreement for the giving of a loan or grant out of the **National Treasury Account** or any other public fund or account.

**(6)** An agreement entered into under clause (5) shall be laid before the National Assembly **by the Minister responsible for finance** and shall not come into force unless it has been approved by a simple majority resolution of the National Assembly.

**(7)** For the purposes of this Article, "loan" includes any moneys lent or given to or by the **Minister responsible for finance** on condition of return or repayment and any other form of borrowing or lending in respect of which moneys from the **National Treasury Account** or any other public fund or account may be used for payment or repayment.

**Management of  
public debt**

**313.** (1) The public debt of Zambia shall be a charge on the **National Treasury Account** and any other public **account**.

**(2)** The **Minister responsible for finance** shall report all borrowings by any State institution or authority in value, annually, to the National Assembly.

**(3)** The **Minister responsible for finance** shall manage the public debt of Zambia.

**(4)** For the purposes of this Article, “public debt” includes the interest on that debt, sinking fund payments in respect of that debt, the costs, charges and expenses incidental to the management of that debt.

**(5) Parliament shall enact legislation to provide for the management of public debt.**

Remuneration of  
certain officers

**314. (1) There shall be paid to the holders of the offices to which this Article applies such salary and such allowances as may be prescribed by or under an Act of Parliament.**

**(2) The salaries and any allowances payable to the holders of offices to which this Article applies shall be a charge on the general revenues of the Republic.**

**(3) The salary payable to the holder of any office to which this Article applies and the terms of office shall not be altered to the person’s disadvantage after the person’s appointment.**

**(4) Where a person’s salary or terms of office depend upon the person’s option, the salary or terms for which the person opts shall, for the purposes of clause (3), be deemed to be more advantageous to the person than any others for which the person might have opted.**

**(5) This Article applies to the offices established by this Constitution and to such other offices as may be prescribed by an Act of Parliament.**

Financial report  
of Government

**315. (1) The Minister responsible for finance shall, within**

six months after the end of each financial year, prepare and submit to the Auditor-General, the financial report of the Government in respect of the preceding financial year.

(2) The financial report referred to under clause (1) shall include information on -

- (a) revenue and other moneys received by Government during that financial year;
- (b) the expenditure of the Government during that financial year, including expenditure charged by this Constitution or any other law on the **National Treasury Account** or other public fund;
- (c) the payments made in the financial year otherwise than for the purposes of expenditure;
- (d) debt repayments;
- (e) **gifts, donations and aid-in-kind received on behalf of the Republic in that financial year and how they were disposed off;**
- (f) **loans and grants given out by the Government under Article 312;**
- (g) the financial position of the Republic at the end of that financial year; and
- (h) any other information as specified under

the **Planning and Budget Act**.

(3) The Auditor-General shall examine the financial report submitted by the Minister responsible for finance under clause (1) and express an opinion on the report (***in accordance with international auditing standards***).

(4) The Minister responsible for finance shall within nine months after the end of the financial year lay the financial report of the Government, with the Auditor General's opinion, before the National Assembly.

Disposal of State  
assets

**316. Parliament shall enact legislation to –**

- (a) regulate the manner in which State assets shall be sold, transferred, disposed of or otherwise dealt with;**
- (b) provide for the role of Parliament in the processes referred to under paragraph (a); and**
- (c) provide for the effective management of State assets.**

Auditor-General

**317. (1) There shall be an Auditor-General for the Republic whose office shall be a public office and who shall be appointed by the President, subject to ratification by the National Assembly.**

**(2) Subject to the provisions of this Article, the Auditor-General shall retire from office on the attainment of sixty years of age.**

**(3) A person holding the office of Auditor-General may be removed from office only for inability to perform**

**the functions of the office, whether arising from infirmity of body or mind, or for incompetence or for misbehaviour and shall not be so removed except in accordance with the provisions of this Article.**

**(4) If the National Assembly resolves that the question of removing a person holding the office of Auditor-General from office under this Article ought to be investigated, then-**

- (a) the National Assembly shall, by resolution appoint a tribunal which shall consist of a Chairperson and not less than two other members, who hold or have held high judicial office;**
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the National Assembly; and**
- (c) the National Assembly shall consider the report of the tribunal at the first convenient sitting of the National Assembly after it is received and may, upon such consideration, by resolution, remove the Auditor-General from office.**

**(5) If the question of removing the Auditor-General from office has been referred to a tribunal under this Article, the National Assembly may, by resolution, suspend that person from performing the functions of the office, and any such suspension may at any time be**

revoked by the National Assembly by resolution and shall in any case cease to have effect if, upon consideration of the report of the tribunal in accordance with the provisions of this Article, the National Assembly does not remove the Auditor-General from office.

(6) A person who holds or has held the office of Auditor-General shall not be appointed to hold or to act in any other public office.

(7) A person who holds the office of Auditor-General may resign upon giving three months' notice to the President.

Functions of  
Auditor-General

**318. (1) The Auditor-General shall -**

- (a) ensure that the provisions of this Part are being complied with;**
- (b) ensure that the moneys expended have been applied to the purposes for which they were appropriated by the Appropriation Act or by the Supplementary Appropriation Act, in accordance with the approved estimates or supplementary estimates, as the case may be, and that the expenditure conforms to the authority that governs it;**
- (c) audit the accounts relating to the Moneys from the general revenues of the**

**Republic appropriated by Parliament to the National Assembly and the Judiciary and the expenditure of such moneys by those institutions;**

**(d) audit the accounts relating to the stocks and stores of the Government and the accounts of such other bodies as may be prescribed by or under any law; and**

**(e) audit the accounts relating to any expenditure charged by this Constitution or any other law on the general revenues of the Republic and to submit a report thereon to the President not later than nine months after the end of each financial year.**

**(2) The Auditor-General and any officer authorised by the Auditor-General shall have access to all books, records, reports and other documents relating to any of the accounts referred to in clause (1) and which are relevant to an audit.**

**(3) The Auditor-General shall, not later than nine months after the end of each financial year, submit a report on the accounts referred to in paragraph (c) of clause (1) in respect of that financial year to the President who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, cause it to be laid before the National Assembly.**

**(4) If the President defaults in laying the report before the National Assembly, the Auditor-General shall submit the report to the Speaker of the National Assembly or, if the office of the Speaker is vacant or if the Speaker is for any reason unable to perform the functions of the office, to the Deputy Speaker, who shall cause it to be laid before the National Assembly.**

**(5) The National Assembly shall, within three months after the submission of the report referred to in clause (4), consider the report and take appropriate action including referring any cases of malpractice or financial impropriety to any public institution which is competent in the matter for necessary action.**

**(6) The Auditor-General shall perform such other duties and exercise such other powers in relation to all accounts of the Government or the accounts of other public authorities or other bodies as may be prescribed by or under an Act of Parliament.**

**(7) The President, the National Assembly or any citizen may, at any time, in the public interest, request the Auditor-General to audit the accounts of a State organ, State institution or body that is subject to audit under this Part.**

**(8) The office of the Auditor-General shall be audited and the report shall be submitted to the National Assembly and the President by external auditors appointed by the Minister responsible for finance.**

the Auditor-General and the staff of the office of the Auditor-General shall not be subject to the direction or control of any person or authority.

Funding of  
Auditor-General

**320.** (1) The office of the Auditor-General shall be funded to enable the office to effectively carry out its mandate.

(2) The expenses of the office of the Auditor-General shall be a charge on the **National Treasury Account**.

Reference by  
Auditor-General

321. The Auditor-General **shall** refer any case of malpractice or financial impropriety to any public institution which is competent in the matter for action.

## **PART XVIII**

### **CENTRAL BANK**

Central Bank

**322.** (1) There is hereby established the Central Bank of Zambia.

(2) **The Central Bank of Zambia shall be called the Bank of Zambia and shall be the only authority to issue the currency of Zambia.**

(3) The authority of the Central Bank shall vest in the Board of Directors of the Bank as constituted by an Act of Parliament.

Independence of  
Central Bank

**323. (1) Subject to clause (2),** in the performance of the functions of the Central Bank, the Governor, **the Board of Directors** and staff of the Bank shall be subject to this Constitution and any other law and shall not be subject to the

direction or control of any person or authority.

**(2) The Minister responsible for finance may give policy direction to the Central Bank on any matter.**

Governor of  
Central Bank

**324.** There shall be a Governor of the Central Bank who shall -

- (a) be a citizen by birth or descent;
- (b) be a person of proven integrity;
- (c) be appointed by the President, subject to ratification by the National Assembly, for a fixed term of office as provided by or under an Act of Parliament; and
- (d) hold such other qualifications as may be specified by or under an Act of Parliament.**

Legislation on  
Central Bank

**325.** Parliament shall enact legislation to provide for-

- (a) the functions of the Bank, its operations and management;
- (b) the removal from office of the Governor;**
- (c) the appointment, qualifications, tenure of office and other terms and conditions of service of the Board of Directors, other than the Governor; and
- (d) other matters necessary for the effective performance of the functions of the Bank.**