

Zambia

Interpretation and General Provisions Act, 1964

Chapter 2

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1964/60/eng@1996-12-31

There may have been updates since this file was created.

PDF created on 21 February 2024 at 15:55.

Collection last checked for updates: 31 December 1996.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Interpretation and General Provisions Act, 1964

Contents

Part 1 – Preliminary	1
1. Short title	1
2. Application	1
Part II – General provisions of interpretation	1
3. Interpretation	1
4. Grammatical variations, gender and number	5
5. Service by post	6
5A. Names of Provinces, Districts, etc.	6
Part III – General provisions regarding written laws	6
6. Acts, Applied Acts and Ordinances to be public Acts or Ordinances	6
7. Citation	6
8. Citation of Acts of the Parliament of the United Kingdom	6
9. Schedules and tables to be part of written laws	6
10. Subdivision of written laws	6
11. Repealed written law not revived	7
12. Repeal of amended law to include amendments	7
13. Repeal and substitution	7
14. Provisions with respect to amended written law and effect of repealing written law	7
15. Effect of repeal of written law on statutory instrument made under it	7
16. Construction of amending written law with amended written law	8
17. Effect of expiry of written law	8
Part IV – Statutory instruments	8
18. Publication of statutory instruments	8
19. Commencement of statutory instruments	8
20. General provisions relating to statutory instruments	8
21. Reference to written law to include statutory instruments	9
22. Rules to be laid before the National Assembly	9
Part V – Powers and duties	9
23. Exercise of power between publication and commencement of Act	9
24. Time for exercise of power	10
25. Implied power	10
26. Power to appoint includes power to remove	10
27. Power to appoint alternate or temporary members	10
28. Power to appoint chairman, etc.	10

29. Appointment by name or office	10
30. Reference to holder of office includes a person discharging functions of office	11
31. Power of majority	11
32. Law officers	11
33. Powers of board, etc., not affected by vacancy, etc.	11
34. Affixing of common seal	11
Part VI – General provisions regarding time and distance	11
35. Computation of time	11
36. Provisions where no time prescribed	12
37. Construction of power to extend time	12
38. Measurement of distance	12
Part VII – General provisions regarding legal proceedings	12
39. Ex-officio proceedings not to abate on death, etc.	12
40. Imposition of a penalty no bar to civil action	12
41. Provisions as to offences under two or more laws	12
42. Amendment of penalty	12
43. Penalties prescribed may be maximum penalties, but may be cumulative	13
44. Disposal of forfeits	13
45. Disposal of fines and penalties	13
46. Evidence of signature of Attorney-General or Director of Public Prosecutions	13
Part VIII – General miscellaneous provisions	13
47. Deviation from forms	13
48. Gazette, etc., to be prima facie evidence	13
49. Evidence of Applied Acts	14
50. Provision in statutory instruments relating to fees	14
51. Savings of rights of the Republic	14
52. This Act to bind the Republic	15

Zambia

Interpretation and General Provisions Act, 1964

Chapter 2

Commenced on 24 October 1964

[This is the version of this document at 31 December 1996.]

[60 of 1964; 13 of 1965; 27 of 1965; 29 of 1965; 39 of 1965; 58 of 1965; 69 of 1965; 40 of 1967; 9 of 1968; 4 of 1970; 43 of 1970; 47 of 1970; 51 of 1970; 20 of 1971; 4 of 1989; 13 of 1994]

An Act to amend and consolidate the law relating to the construction, application and interpretation of written law; to provide for the exercise of statutory powers and duties; and to provide for matters incidental to or connected with the foregoing.

Part 1 – Preliminary

1. Short title

This Act may be cited as the Interpretation and General Provisions Act.

2. Application

- (1) The provisions of this Act shall apply to every written law passed or made before or after the commencement, unless a contrary intention appears in this Act or in the written law concerned.
- (2) The provisions of this Act shall apply to this Act as they apply to an Act passed after the commencement.

Part II – General provisions of interpretation

3. Interpretation

The following words and expressions shall have the meanings hereinafter assigned to them respectively, that is to say:

"**Act**" and "Act of Parliament" mean an enactment of Parliament;

"**act**", used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

"**this Act**" includes any statutory instrument made and in force under the Act in which the expression appears;

"**Administrative Officer**" means, a District Secretary and an Assistant District Secretary;

"**Appeal Judge**" means a Judge of the supreme court or a High Court judge when exercising appellate jurisdiction.

"**Applied Act**" means an enactment of the Legislature of the former Federation of Rhodesia and Nyasaland in force in the Republic by virtue of the provisions of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963;

[App. 2]

"**area**" in relation to a City Council, Municipal Council, Town Council or District Council, has the meaning assigned thereto by section two of the Local Government Act;

[Cap. 281]

"**Assistant District Secretary**" means a public officer appointed as such and, in relation to any District, means an Assistant District Secretary for the time being exercising and performing his functions in that District;

"**Attorney-General**" means the Attorney-General of Zambia;

[Cap. 1]

"**Auditor-General**" means the Auditor-General for Zambia;

[Cap. 1]

"**British Act**" means an Act of the Parliament of the United Kingdom extended or applied to the Republic;

"**Cabinet**" means the Cabinet established by the Constitution;

"**Chief Justice**" means the Chief Justice of Zambia;

"**Christian name**" means any name prefixed to the surname whether received in Christian baptism or not;

"**coin**" means any coin legally current in Zambia;

"**commencement**", used in or with reference to any written law, means the date on which the same came or comes into operation;

"**commissioner for oaths**" means a person appointed as a commissioner for oaths by or under the Commissioners for Oaths Act;

[Cap. 34]

"**Common Law**" means the Common Law of England;

"**Constitution**" means the Constitution of Zambia as by law established;

"**contravene**", in relation to any requirement or condition prescribed in any written law or in any grant, permit, lease, licence or authority granted under any written law, includes a failure to comply with that requirement or condition;

"**coroner**" means a person empowered or appointed to hold inquests under the Inquests Act;

[Cap. 37]

"**council**" means a City council, Municipal council, Town council or District council;

"**court**" means a court of competent jurisdiction for Zambia;

"**customs officer**" means an officer as defined in section two of the Customs and Excise Act;

[Cap. 322]

"**definition**" means the interpretation given by any written law to any word or expression;

"**Deputy Speaker**" means the Deputy Speaker of the National Assembly;

"**District**" means any one of the administrative districts into which Zambia is divided by the President in exercise of powers conferred on him in that behalf under any written law;

"**District Executive Secretary**" in relation to a District Council means the chief Executive of a Council, and includes any person for the time being discharging the functions of the Chief Executive

"**document**" includes any publication and any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

"**export**" means to take or cause to be taken out of Zambia;

"**financial year**" means the period of twelve months ending on the 31st December in any year;

"**functions**" includes powers and duties;

"**Gazette**" means the official *Gazette* of the Government and includes any supplement to the *Gazette* and any matter referred in the *Gazette* as being published with the *Gazette*;

"**Government**" means the Government of Zambia;

"**Government Printer**" means the Government Printer of Zambia and any other printer authorised by or on behalf of the Government to print any written law or any other document of the Government;

"**High Court**" means the High Court for Zambia;

"**immigration officer**" means an immigration officer as defined in section two of the Immigration and Deportation Act;

[[Cap. 123](#)]

"**import**" means to bring or cause to be brought into Zambia;

"**Judge**" means a Judge of the High Court;

"**Junior Minister**" means a Deputy Minister;

"**land**" includes anything attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include any mineral right in or under or in respect of any land;

"**legal practitioner**" means a person who has been admitted to practice as a barrister and solicitor under the Legal Practitioners Act and whose name is duly entered on the Roll kept in pursuance of the provisions of the said Act;

[[Cap. 30](#)]

"**magistrate**" means any person empowered to preside over a subordinate court established under the Subordinate Courts Act;

[[Cap. 28](#)]

"**Minister**", in relation to the functions conferred or imposed by any written law or any provision in a written law, means the member of the Cabinet or other person for the time being vested with such functions;

"**month**" means a calendar month;

"**municipal council**" has the meaning assigned thereto by section two of the Local Government Act;

[[Cap. 281](#)]

"**municipality**" has the meaning assigned thereto by section two of the Local Government Act;

[[Cap. 281](#)]

"**National Assembly**" means the National Assembly of Zambia;

"**oath**", "swear" or "affidavit" includes and applies to the affirmation or declaration of any person by law allowed to make an affirmation or declaration in lieu of oath;

"**occupy**" includes use, inhabit, to be in possession of or enjoy the premises in respect whereof the word is used, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;

"offence" means any crime, felony, misdemeanour, contravention or other breach of, or failure to comply with, any written law, for which a penalty is provided;

"Officer" in relation to a council, has the meaning assigned thereto by section two of the Local Government Act;

[Cap. 281]

"Ordinance" means a statute enacted by the Legislature of Northern Rhodesia before the 24th October, 1964;

"Parliament" means the Parliament of Zambia;

"Part", "regulation", "rule", "Schedule" and "section" denote respectively a Part, regulation, rule and section of, and a Schedule to, the written law in which the word occurs; and a "paragraph" and "subsection" denote respectively a paragraph of the regulation, rule, section or subsection, and a subsection of the section, in which the word occurs;

"Permanent Secretary" means a public officer appointed as such and, in relation to any Ministry or Province means the Permanent Secretary for the time being exercising and performing his functions in that Ministry or Province;

"person" includes any company or association or body or persons, corporate or unincorporate;

"personal property", "personalty" or "goods" includes money, bonds, bills, notes, deeds, chattels real, mining rights in or under or in respect of any land and corporeal property of every description other than real property;

"police officer" means a member of the Zambia Police Force;

"prescribed" means prescribed by or under the written law in which the word occurs;

"President" means the President of Zambia;

"Province" means any one of the Provinces into which Zambia is divided by the President in exercise of powers conferred on him in that behalf under any written law;

"publication" includes all written and printed matter and any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically or electrically produced, reproduced, represented or conveyed, and everything whether of a nature similar to the foregoing or not, containing any visible representation, or by its form, shape or in any manner capable of producing, reproducing, representing or conveying words or ideas, and every copy and reproduction of any publication;

"public holiday" means any day which is a public holiday by virtue of the provisions of the Public Holidays Act;

[Cap. 272]

"public office", "public officer" and "the public service" have the same meaning as in the Constitution;

"Public Seal" means the Public Seal of the Republic;

"public place" or "public premises" includes any public way and any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access, either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meetings, or assembly or as an open court;

"registered", used with reference to a document or the title to any real property or personal property, means registered under the provisions of any written law for the time being applicable to the registration of such document or title;

"the Republic" means the sovereign Republic of Zambia;

"**repeal**" includes revoke, rescind or cancel;

"**sell**" includes barter, exchange and offer to sell or expose for sale;

"**Speaker**" means the Speaker of the National Assembly;

"**statutory corporation**" means any body directly incorporated by an Act, Applied Act or Ordinance;

"**statutory declaration**", if made—

- (a) in Zambia, means a declaration made under the British Act known as the Statutory Declarations Act, 1835, or under any Act providing for statutory declarations;
- (b) in the Commonwealth, elsewhere than in Zambia, means a declaration made before a notary public, commissioner for oaths or other person having authority therein under any law for the time being in force to take or receive a declaration;
- (c) in any other place, means a declaration made before a British consul or vice-consul, or before any person having authority under any Act of Parliament of the United Kingdom for the time being in force to take or receive a declaration;

"**statutory instrument**" means any proclamation, regulation, order, rule, notice or other instrument (not being an Act of Parliament) of a legislative, as distinct from an executive, character;

"**statutory notice**" means a notice made by statutory instrument;

"**statutory order**" means an order made by statutory instrument;

"**statutory proclamation**" means a proclamation made by statutory instrument;

"**street**" or "road" includes any highway, street, road, bridge, square, court, alley, lane, footway, parade, thoroughfare, passage or open space to which the public are entitled or permitted to have access, whether on payment or otherwise;

"**Supreme Court**" means the Supreme for Zambia;

[Cap. 1]

"**vessel**" includes any ship or boat or other floating craft used for transport by water;

"**veterinary surgeon**" means a person registered as a veterinary surgeon under the Veterinary Surgeons Act;

[Cap. 243]

"**Vice-President**" means the Vice-President of Zambia;

"**will**" includes a codicil and every writing making a voluntary posthumous disposition of property;

"**writing**" and expressions referring to writing include printing, photography, lithography, typewriting and any other modes of representing or reproducing words in visible form;

"**written law**" means an Act, an Applied Act, an Ordinance and a statutory instrument.

[As amended by Nos. 29, 39, 58 and 69 of 1965, No. 40 of 1967, No. 9 of 1968, Nos. 43 and 51 of 1970 and No. 20 of 1971]

4. Grammatical variations, gender and number

- (1) Where any word or expression is defined in a written law, the definition shall extend to the grammatical variations of the word or expression so defined.
- (2) Words and expressions in a written law importing the masculine gender include females.
- (3) Words and expressions in a written law in the singular include the plural and words and expressions in the plural include the singular.

- (4) Where the words "or", "other" and "otherwise" are used in any written law they shall be construed disjunctively and not as implying similarity, unless the word "similar" or some other word of like meaning is added.

5. Service by post

Where any written law authorises or requires any document to be served by post, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of the post.

5A. Names of Provinces, Districts, etc.

Whenever in any written law any Province, District or other area is referred to by name, the provision in question shall be read and construed as a reference to such Province, District or other area by the name currently assigned thereto by any written law.

[No. 47 of 1970]

Part III – General provisions regarding written laws

6. Acts, Applied Acts and Ordinances to be public Acts or Ordinances

- (1) Every Act, Applied Act or British Act shall be a public Act and shall be judicially noticed as such.
- (2) Every Ordinance shall be a public Ordinance and shall be judicially noticed as such.

7. Citation

- (1) Where any written law is referred to, it shall be sufficient for all purposes to cite such written law either by the short title or citation, if any, by which it is made citable.
- (2) An Ordinance or an Act contained in any revised edition or Ordinances and Acts issued under any written law providing for the revised edition of such Ordinances and Acts may be cited by its short title or its chapter number in the revised edition.
- (3) An Applied Act contained in any revised edition of Applied Acts issued under any written law providing for the revised edition of such Applied Acts may be cited by its short title or its chapter number in the revised edition.
- (4) Any citation as aforesaid of a written law shall be construed as a reference to such written law as amended from time to time by any other written law or other instrument.

8. Citation of Acts of the Parliament of the United Kingdom

A British Act may be cited by its short title or citation, if any, or by reference to the regnal or calendar year in which it was passed and by its chapter or number.

9. Schedules and tables to be part of written laws

Every Schedule to or table in any written law, together with notes thereto, shall be construed and have effect as part of such written law.

10. Subdivision of written laws

When a written law is divided into Parts, titles or other subdivisions, the fact and particulars of such divisions and subdivisions shall, with or without express mention thereof in such written law, be taken notice of in all courts and for all purposes whatsoever.

11. Repealed written law not revived

Where any written law repealing in whole or in part any former written law is itself repealed, such last repeal shall not revive the written law or provisions before repealed unless words be added reviving such written law or provisions.

12. Repeal of amended law to include amendments

Where any written law which has been amended by any other written law is itself repealed, such repeal shall include the repeal of all those provisions of other written laws by which such first-mentioned written law has been amended.

13. Repeal and substitution

Where a written law repeals wholly or partially any former written law and substitutes provisions for the written law repealed, the repealed written law shall remain in force until the substituted provisions come into operation.

14. Provisions with respect to amended written law and effect of repealing written law

- (1) Where in any written law a reference is made to another written law or the Constitution, such reference shall be deemed to include a reference to such last-mentioned written law or the Constitution as the same may from time to time be amended.
- (2) Where a written law repeals and re-enacts, with or without modification, any provision of a former written law or the Constitution, references in any other written law to the provisions so repealed shall be construed as references to the provisions so re-enacted.
- (3) Where a written law repeals in whole or in part any other written law, the repeal shall not—
 - (a) revive anything not in force or existing at the time at which the repeal takes effect; or
 - (b) affect the previous operation of any written law so repealed or anything duly done or suffered under any written law so repealed; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any written law so repealed; or
 - (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any written law so repealed; or
 - (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceedings, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing written law had not been made.

[As amended by No. 43 of 1970]

15. Effect of repeal of written law on statutory instrument made under it

Where any Act, Applied Act or Ordinance or part thereof is repealed, any statutory instrument issued under or made in virtue thereof shall remain in force, so far as it is not inconsistent with the repealing written law, until it has been repealed by a statutory instrument issued or made under the provisions of such repealing written law, and shall be deemed for all purposes to have been made thereunder.

16. Construction of amending written law with amended written law

Where one written law amends another written law, the amending written law shall, so far as it is consistent with the tenor thereof, be construed as one with the amended written law.

17. Effect of expiry of written law

Upon the expiry of any written law, the provisions of subsection (3) of section fourteen shall apply as if such written law had been repealed.

Part IV – Statutory instruments**18. Publication of statutory instruments**

Every statutory instrument shall be published in the *Gazette* and shall be judicially noticed.

19. Commencement of statutory instruments

- (1) Subject to the provisions of this section—
 - (a) the date of commencement of a statutory instrument shall be the date of its publication in the *Gazette* or, where a later date is specified therein, such later date; and
 - (b) every statutory instrument shall be deemed to come into force immediately on the expiration of the day next preceding the date of its commencement.
- (2) A statutory instrument made and published on the date of commencement of the written law under which the instrument is made shall be deemed to come into force simultaneously with that written law.
- (3) References in this section to the date of commencement of the written law under which a statutory instrument is made shall, where different provisions of that written law come into force on different dates, be construed as references to the date of commencement of the particular provision under which the instrument is made.
- (4) The provisions of this section shall be without prejudice to the operation of section twenty-three.

20. General provisions relating to statutory instruments

- (1) Any reference in a statutory instrument to "the Act" or "the Ordinance" shall be construed as a reference to the Act or Ordinance, as the case may be, under which the instrument was made.
- (2) Terms and expressions used in a statutory instrument shall have the same meaning as in the written law under which the instrument was made.
- (3) A statutory instrument may at any time be amended or repealed by the authority by which it was made or, if that authority has been lawfully replaced by another authority, by that other authority.
- (4) Any provision of a statutory instrument which is inconsistent with any provision of an Act, Applied Act or Ordinance shall be void to the extent of the inconsistency.
- (5) A statutory instrument may provide in respect of any contravention of any provision of that statutory instrument:
 - (a) that the offender shall be liable—
 - (i) to any fine not exceeding two thousand five hundred penalty units or any term of imprisonment not exceeding two years or both;

- (ii) in the case of a continuing offence, to an additional penalty not exceeding a fine of twenty five penalty units in respect of each day on which the offence continues;
- (iii) in respect of a second or subsequent contravention, to a higher penalty not exceeding either of the limits prescribed in sub-paragraph (i);
- (b) that the court convicting the offender may or shall as the case may be, order the forfeiture to the State of anything with which the contravention was done or which was used in, or for the purpose of, or in relation to or in connection with, the commission of the contravention;
- (c) for the punishment of any director or other principal officer of a body of persons or other person purporting to act in any such capacity, where a contravention committed by, or in connection with, the affairs of a body of persons, was done with the consent or connivance of, or was attributable to the neglect of, any such director, principal officer or other person.
- (6) Any act done under or by virtue of or in pursuance of a statutory instrument shall be deemed to be done under or by virtue of or in pursuance of the written law conferring power to make the instrument.
- (7) Every statutory instrument shall be deemed to be made under all powers thereunto enabling, whether or not it purports to be made in exercise of a particular power or particular powers.
- (8) Where a written law confers power on any authority to make a statutory instrument for any general purpose, and also for any special purposes, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

[As amended by Act [No. 4 of 1989](#) and Act [No. 13 of 1994](#)]

21. Reference to written law to include statutory instruments

Any reference to a written law in any other written law shall include a reference to any statutory instrument made under the written law to which reference is made.

22. Rules to be laid before the National Assembly

- (1) All rules, regulations and by-laws shall be laid before the National Assembly as soon as may be after they are made, and, if a resolution is passed within the next subsequent twenty-one days on which the National Assembly has sat after any such rule, regulation or by-law is laid before it that the rule, regulation or by-law be annulled, it shall thenceforth be void but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule, regulation or by-law.
- (2) The reference to rules in subsection (1) shall not include a reference to rules of court.

Part V – Powers and duties

23. Exercise of power between publication and commencement of Act

Where by an Act which is not to come into force immediately on the publication thereof there is conferred —

- (a) a power to make or a power exercisable by making statutory instruments; or
- (b) a power to make appointments; or
- (c) a power to do any other thing for the purposes of the Act;

that power may be exercised at any time on or after the date of publication of the Act in the *Gazette*:

Provided that no instrument, appointment or thing made or done under that power shall, unless it is necessary to bring the Act into force, have any effect until the commencement of the Act.

24. Time for exercise of power

Where any written law confers any power or imposes any duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

25. Implied power

Where any written law confers a power on any person to do or enforce the doing of an act or thing, all such powers shall be understood to be also given as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

26. Power to appoint includes power to remove

Where by any written law a power to make any appointment is conferred, the authority having power to make the appointment shall also have power (subject to any limitations or qualifications which affect the power of appointment) to remove, suspend, reappoint or reinstate any person appointed in the exercise of the power.

27. Power to appoint alternate or temporary members

Where by or under any written law any board, commission, committee, council or similar body, whether corporate or unincorporate, is established, any person who is by such written law empowered to appoint any or all of the members thereof may—

- (a) appoint one or more duly qualified persons to be alternate members of the same, and any one such alternate member may attend any meeting of the same when a substantive member is temporarily unable to attend;
- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from Zambia or other cause from exercising his functions as such;

and when attending any meeting of such board, commission, committee, council or similar body, whether corporate or unincorporate, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

28. Power to appoint chairman, etc.

Where by any written law a power is conferred on any authority to appoint the members of any board, commission, committee, council or similar body, that authority may appoint a chairman, a vice-chairman and a secretary of the same.

29. Appointment by name or office

Where by any written law any authority is empowered to appoint a person—

- (a) to exercise any power or perform any duty; or
- (b) to be a member of any board, commission, committee, council or similar body, whether corporate or unincorporate; or
- (c) to be or do any other thing;

that authority may make the appointment either by appointing a person by name or by appointing the holder of an office by the terms designating his office; and any such appointment of the holder of an office shall be construed as the appointment of the person for the time being lawfully holding, acting in or performing the functions of the office.

30. Reference to holder of office includes a person discharging functions of office

Any reference in a written law to the holder of an office by the term designating his office shall be construed as a reference to the person for the time being lawfully holding, acting in or performing the functions of the office.

[As amended by No. 13 of 1965]

31. Power of majority

Where by any written law any act or thing may or is required to be done by more than two persons, a majority of them may do it.

32. Law officers

Any power conferred or duty imposed on the Attorney-General by any written law may be exercised or performed by the Solicitor-General—

- (a) in the case where the Attorney-General is unable to act owing to illness or absence; and
- (b) in any case or class of cases where the Attorney-General has authorised the Solicitor-General to do so.

33. Powers of board, etc., not affected by vacancy, etc.

Where by or under any written law any board, commission, committee, council or similar body, whether corporate or unincorporate, is established, the powers of such board, commission, committee, council or similar body shall not be affected by—

- (a) any vacancy in the membership thereof; or
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member thereof.

34. Affixing of common seal

Where by or under any written law any board, commission, committee, council or similar body is constituted to be a body corporate having perpetual succession and a common seal, and any document is required to be sealed with such common seal, then, in the absence of express provision to the contrary, such common seal shall be affixed by the chairman of such board, commission, committee, council or similar body and shall be authenticated by his signature and by the signature of one other member of such board, commission, committee, council or similar body.

Part VI – General provisions regarding time and distance**35. Computation of time**

In computing time for the purposes of any written law—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as "excluded days") the period shall include the next following day, not being an excluded day;
- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;

- (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

36. Provisions where no time prescribed

Where no time is prescribed, or allowed within which anything shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

37. Construction of power to extend time

Where in any written law a time is prescribed for doing any act or taking any proceeding and power is given to a court or other authority to extend such time, then, unless a contrary intention appears, such power may be exercised by the court or other authority although the application for the same is not made until after the expiration of the time prescribed.

38. Measurement of distance

In the determination of any distance for the purpose of any written law, the measured distance shall be reduced to that distance which would be recorded if the distance were measured in a straight line on a horizontal plane.

Part VII – General provisions regarding legal proceedings

39. *Ex-officio* proceedings not to abate on death, etc.

Any civil or criminal proceedings taken by or against any person in virtue of his office shall not be discontinued or abated by his death, resignation, or absence or removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office.

40. Imposition of a penalty no bar to civil action

The imposition of a penalty or fine by or under the authority of any written law shall not, in the absence of express provision to the contrary, relieve any person from liability to answer for damages to any person injured.

41. Provisions as to offences under two or more laws

- (1) Where an act or omission constitutes an offence against any two or more statutory enactments or both under a statutory enactment and the Common Law or any customary law, the offender shall be liable to be prosecuted and punished under either or any of such statutory enactments or at Common Law or under customary law, but shall not be liable to be punished twice for the same offence.
- (2) For the purpose of this section, "statutory enactment" means any order in Council, British Act or written law.

42. Amendment of penalty

Where an act or omission constitutes an offence and the penalty for such offence is amended between the time of the commission of such offence and the conviction therefor, the offender shall, in the absence of express provision to the contrary, be liable to the penalty prescribed at the time of the commission of such offence.

43. Penalties prescribed may be maximum penalties, but may be cumulative

- (1) Where in any written law a penalty is prescribed for an offence against that written law, such provision shall mean that the offence shall be punishable by a penalty not exceeding the penalty prescribed.
- (2) Where in any written law more than one penalty is prescribed for an offence, the use of the word "and" shall mean that the penalties may be inflicted alternatively or cumulatively.

44. Disposal of forfeits

- (1) Where under the provisions of any written law any animal or any thing is adjudged by any court or other authority to be forfeited, it shall, in the absence of express provision to the contrary, be forfeited to the Republic and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the general revenues of the Republic, unless other provision is made.
- (2) Nothing in this section shall affect any provision in any written law whereby any portion of any fine or forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

45. Disposal of fines and penalties

Any fine or penalty imposed by or under the authority of any written law shall, in the absence of express provision to the contrary, be paid into the general revenues of the Republic

46. Evidence of signature of Attorney-General or Director of Public Prosecutions

- (1) Where under any written law the consent or authority of the Attorney-General or the Director of Public Prosecutions is necessary before any action or prosecution is commenced, any document purporting to be the consent or authority of the Attorney-General or the Director of Public Prosecutions shall be received as *prima facie* evidence in any proceedings without proof being given that the signature to such consent or authority is that of the Attorney-General or the Director of Public Prosecutions, as the case may be.
- (2) Where under section thirty-two the Solicitor-General is exercising the powers of the Attorney-General, the provisions of this section shall apply to the Solicitor-General as they apply to the Attorney-General.

Part VIII – General miscellaneous provisions**47. Deviation from forms**

Save as is otherwise expressly provided, whenever any form is prescribed by any written law, an instrument or document, which purports to be in such form, shall not be void by reason of any deviation therefrom which does not affect the substance of such instrument or document, or which is not calculated to mislead.

48. Gazette, etc., to be *prima facie* evidence

The production of a copy of the *Gazette* containing any written law, Order in Council, or any notice, or of any copy of any written law, Order in Council, or any notice, purporting to be printed by the Government Printer, shall be *prima facie* evidence in all courts and for all other purposes whatsoever of the due making and tenor of such written law, Order in Council or notice.

49. Evidence of Applied Acts

- (1) For the purpose of ascertaining the content of any Applied Act or any statutory instrument made thereunder, published in or with the Federal *Gazette*, a reference may be made to the Federal *Gazette*, containing such Applied Act or statutory instrument, or to a copy thereof, purporting to be printed by or on the authority of the Government Printer, and either such copy shall be *prima facie* evidence for all purposes whatsoever of the Applied Act or statutory instrument so printed.
- (2) Where in any Applied Act it is stated that such Act has been "Reprinted in terms of section 3 of the Amendments Incorporation Act, 1955" such Applied Act shall, for all purposes, be *prima facie* evidence of the Applied Act so reprinted.

- (3) In this section—

"Federal *Gazette*" means the Government *Gazette* of the former Federation of Rhodesia and Nyasaland;

"Government Printer" means the Government Printer of the former Federation of Rhodesia and Nyasaland.

50. Provision in statutory instruments relating to fees

- (1) Where any written law confers power on any person to make any statutory instrument and provision may be made by such statutory instrument in respect of fees or other charges, such statutory instrument may provide for all or any of the following matters:
 - (a) specific fees or charges;
 - (b) maximum or minimum fees or charges;
 - (c) maximum and minimum fees or charges;
 - (d) *ad valorem* fees or charges;
 - (e) the payment of fees or charges either generally or under specified conditions or in specified circumstances; and
 - (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.
- (2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for, such reduction, waiver or refund may be expressed to apply or to be applicable either generally or specifically—
 - (a) in respect of certain matters or transactions or classes of matters or transactions;
 - (b) in respect of certain documents or classes of documents;
 - (c) when any event happens or ceases to happen;
 - (d) in respect of certain persons or classes of persons; or
 - (e) in respect of any combination of such matters, transactions, documents, events or persons;

and may be expressed to apply or to be applicable subject to such conditions as may be specified in the statutory instrument or in the discretion of any person specified therein.

51. Savings of rights of the Republic

- (1) No written law shall in any manner whatsoever affect the rights of the Republic unless it is therein expressly provided or unless it appears by necessary implication that the Republic is bound thereby.

- (2) Where any British Act binds the Crown, then that Act *mutatis mutandis* shall, to the like extent and subject to the same limitations, bind the Republic.

[As amended by No. 27 of 1965]

52. This Act to bind the Republic

This Act shall bind the Republic.