

THE AMENDED CONSTITUTION

INFOGRAPHIC



SUBSCRIBE NOW: info@pmrczambia.net

The National Constitution (Supreme Law of the Land) is the set of fundamental rules (**written or un-written**) that control how a government can exercise public power and authority. The Constitution establishes the mandate of a government by defining the basic principles to which a society must conform; by describing the organization of the government and regulation, distribution, and limitations of the functions of different government departments; and by prescribing the extent and manner in which sovereign powers can be exercised.

INTRODUCTION: The Constitution (Amendment) Act No. 2 of 2016 came into effect on Tuesday 5th January 2016, when President Edgar Lungu assented to it at the Heroes Stadium in Lusaka.

UNDERSTANDING KEY CLAUSES IN THE CONSTITUTION AMENDMENT ACT NO.2 OF 2016

(Focusing on the 2016 General elections)

DUAL NATIONALITY

Extract 39

(1) A citizen shall not lose citizenship by acquiring the citizenship of another country.
 (2) A citizen who ceased to be a citizen, before the commencement of this Constitution as a result of acquiring the citizenship of another country, shall be entitled to apply, as prescribed, to the Citizenship Board of Zambia, for citizenship and the Citizenship Board of Zambia shall bestow citizenship on that person.



This is timely given that Zambia is currently formulating the Diaspora policy. Lessons from Kenya, Nigeria and Ghana indicate that once a diaspora policy is in place, it spurs engagements as well as remittances from countries citizens in the Diaspora.

PRESIDENTIAL RUNNING MATE

Extract 110

(1) There shall be a Vice-President for the Republic who shall be the running mate to a presidential candidate in a presidential election.



In this clause, the Presidential candidate is required to appoint a **“running mate”** who will also be elected together with a presidential candidate by the electorate. This means that once elected, the presidential candidate becomes republican president whilst the running mate becomes the vice president of the republic. It further ensures that the country avoids an unexpected and costly by-election, in an event that a sitting president can no longer execute their duties, as the vice president would take over the presidency

THE 50+1 CLAUSE

Extract 47

(1) Elections to the office of President shall be conducted directly, under a majoritarian electoral system, where the winning candidate must receive more than fifty percent of the valid votes cast, and in accordance with Article 101



The **50+1** is about majority. **“Majority”** is normally defined as 50 per cent plus one vote. This clause states that the candidate must win the elections by more than half (50% +) of the total number of votes cast in the election. If no candidate gets a majority of votes, (crossing the 50% mark), then a second round of voting (re-run) will be held among the top leading candidates. Other African countries which require a presidential candidate to amass 50 per cent plus one to be voted to the presidency include Malawi, Nigeria, Central African Republic (CAR), Ethiopia, Senegal, Ghana and Ivory Coast to mention but few.

ELECTION DATE

Extract 56

(1) A general election shall be held, every five years after the last general election, on the second Thursday of August.
 (2) The day on which a general election is held shall be a public holiday



The introduction of this clause bring an end to uncertainties that have existed in the past concerning the **election date**. This clause has leveled the political playing field as all parties will now be aware of the election date in advance.

EDUCATIONAL REQUIREMENT

(1) According to Article 70 (1) (d), a person is eligible to be elected as Member of Parliament, if that person “has obtained, as a minimum academic qualification, a grade twelve (12) certificate or its equivalent”.



In the constitution, aspiring candidates are required by law to possess a Grade 12 qualification or equivalent (Articles 70 and 100). The Grade 12 certificate is the minimum academic qualification for these elections.

ELECTORAL CODE



The amended Constitution further provides a new electoral code that stipulates that in order for a person-contesting for presidency to qualify for a presidential nomination, the person must have 1000 registered supporters. It also provides guidelines on the issues of crossing of the floor in Parliament and by-elections among other things.



MEDIA ACCESS

Article 50 of the constitution states that a political party and a candidate contesting an election shall have access to the media, especially during election campaigns.



WHAT IS A REFERENDUM?



It is important to note that The Government, opted to use Parliament for the adoption and enactment of the “Final Draft Constitution”, with the exception of part 5 which is **“the Bill of Rights”** and Article 79 of the previous Constitution because they are protected and entrenched and cannot be amended without holding a referendum.

A referendum is when citizens are requested to vote in deciding whether to accept or reject a particular proposal or the constitution. It is a form of direct democracy. A referendum is a national ballot on a question to change a part of the Constitution. If a majority of people across the nation as a whole votes yes (called a double majority), then the part of the Constitution in question is changed.

WHAT IS THE BILL OF RIGHTS?

The **Bill of Rights** is a formal list of the most important legal and civil rights of the citizens of a country. This piece of legislation sets out the fundamental individual rights, freedoms and entitlements of a citizen. **The main purpose of Bill of Rights is to protect those rights against infringement from both public officials and private citizens.** The national referendum for the adoption and enactment of the expanded Bill of Rights is scheduled to be held simultaneously with the general elections on 11th August 2016.

of Zambia (ECZ) to massively sensitize the public on the contents of the Bill of Rights as well as ensure that there is a massive turnout in order for the referendum to be a success.

With the provisional 2016 voters register reflecting **6,710,455 people as voters**, the referendum will require a voter turn out of more than 3,355,227 people in order to be regarded successful.

The importance of the rule of law, open and accountable institutions, strong civil society organisations, and protection of human rights for all citizens and all communities cannot be over emphasized. The Policy Monitoring and Research Centre (PMRC) is hopeful that by understanding the key clauses and the bill of rights, citizens will be empowered with the right information that will enable them to make informed decisions and interact more meaningfully with their leaders at community, provincial and national levels. This will ultimately promote increased participation in the governance and electoral processes and ultimately play their right as citizens of the country.

THE REFERENDUM QUESTION

Do you agree to the amendment to the Constitution to enhance the Bill of Rights contained in Part 3 of the Constitution of Zambia and to repeal and replace Article 79 of the Constitution of Zambia?

YES NO

For the referendum, any Zambian citizen who is above 18 years old (*with a national registration card*) has the right to vote even though the individual may not have registered as a voter. To this effect, there is urgent need for the Electoral Commission

VOTING IN THE 2016 AUGUST GENERAL ELECTIONS

WHAT CITIZENS WILL BE EXPECTED TO VOTE FOR



- Presidential candidate + Running mate
- Local Government (Councilors)
- Parliamentary (Member of Parliament)
- Executive Mayors
- Referendum for the “Bill of Rights”