



ZIMBABWE

ACT

To repeal and substitute the Constitution of Zimbabwe.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Constitution of Zimbabwe Amendment (No. 20) Act, 2013.

2 Interpretation

In this Act—

“existing Constitution” means the Constitution of Zimbabwe that came into operation on the 18th April, 1980, as subsequently amended;

“new Constitution” means the Constitution of Zimbabwe set forth in the Schedule.

3 Repeal of existing Constitution by new Constitution

(1) Subject to subsection (2), the existing Constitution is repealed and substituted by the new Constitution.

(2) For the avoidance of doubt it declared that —

- (a) the new Constitution is enacted on the “publication day” as defined in the Sixth Schedule to that Constitution, that is to say, on the date on which this Act is published in the *Gazette* in accordance with section 51(5) of the existing Constitution; and
- (b) with effect from the date of enactment of the new Constitution as described in paragraph (a), the existing Constitution remains in force to the extent specified in the Sixth Schedule of the new Constitution.

(b) higher and tertiary education.

(2) The State must take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels.

28 Shelter

The State and all institutions and agencies of government at every level must take reasonable legislative and other measures, within the limits of the resources available to them, to enable every person to have access to adequate shelter.

29 Health services

(1) The State must take all practical measures to ensure the provision of basic, accessible and adequate health services throughout Zimbabwe.

(2) The State must take appropriate, fair and reasonable measures to ensure that no person is refused emergency medical treatment at any health institution.

(3) The State must take all preventive measures within the limits of the resources available to it, including education and public awareness programmes, against the spread of disease.

30 Social welfare

The State must take all practical measures, within the limits of the resources available to it, to provide social security and social care to those who are in need.

31 Legal aid

The State must take all practical measures, within the limits of the resources available to it, to provide legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice.

32 Sporting and recreational facilities

The State must take all practical measures to encourage sporting and recreational activities, including the provision of sporting and recreational facilities for all people.

33 Preservation of traditional knowledge

The State must take measures to preserve, protect and promote indigenous knowledge systems, including knowledge of the medicinal and other properties of animal and plant life possessed by local communities and people.

34 Domestication of international instruments

The State must ensure that all international conventions, treaties and agreements to which Zimbabwe is a party are incorporated into domestic law.

CHAPTER 3

CITIZENSHIP

35 Zimbabwean citizenship

(1) Persons are Zimbabwean citizens by birth, descent or registration.

(2) All Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship.

(3) All Zimbabwean citizens are entitled to the following rights and benefits, in addition to any others granted to them by law—

- (a) to the protection of the State wherever they may be;
- (b) to passports and other travel documents; and
- (c) to birth certificates and other identity documents issued by the State.

(4) Zimbabwean citizens have the following duties, in addition to any others imposed upon them by law—

- (a) to be loyal to Zimbabwe;
- (b) to observe this Constitution and to respect its ideals and institutions;
- (c) to respect the national flag and the national anthem; and
- (d) to the best of their ability, to defend Zimbabwe and its sovereignty.

36 Citizenship by birth

(1) Persons are Zimbabwean citizens by birth if they were born in Zimbabwe and, when they were born—

- (a) either their mother or their father was a Zimbabwean citizen; or
- (b) any of their grandparents was a Zimbabwean citizen by birth or descent.

(2) Persons born outside Zimbabwe are Zimbabwean citizens by birth if, when they were born, either of their parents was a Zimbabwean citizen and—

- (a) ordinarily resident in Zimbabwe; or
- (b) working outside Zimbabwe for the State or an international organisation.

(3) A child found in Zimbabwe who is, or appears to be, less than fifteen years of age, and whose nationality and parents are not known, is presumed to be a Zimbabwean citizen by birth.

37 Citizenship by descent

Subject to section 36(2), persons born outside Zimbabwe are Zimbabwean citizens by descent if, when they were born—

- (a) either of their parents or any of their grandparents was a Zimbabwean citizen by birth or descent; or
- (b) either of their parents was a Zimbabwean citizen by registration;

and the birth is registered in Zimbabwe in accordance with the law relating to the registration of births.

38 Citizenship by registration

(1) Any person who has been married to a Zimbabwean citizen for at least five years, whether before or after the effective date, and who satisfies the conditions prescribed by an Act of Parliament, is entitled, on application, to be registered as a Zimbabwean citizen.

(2) Any person who has been continuously and lawfully resident in Zimbabwe for at least ten years, whether before or after the effective date, and who satisfies the conditions prescribed by an Act of Parliament, is entitled, on application, to be registered as a Zimbabwean citizen.

(3) A child who is not a Zimbabwean citizen, but is adopted by a Zimbabwean citizen, whether before or after the effective date, is entitled, on application, to be registered as a Zimbabwean citizen.

39 Revocation of citizenship

- (1) Zimbabwean citizenship by registration may be revoked if—
 - (a) the person concerned acquired the citizenship by fraud, false representation or concealment of a material fact; or
 - (b) during a war in which Zimbabwe was engaged, the person concerned unlawfully traded or communicated with an enemy or was engaged in or associated with any business that was knowingly carried on so as to assist an enemy in that war.
- (2) Zimbabwean citizenship by birth may be revoked if—
 - (a) the citizenship was acquired by fraud, false representation or concealment of a material fact by any person; or
 - (b) in the case of a person referred to in section 36(3), the person's nationality or parentage becomes known, and reveals that the person was a citizen of another country.
- (3) Zimbabwean citizenship must not be revoked under this section if the person would be rendered stateless.

40 Retention of citizenship despite marriage or dissolution of marriage

Zimbabwean citizenship is not lost through marriage or the dissolution of marriage.

41 Citizenship and Immigration Board

An Act of Parliament must provide for the establishment of a Citizenship and Immigration Board consisting of a chairperson and at least two other members, appointed by the President, to be responsible for—

- (a) granting and revoking citizenship by registration;
- (b) permitting persons, other than citizens, to reside and work in Zimbabwe, and fixing the terms and conditions under which they may so reside and work; and
- (c) exercising any other functions that may be conferred or imposed on the Board by or under an Act of Parliament.

42 Powers of Parliament in regard to citizenship

An Act of Parliament may make provision, consistent with this Chapter, for—

- (a) procedures by which Zimbabwean citizenship by registration may be acquired;
- (b) the voluntary renunciation of Zimbabwean citizenship;
- (c) procedures for the revocation of Zimbabwean citizenship by registration;
- (d) the restoration of Zimbabwean citizenship;
- (e) the prohibition of dual citizenship in respect of citizens by descent or registration; and
- (f) generally giving effect to this Chapter.

43 Continuation and restoration of previous citizenship

(1) Every person who, immediately before the publication day, was a Zimbabwean citizen continues to be a Zimbabwean citizen after that date.

(2) Every person who was born in Zimbabwe before the publication day is a Zimbabwean citizen by birth if—

- (a) one or both of his or her parents was a citizen of a country which became a member of the Southern African Development Community established by the treaty signed at Windhoek in the Republic of Namibia on the 17th August, 1992; and
- (b) he or she was ordinarily resident in Zimbabwe on the publication day.

CHAPTER 4

DECLARATION OF RIGHTS

PART I

APPLICATION AND INTERPRETATION OF CHAPTER 4

44 Duty to respect fundamental human rights and freedoms

The State and every person, including juristic persons, and every institution and agency of the government at every level must respect, protect, promote and fulfil the rights and freedoms set out in this Chapter.

45 Application of Chapter 4

(1) This Chapter binds the State and all executive, legislative and judicial institutions and agencies of government at every level.

(2) This Chapter binds natural and juristic persons to the extent that it is applicable to them, taking into account the nature of the right or freedom concerned and any duty imposed by it.

(3) Juristic persons as well as natural persons are entitled to the rights and freedoms set out in this Chapter to the extent that those rights and freedoms can appropriately be extended to them.

46 Interpretation of Chapter 4

(1) When interpreting this Chapter, a court, tribunal, forum or body —

- (a) must give full effect to the rights and freedoms enshrined in this Chapter;
- (b) must promote the values and principles that underlie a democratic society based on openness, justice, human dignity, equality and freedom, and in particular, the values and principles set out in section 3;
- (c) must take into account international law and all treaties and conventions to which Zimbabwe is a party;
- (d) must pay due regard to all the provisions of this Constitution, in particular the principles and objectives set out in Chapter 2; and
- (e) may consider relevant foreign law;

in addition to considering all other relevant factors that are to be taken into account in the interpretation of a Constitution.

(2) When interpreting an enactment, and when developing the common law and customary law, every court, tribunal, forum or body must promote and be guided by the spirit and objectives of this Chapter.

47 Chapter 4 does not preclude existence of other rights

This Chapter does not preclude the existence of other rights and freedoms that may be recognised or conferred by law, to the extent that they are consistent with this Constitution.