

THE CONSTITUTION OF ZAMBIA BILL, 2015

MEMORANDUM

The objects of this Bill are to provide for—

- (a)* the printing and publication of the Constitution;
- (b)* the savings and transitional provisions of existing State organs, State institutions, offices and laws;
- (c)* the succession to assets, rights, liabilities, obligations and legal proceedings; and
- (d)* matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

**THE CONSTITUTION OF ZAMBIA BILL,
2015**

ARRANGEMENT OF SECTIONS

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A BILL

ENTITLED

An Act to provide for the printing and publication of the Constitution; to provide for the savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws; to provide for the savings of succession to assets, rights, liabilities, obligations and legal proceedings; and to provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Constitution of Zambia Act, 2015.

Short title

2. (1) In this Act, unless the context otherwise requires—

Interpretation

5 “Constitution” means the Constitution of Zambia, 1991, in force immediately before the effective date;

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“effective date” means the date of the commencement of this Act and the Constitution as amended as provided in section *four*; and

10 “existing laws” means the Laws of Zambia as they exist immediately before the effective date, including any statutory instrument issued or made before that date which is to come into force on, or after, the effective date.

15 (2) Except where the context otherwise requires, words and expressions used in this Act have the same meaning as in the Constitution as amended.

- Amendment of Constitution of Zambia Act, 1991, and Schedule thereto
Cap. 1
3. Except as provided under this Act, the Constitution of Zambia Act, 1991, and the Constitution in the Schedule to that Act are amended in so far as they form part of the laws of Zambia.
- Commencement of Constitution as amended
Act No. of 2015
4. Subject to this Act, the Constitution as amended in Act No. of 2015 shall come into operation on the commencement of this Act.
- Printing and publication of Constitution
5. The Constitution may be printed and published by the Government Printer separately from this Act, and the production of a copy of the Constitution purporting to be so printed shall be *prima facie* evidence in courts and for all purposes in connection with the Constitution as its provisions.
- Existing laws
6. (1) Subject to the other provisions of this Act, and so far as they are not inconsistent with the Constitution as amended, existing laws shall continue in force after the commencement of this Act as if they had been made in pursuance of the Constitution as amended, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution as amended.
- (2) Parliament shall, within such period as it shall determine, make amendments to any existing law to bring that law into conformity with, or to give effect to, this Act and the Constitution as amended.
- Executive
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7. (1) The President shall continue to serve as President for the unexpired term of that office as specified by the Constitution in accordance with the Constitution.
- (2) A person holding the post of Vice-President, Minister or Deputy Minister shall continue to hold that position under the Constitution until that appointment is terminated by the President in accordance with the Constitution.
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- Prerogative of mercy
8. The prerogative of mercy bestowed on the President under the Constitution as amended may be exercised in respect of any criminal offence committed before the effective date.
- Rights, duties and obligations of Government
9. Rights, duties and obligations of the Government subsisting immediately before the effective date shall continue as rights, duties and obligations of the Government under the Constitution as amended.

10. (1) Where a provision of the Constitution as amended has altered the name of an office or institution existing immediately before the effective date, the office or institution as known by the new name shall be the legal successor of the first named office or institution.

Succession of institutions, offices, assets and liabilities

(2) Liabilities, property and other assets that were incurred or vested in the President, the State, Government or the Republic immediately before the effective date shall continue to be so incurred or vested after the effective date.

10 (3) Any property that was liable to escheat or to be forfeited to the State, Government or the Republic immediately before the effective date shall be liable to escheat or to be so forfeited after the effective date.

11. (1) A person who is holding or acting in an office established by the Constitution immediately before the effective date shall continue to hold or act in that office as if appointed to that office under the Constitution as amended and shall be considered as having taken any necessary oath required to be taken under the Constitution as amended, unless the President requires that person to take any oath specified by the Constitution as amended or any other law.

Existing offices
Cap. 1

(2) A public officer shall continue to hold or act in that office as if appointed to that position under the Constitution as amended and shall be considered as having taken any necessary oath required to be taken under the Constitution as amended, unless the President requires the public officer to take any oath specified by the Constitution as amended or any other law.

(5) This section shall not—

(a) affect the powers conferred on any person or authority under the Constitution as amended to abolish offices or remove persons from those offices; or

(b) apply to any person who, under the existing law or the Constitution, would have been required to vacate an office at the expiry of any period or on the attainment of any age.

35 (4) The process of appointing persons to fill vacancies arising after the effective date shall begin on the effective date and in accordance with the Constitution as amended.

- Pensions, gratuities and other benefits 12. The law applicable to pensions, gratuities or emoluments in respect of public officers 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 not less favourable to the public officers.
- Legislature 13. (1) The National Assembly existing immediately before 5 the effective date shall continue as the National Assembly for the purposes of the Constitution as amended and the members of the National Assembly shall continue as members until the expiry of their term of office as specified by the Constitution.
- Cap. 1 (2) The persons holding the offices of Speaker and Deputy 10 Speaker of the National Assembly immediately before the effective date shall continue as Speaker and Deputy Speaker until another Speaker and Deputy Speakers are elected under the Constitution as amended and shall be considered as having taken any oath specified by the Constitution as amended. 15
- Cap. 1 (3) The functions and powers vested in Parliament by the Constitution shall be exercised after the effective date by that Parliament for the unexpired term of that Parliament in accordance with the Constitution. 50
- (4) The rules and orders of the National Assembly existing on 20 the effective date shall be the rules and orders of the National Assembly after the effective date but shall be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with the Constitution as amended. 25
- (5) The National Assembly shall, within such period as it shall determine, revise the Standing Orders of the National Assembly in accordance with the Constitution as amended.
- (6) Moneys granted, voted or appropriated by the Parliament existing immediately before the effective date, for the current 30 financial year, shall be deemed to have been granted, voted or appropriated in accordance with the Constitution as amended.
- (7) The boundaries of a constituency existing immediately before the effective date shall be the boundaries of the constituency until the next delimitation is done in accordance with the Constitution 35 as amended.
- By-elections 14. A by-election held after the effective date shall be held in accordance with the Constitution as amended.

15. (1) Subject to this section, a judge or judicial officer who held office immediately before the effective date shall continue to hold office as if appointed to that office under the Constitution as amended but may opt to retire, in accordance with subsection (2), within twelve months of the effective date.
- Judicature
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- (2) A judge who has attained the age of sixty-five years immediately before or on the effective date may retire and shall be entitled on retirement to the benefits that person would have been entitled to at the date of retirement as specified in the Constitution.
- Cap. 1
- 10 16. (1) Unless otherwise provided under the Constitution as amended, proceedings pending before court or tribunal shall continue to be heard and determined by the same court or tribunal or may be transferred to a corresponding court or tribunal established under the Constitution as amended.
- Judicial and tribunal proceedings and pending matters
- 15 (2) Unless otherwise provided under the Constitution as amended, a matter or proceeding that, immediately before the effective date, is pending before a commission, office or authority shall continue before the same commission, office or authority or corresponding commission, office or authority established under the Constitution as amended.
- 20
17. (1) Local authorities shall continue to exist after the effective date until the implementation of the new structure under the Constitution as amended and as provided by an Act of Parliament.
- Local government
- 25 (2) Parliament shall enact legislation for the local government system as provided by the Constitution as amended.
- (3) Councillors of district councils shall continue as councillors after the effective date until general elections are held in accordance with the Constitution as amended.
- 30 (4) The boundaries of a province, district or ward existing immediately before the effective date shall be the boundaries of that province, district or ward until the next delimitation is done in accordance with the Constitution as amended.
- 35 18. (1) A political party in existence immediately before the effective date shall, within twelve months of the effective date, comply with the Constitution as amended and any legislation enacted by Parliament in accordance with the Constitution as amended.
- Political parties

(2) If on the expiry of the period of twelve months, a political party has not complied with the Constitution as amended and any legislation enacted under subsection (1), the political party shall forthwith cease to exist as a political party.

Commissions 19. The Commissions existing immediately before the effective 5 date shall continue to exist as if established under the Constitution as amended.

Currency 20. Nothing in the Constitution as amended affects the validity of notes and coins issued immediately before the effective date.

Transitional provisions 21. Subject to section six, where an Act of Parliament is 10 required to give effect to an Article of the Constitution as amended, that Article shall come into effect upon the publication of the Act of Parliament or such other date as may be prescribed by, or under, the Act of Parliament.