

PART VII

CODE OF ETHICS AND CONDUCT OF PUBLIC OFFICERS

Conflict of interest

89. A public officer shall not act in a manner or be in a position where the personal interest of the officer conflicts or is likely to conflict with the performance of the functions of office.

Declaration of assets and liabilities

90. (1) An Act of Parliament shall specify the categories of public officers who shall make declarations of their assets and liabilities, the form and manner of making the declaration and to whom the declaration shall be submitted.

(2) A public officer specified in an Act of Parliament shall, in accordance with that Act, make a written declaration of the assets or liabilities of that public officer -

- (a) within three months after the commencement of this Constitution or upon taking office;
- (b) annually; and
- (c) at the end of the term of office.

(3) A public officer who fails to make and submit a declaration as required by clauses (1) and (2) or knowingly makes a false declaration commits an offence and shall be liable to a penalty imposed by an Act of Parliament.

Codes of ethics for professions and other vocations

91. Parliament shall enact legislation to provide for the compiling and publication of a code of

conduct and ethics for any profession or vocation that involves the provision of services to the public.

PART XIV

PUBLIC SERVICE AND COMMISSIONS

Values and principles
of public service

267. (1) Parliament shall enact legislation to provide for the guiding values and principles of the public service.

(2) The values and principles referred to under clause (1) shall apply to public service-

(a) at national and local government level; and

(b) in all State organs and State institutions.

Public Offices

Offices for Republic

268. (1) Subject to the other provisions of this Constitution and any other law-

(a) the power to constitute public offices for the Republic and the power to abolish any of those offices vest in the President; and

(b) the power to appoint persons to hold or act in offices constituted for the Republic, to confirm appointments, to exercise disciplinary control over persons holding or acting in those offices and remove any of those

persons from office vests in the President.

(2) The expenses, including emoluments, of any public office constituted under this Part shall be a charge on the National Treasury Account.

(3) In this Part “public officer” does not include **a judge, a judicial officer**, a member of any Commission established by this Constitution or an Act of Parliament, any officer serving in the Parliamentary Service Commission, a member of Parliament **or** a councillor.

Attorney-General

269. (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall be appointed by the President, subject to ratification by the National Assembly.

(2) The person appointed Attorney-General under clause (1) shall not be appointed as a Minister or hold any other public office.

(3) The Attorney-General shall be-

- (a) an ex-officio member of Cabinet;
- (b) not less than **forty-five** years of age; and
- (c) a person qualified to be appointed as a Judge of a superior court.

(4) The office of Attorney-General shall become vacant if the holder of the office is removed from office by the President.

(5) The Attorney-General may resign from office on giving three months notice in writing to the President.

(6) The functions of the Attorney-General shall include-

- (a) being the principal legal adviser to the Government;
- (b) **causing the drafting of and signing,** all Government Bills to be presented to Parliament;
- (c) **drawing and perusing agreements, contracts, treaties, conventions and documents, by whatever name called, to which the Government is a party or in respect of which the Government has an interest;**
- (d) representing the Government in the courts or any other legal proceedings to which Government is a party; and
- (e) any other functions assigned to the Attorney-General by the President or by any other law.

(7) Subject to the other provisions of this Constitution, an agreement, contract, treaty, convention or document by whatever name called, to which Government is a party or in respect of which the Government has an interest, shall not be concluded without the legal advice of the Attorney-General,

except in such cases and subject to such conditions as Parliament may by law prescribe.

(8) In the exercise of the power to give directions to the Director of Public Prosecutions conferred by clause (6) of Article 271, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Solicitor-General

270. (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President, subject to ratification by the National Assembly.

(2) A person shall not qualify to be appointed to the office of Solicitor-General unless that person is qualified for appointment as a Judge of a superior court.

(3) The office of Solicitor-General shall become vacant if the holder of the office is removed from office by the President.

(4) The Solicitor-General may resign from office on giving three months notice in writing to the President.

(5) A function conferred on the Attorney-General by this Constitution or any other law may be performed by the Solicitor-General-

(a) when the Attorney-General is unable to act owing to illness or absence from office for any reason; and

(b) in any case where the Attorney-General has authorised the Solicitor-General to perform that function.

Director of Public Prosecutions

271. (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President subject to ratification by the National Assembly.

(2) A person shall not qualify to be appointed to the office of Director of Public Prosecutions unless that person is qualified to be appointed as a Judge of a superior court **with experience biased towards criminal law.**

(3) Except as otherwise provided in this Constitution or any other law, the Director of Public Prosecutions may-

(a) institute and undertake criminal proceedings against a person before a court, other than a court-martial, in respect of an offence alleged to have been committed by that person

(b) take over and continue criminal proceedings instituted or undertaken by any other person or authority; and

(c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or undertaken.

(4) The functions of the Director of Public Prosecutions under clause (3) may be exercised in

person or by a public officer or class of public officers or legal practitioners, specified by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.

(5) For the purposes of clause (3)-

(a) an appeal from a judgment in any criminal proceeding before a court or a case stated or question of law reserved for the purposes of proceedings to any other court, shall be part of the criminal proceedings; and

(b) the power conferred on the Director of Public Prosecutions by paragraph (c) of that clause shall not be exercised in relation to an appeal by a person convicted in a criminal proceeding, to a case stated or to a question of law reserved at the instance of that person.

(6) The Director of Public Prosecutions shall not be subject to the direction or control or authority in the performance of the functions of of any person Director of Public Prosecutions:

Provided that when the exercise of any power in any case may, in the judgement of the Director of Public Prosecutions involve general consideration of public policy, the Director of Public Prosecutions shall bring the case to the notice of the Attorney-General and shall in the exercise of powers in relation to that case, act in accordance with any directions of the Attorney-General.

(7) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

(8) Parliament shall enact legislation to-

- (a) establish a National Prosecution Authority which shall be headed by the Director of Public Prosecutions;**
- (b) provide for the functions, powers, independence, operations, administration, finances and**

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tional Prosecution Authority;

(c) provide for the composition, tenure of office and procedures of

the Board of the National Prosecution Authority, whose chairperson shall be the Director of Public Prosecutions;

(d) provide for the decentralisation of the offices of the National Prosecution Authority to the provinces and progressively to the districts; and

(e) provide for any other function of the Director of Public Prosecutions.

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

272. Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office because of illness or for any other cause, the President shall, on the recommendation of the Judicial Service Commission, appoint any other person to perform the functions of the Director of Public Prosecutions until that appointment is revoked.

Tenure of office of
Director of Public
Prosecutions

273. (1) Subject to this Article, a person holding the office of Director of Public Prosecutions shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.

(2) The Director of Public Prosecutions may be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.

(3) The Director of Public Prosecutions may resign from office on giving three months notice in writing to the President.

Permanent
Secretaries

274. (1) Subject to this Constitution, a

province,
ministry or
department of the

Government shall be under the supervision and administration of a Permanent Secretary whose office is a public office.

(2) A Permanent Secretary shall be appointed by the President in accordance with the recommendation of the **Public** Service Commission.

(3) Parliament shall enact legislation to provide for the functions and qualifications of a Permanent Secretary.

Commissions

**Public Service
Commission and
other service
commissions**

275. (1) There is hereby established the Public Service Commission.

(2) The Public Service Commission shall consist of a Chairperson and not less than four or more than six other members:

Provided that at least one member shall be a person with a disability.

(3) The Chairperson and members of the Public Service Commission shall be appointed by the President.

appointed as a Chairperson or member of the Public Service Commission unless that person is -

- (a) a person of proven integrity; and**
- (b) not a member of the National Assembly or a public officer.**

(5) Subject to clause (6) and (7), the Chairperson and members of the Public Service Commission shall hold office for a term of four years and shall be eligible for reappointment for only one further term of four years.

(6) The office of Chairperson or member of the Public Service Commission shall become vacant if the holder of the office is removed from office by the President.

(7) Subject to the other provisions of this Article, a Chairperson or member of the Public Service Commission shall vacate office -

- (a) at the expiry of the term of office specified under clause (5);**
- (b) if any circumstances arise that, if the person were not a member of the Commission, would cause the person to be disqualified for appointment as such; or**

(4) A person shall not qualify to be

(8) The President may give to the Public Service Commission or to any person, to whom the functions or powers of the Commission are delegated by or under an Act of Parliament, such general directions with respect to the exercise of the functions or powers of the Commission, as the President may consider necessary and the Commission or that person shall comply with those directions.

(9) Except as otherwise provided by clause (8), the Public Service Commission shall not be subject to the direction or control of any other

(c) in the case of a member who represents a body or institution, if that person or authority in the exercise of its functions under this Constitution

(10) Parliament shall enact legislation to provide for the functions, powers, procedures, operations, administration, finances and financial management of the Public Service Commission.

(11) Parliament may enact legislation to-

- (a) establish other commissions that may be necessary for the efficient and effective functioning of the public service; and
- (b) provide for the functions, **powers, independence**, composition, tenure of office, procedures, operations,

inistration, finances and financial management of a commission established by or under this clause.

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Establishment of investigative commissions, etc

276. (1) There shall be established for the Republic investigative commissions.

(2) Parliament shall enact legislation to provide for the functions, **powers, independence,** composition, tenure of office, procedures, operations, administration, finances and financial management of an investigative Commission established under **clause (1).**

(3) Commissions, other than investigative commissions, may be established for the Republic by or under an Act of Parliament and shall have functions and powers as may be prescribed by or under an Act of Parliament.

Participation in politics

277. (1) A public officer shall not, while remaining a public officer, join or participate in partisan politics.

(2) A public officer who seeks election to a political office shall take early retirement in the national interest if that officer has served for at least twenty years or resigns from public service.

Retirement of public officers

278. (1) A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years and may retire with full benefits on the attainment of fifty-five years.

(2) A public officer may, unless otherwise provided in this Constitution, retire from the public service at any time after a continuous service of twenty years, with the approval of the Government.

(3) A public officer who has retired from the public service shall not be re-engaged, except that an officer who has special professional qualifications or **has acquired special skills** may be re-engaged on contract.

Pension, gratuity and retrenchment benefits for public officers

279. (1) The right of a public officer to a pension, gratuity or retrenchment benefits, **to which the public officer is entitled under the terms and conditions of service or by or under an Act of Parliament**, is hereby guaranteed.

(2) Any **pension, gratuity or retrenchment benefits** which a public officer is entitled to **under the terms and conditions of service or** by or under an Act of Parliament shall not be withheld or altered to that officer's disadvantage, except to an upward adjustment to the extent provided by law.

(3) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those

benefits were granted or any law in force at a later date that is favourable to that person.

(4) The law to be applied with respect to pension benefits, other than as provided in clause (2), shall-

- (a) where those benefits are wholly in respect of a period of service as a public officer, **as an officer in the department of the Clerk of the National Assembly**, member of the Defence Forces or of the national security agencies that commenced before the commencement of this Constitution, be the law in force immediately before that date; or
- (b) where those benefits are wholly or partly in respect of a period of service as a public officer, member of the Defence Forces or national security agencies that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced;

or any law in force at a later date that is not less favourable to that person.

(5) All pension benefits **or retrenchment benefits**, unless otherwise charged on a fund established by or under an Act of Parliament, shall be a charge on the **National Treasury Account**.

(6) In this Article “pension benefits” includes any pension, compensation and gratuity or similar allowance for persons in respect of their service as public officers, **officers in the department of the Clerk of the National Assembly**, members of the Defence Forces and national security agencies or for the **surviving spouses**, children, dependants or personal representatives of those persons in respect of the service.

Pension to be reviewed

280. Pensions shall be reviewed upwards periodically to take into account changes in the value of money or a review of salaries.

Legislation on pension, gratuity and retrenchment benefits for public officers

281. (1) Parliament shall enact legislation to-

- (a) provide for pensions, gratuities and retrenchment benefits for service in the Public Service and for an efficient and effective system for the administration of pensions;**
- (b) specify the period, which period shall not exceed six months from the date of retirement or retrenchment, within which pension or retrenchment benefits shall be paid to a retired or retrenched public officer;**
- (c) provide for the retention on the pay roll, until payment of the**

pension or retrenchment benefits, of a public officer who is retired or retrenched but is not paid pension or retrenchment benefits; and

(d) specify what constitutes pension or retrenchment benefits for purposes of retaining a retired or retrenched public officer on the pay roll by virtue of this Article.

(2) A public officer referred to under paragraph (c) of clause (1) shall stop work on their last working day but shall be entitled to -

(a) a salary and to any increment in salary given to public officers in the salary scale that the public officer was on at the date of retirement or retrenchment; and

(b) a pension or retrenchment benefits based on the last salary received by the retired or retrenched public officer while on the pay roll by virtue of this Article.

(3) Any salary which is paid to a retired or retrenched public officer while on the pay roll by virtue of this Article shall not be deducted from

that retired or retrenched public officer's pension or retrenchment benefits.

PART XV
INVESTIGATOR-GENERAL

Establishment of
office of **Investigator-
General**

282. (1) There is hereby established the office of the **Investigator-General** which shall have offices in all the provinces and progressively in the districts.

(2) The **Investigator-General** shall be appointed by the **President on the advice of** the Judicial Service Commission, subject to ratification by the National Assembly.

(3) Parliament shall enact legislation to provide for the **functions, powers,** procedures, staff, financial resources, financial management and operations of the office of the **Investigator-General.**

Qualification for
appointment and
conditions of service

283. (1) A person shall qualify to be appointed to the office of the **Investigator-General** if that person-

- (a) is qualified to be appointed as a Judge of a superior court; and
- (b) does not hold the office of President, Vice-President, Minister, Provincial Minister, Deputy Minister, member of the National Assembly or councillor.

(2) The terms and conditions of service of the **Investigator-General** including the grounds and

procedure for removal from office, shall be the same as apply to a Judge of a superior court.

(3) The **Investigator-General** shall not hold any other office of profit or emolument.

(4) Where the **Investigator-General** dies, resigns, is removed from office, is absent from Zambia or is for any other reason unable to perform the functions of office, the **President** shall, on the recommendation of the **Judicial** Service Commission, appoint a person who is qualified to be appointed as **Investigator-General** to act until the **Investigator-General** resumes office or another **Investigator-General** is appointed.

Independence of
Investigator-General

284. In the performance of the functions of the **Investigator-General**, the **Investigator-General** and the staff of the office of the **Investigator-General** shall be subject only to this Constitution and any other law and shall not be subject to the direction or control of any person or authority.

Accountability

285. The **Investigator-General** shall **report to the National Assembly and shall** be accountable to the **President**.

PART XVI
DEFENCE AND NATIONAL SECURITY

**Zambia Defence
Force**

286. (1) There shall be an armed force to be known as the Zambia Defence Force.

(2) The Zambia Defence Force shall be non-partisan, national in character, patriotic, professional, disciplined, productive and subordinate to the civilian authorities as established under this Constitution.

(3) Members of the Zambia Defence Force shall be citizens of Zambia who do not have dual citizenship and are of good character.

(4) A person shall not raise an armed force except in accordance with this Constitution.

**Functions of
Defence Force**

287. The functions of the Zambia Defence Force shall be to-

- (a) preserve and defend the sovereignty and territorial integrity of Zambia;**
- (b) co-operate with the civilian authorities in emergency situations and in case of natural disasters;**
- (c) foster harmony and understanding between the Zambia Defence Force and civilians; and**
- (d) engage in productive activities for the development of Zambia.**

**Legislation on
Defence Force**

288. Parliament shall enact legislation to regulate the Zambia Defence Force and to provide for -

- (a) the organs and structures of the Zambia Defence Force;**
- (b) the recruitment of persons into the Zambia Defence Force from every district of Zambia;**
- (c) the terms and conditions of service of members of the Zambia Defence Force; and**
- (d) the deployment of troops outside of Zambia.**

**Zambia Police
Service**

289. (1) There shall be a police service to be known as the Zambia Police Service and such other police services as Parliament may by law prescribe.

(2) Subject to the other provisions of this Constitution, every police service in Zambia shall be organised and administered in such a manner and shall have such functions as Parliament may by law prescribe.

(3) The Zambia Police Service shall be nationalistic, patriotic, non-partisan, professional, disciplined, competent and productive and its members shall be citizens of Zambia who do not have dual citizenship and are of good character.

**Functions of Zambia
Police Service**

290. The functions of the Zambia Police Service shall include the following:

- (a) to protect life and property;**
- (b) to preserve law and order;**
- (c) to detect and prevent crime; and**
- (d) to co-operate with the civilian authorities and other security organs established under this Constitution and with the population generally.**

**Legislation on
Zambia Police
Service**

291. Parliament shall enact legislation to regulate the Zambia Police Service and to provide for-

- (a) the organs and structures of the Zambia Police Service;**
- (b) the recruitment of persons into the Zambia Police Service from every district of Zambia;**
- (c) the terms and conditions of service of members of the Zambia Police Service; and**
- (d) the regulation generally of the Zambia Police Service.**

Prisons Service

292. (1) There shall be the Zambia Prisons Service.

(2) Members of the Zambia Prisons Service shall be citizens of Zambia who do not have dual citizenship and are of good character.

**Legislation on
Zambia Prisons
Service**

293. Parliament shall enact legislation to regulate the Zambia Prisons Service and to provide for-

- (a) the functions, organs and structures of the Zambia Prisons service;**
- (b) the recruitment of persons to the Zambia Prisons Service from every district of Zambia;**
- (c) the terms and conditions of service of members of the Zambia Prisons Service; and**
- (d) the regulation generally of the Zambia Prisons Service.**

**Establishment of
Police and Prisons
Service Commission**

294. (1) There is hereby established the Police and Prisons Service Commission.

(2) Parliament shall enact legislation to provide for the functions, powers, independence, composition, tenure of office, staff, procedures, operations, finances and financial management of the Police and Prisons Service Commission.

**Zambia Security
Intelligence Service**

295. (1) There shall be a Zambia Security Intelligence Service.

(2) Members of the Zambia Intelligence Service shall be citizens of Zambia who do not have dual citizenship and are of good character.

(3) Parliament shall enact legislation to regulate the Zambia Security Intelligence Service and to provide for-

- (a) the functions, organs and structures of the Zambia Security Intelligence Service;**
- (b) the recruitment of persons into the Zambia Security Intelligence Service from every district of Zambia;**
- (c) the terms and conditions of service of members of the Zambia Security Intelligence Service; and**
- (d) the regulation generally of the Zambia Security Intelligence Service.**

