

ZIMBABWE RHODESIA

British Proposals for Independence

1. The British Government's proposals for an Independence Constitution for Zimbabwe Rhodesia were, after considerable discussion, presented in their final form on 3rd October, 1979, to delegates at the Constitutional Conference held at Lancaster House, London. After long and anxious consideration, the delegation representing the Government of Zimbabwe Rhodesia decided that the British proposals should be accepted, subject to satisfactory arrangements being made to implement the agreed proposals, that is to say arrangements for introducing the new Constitution and holding elections.

The British constitutional proposals are set out in Annexure I to the White Paper.

2. The British Government's proposals relating to the pre-independence arrangements were, after considerable discussion, tabled on the 2nd November, 1979. After careful consideration the Zimbabwe Rhodesia delegation agreed to accept these proposals, subject to agreement being reached on proposals designed to bring about a ceasefire.

3. The Zimbabwe Rhodesia delegation, on behalf of the Zimbabwe Rhodesia Government, accepted the British Government's constitutional proposals and the pre-independence arrangements because it was satisfied that it was in the best interests of our nation to do so. Acceptance was seen as the only effective means by which the immediate lifting of sanctions could be obtained and the recognition of our country achieved.

The Executive Council has ratified the acceptance of the proposals by the delegation.

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THE INDEPENDENCE CONSTITUTION**A: THE STATE**

1. Zimbabwe will be a Sovereign Republic.
2. There will be a Public Seal of Zimbabwe which will be kept by the President.
3. The Constitution will be the supreme law of the republic and will prevail over any other law to the extent that such other law is inconsistent with it.

B: CITIZENSHIP

1. Every person who was a citizen of Rhodesia immediately before Independence will automatically become a citizen of Zimbabwe on Independence (by birth, descent or registration, as the case may be, according to his former status). Every person who, immediately before Independence, possessed such qualifications that the relevant authority would, upon application duly made, have registered him as a citizen of Rhodesia, will be entitled to make application in the prescribed manner at any time during the first five years after Independence and it will be incumbent upon the competent authority to grant that application and cause him to be registered as a citizen of Zimbabwe.
2. Every person who is born in Zimbabwe after Independence (other than the child of a diplomat accredited to Zimbabwe, of an enemy alien, of a person unlawfully in Zimbabwe or of a non-citizen not ordinarily resident in Zimbabwe) will become a citizen of Zimbabwe by birth. Every person who is born outside Zimbabwe after Independence will become a citizen of Zimbabwe by birth if at the time of his birth his father (or, if he is illegitimate, his mother) is a citizen of Zimbabwe but resident outside Zimbabwe in the service of the Government and his birth is registered in Zimbabwe.
3. Every person who is born outside Zimbabwe after Independence but whose father (or, if he is illegitimate, whose mother) is then a citizen of Zimbabwe by birth or registration will himself become a citizen of Zimbabwe by descent.
4. Any woman who is or has been married to a person who is or was at any time during the subsistence of the marriage a citizen of Zimbabwe (or would but for his death have automatically become a citizen of Zimbabwe at Independence) will, on making application in the prescribed manner, be entitled to be registered as a citizen of Zimbabwe.

5. Any person, one of whose parents is a citizen of Zimbabwe at the date of his application, will be entitled, on making application in the prescribed manner, to be registered as a citizen of Zimbabwe. If the person is a minor, the application may be made on his behalf by his parent or guardian. Provision will be made for adopted children.

6. Parliament will be empowered to make provision—

- (a) for conferring citizenship of Zimbabwe by registration on persons in cases other than those described above;
- (b) for taking away the citizenship of a person who has acquired it otherwise than by birth or descent, provided that the loss of his citizenship will not render him stateless;
- (c) for the renunciation by any person of his citizenship of Zimbabwe; and
- (d) for regulating the procedure relating to the acquisition and loss of citizenship of Zimbabwe.

7. Provision will be included which permits citizens of Zimbabwe to retain their citizenship of other states.

8. Provision will be made on Independence for the resumption of citizenship by persons who have forfeited it or been deprived of it since 11 November, 1965.

C: DECLARATION OF RIGHTS

1. The Declaration of Rights will set out provisions on the following lines dealing with the substantive rights concerned:

I. *The Right to Life*

(1) It will be forbidden to deprive any person intentionally of his life save in execution of the lawful sentence of a court after conviction of a criminal offence.

(2) There will be an express exception for death caused by reasonably justifiable force in defence of person or property; or in order to effect a lawful arrest or to prevent the escape of a person in lawful custody; or to suppress riots, etc., or to prevent the commission of a criminal offence; and there will also be an exception for death caused by a lawful act of war.

II. *The Right to Personal Liberty*

(1) It will be forbidden to deprive any person of his personal liberty except as authorized by law in any of the following cases—

- (a) conviction on a criminal charge or unfitness to plead to such a charge;
- (b) by order of a court or Parliament for contempt;
- (c) by order of a court to secure the fulfilment of any legal obligations;
- (d) to bring the person concerned before a court or Parliament in execution of the order of a court or Parliament;
- (e) on reasonable suspicion of that person's commission or threatened commission of a criminal offence;
- (f) for the purpose of the education or welfare of a minor;
- (g) to prevent the spread of disease;
- (h) for the management of persons of unsound mind, drug addicts, alcoholics or vagrants in the interests of their own welfare or the protection of the community;
- (i) in connection with immigration control, extradition and deportation.

(2) Any arrested or detained person will be entitled to be informed of the grounds upon which he is being held and to obtain and instruct a lawyer of his own choice. When the arrest or detention is for the purpose of bringing him before a court or is connected with his being suspected of a criminal offence, he will be entitled to be brought before a court without undue delay and, if not tried within a reasonable time, to be released on bail, subject only to reasonable conditions. Any person wrongfully arrested or detained will be entitled to compensation (although a public officer acting reasonably and in good faith will be protected from liability).

III. *Freedom from Slavery and Forced Labour*

(1) It will be forbidden to hold any person in slavery or to exact forced labour.

(2) The term "forced labour" will not include labour required in consequence of a sentence or order of a court; labour which a person in lawful custody may have to perform in the interests of hygiene, etc., labour required of a member of a military or similar force or in lieu of military service; or labour required during a public emergency where the requirement is reasonably justified for dealing with the emergency.

IV. *Freedom from Torture and Inhuman Treatment*

(1) It will be forbidden to inflict torture or inhuman or degrading punishment or treatment on any person.

(2) Provision will be made that treatment which is reasonably justifiable to prevent the escape from custody of a person lawfully detained should not be regarded as degrading.

V. *Freedom from Deprivation of Property*

(1) Every person will be protected from having his property compulsorily acquired except when the acquisition is in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilization of that or other property in such a manner as to promote the public benefit or, in the case of under-utilized land, settlement of land for agricultural purposes. When property is wanted for one of these purposes, its acquisition will be lawful only on condition that the law provides for the prompt payment of adequate compensation and, where the acquisition is contested, that a court order is obtained. A person whose property is so acquired will be guaranteed the right of access to the High Court to determine the amount of the compensation.

(2) Exception will be made for the taking of possession of property during a period of public emergency.

(3) Compensation paid in respect of loss of land to anyone who is a citizen of or ordinarily resident in Zimbabwe (or to a company the majority of whose shareholders are such persons) will, within a reasonable time, be remittable to any country outside Zimbabwe, free from any deduction, tax or charge in respect of its remission, but subject always to—

- (a) its attachment, by order of a court, in connection with civil proceedings; and
- (b) reasonable restrictions as to the manner in which the payment is to be remitted.

(4) The Constitution will, on the same basis as in other Declarations of Rights, make clear that a number of transactions which might be considered to involve an element of compulsory acquisition will not be so regarded for the purposes of the Declaration of Rights.

(5) It will be made clear, for the avoidance of doubt, that the property covered by this constitutional guarantee includes rights, whether vested or contingent, of individuals to receive benefits under a law, contract or scheme relating to the payment of pension benefits.

VI. *Protection for Privacy of Home and Other Property*

(1) It will be forbidden, except with the consent of the person concerned, to subject anybody to the search of his person or property or to entry on his premises.

(2) There will however be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality, public health or town and country planning or which makes reasonable provision to protect the rights and freedom of others; or which authorizes entry on a person's premises by employees of a local government authority or of a public corporation in connection with any tax, etc., or in order to carry out work connected with any property, situated on those premises, that belongs to that local government authority or body corporate; or which authorizes entry or search in pursuance of a court order for the purpose of enforcing the judgment or order of a court in any proceedings. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

VII. *The Right to Protection of the Law*

(1) Any person charged with a criminal offence will be entitled to a fair hearing within a reasonable time by an independent and impartial court. In connection with that hearing he will have the following specific rights—

- (a) to be presumed innocent until proved guilty;
- (b) to be properly informed of what he is accused of;
- (c) to be given adequate time and facilities to prepare his defence;
- (d) to be permitted to defend himself either in person or, at his own expense, by a legal representative whom he has chosen;
- (e) to be able both to examine the witnesses for the prosecution and to call and examine his own witnesses on an equal footing with the prosecution witnesses;
- (f) to refuse to give evidence himself (but without prejudice to the court's ability to draw inference from that refusal);
- (g) to have an interpreter if he cannot understand the language used at the trial;
- (h) to be present throughout the trial unless his own conduct renders this impracticable and the court has therefore ordered his removal; and
- (i) to obtain a copy of any official record of the proceedings.

(2) It will be forbidden to create criminal offences with retrospective effect or to provide for increased penalties with retrospective effect.

(3) Except on the order of a superior court as a result of appeal or review proceedings, it will be forbidden to put a person on trial for a criminal offence for which he has already been tried or for which

he has stood in jeopardy of conviction at any earlier trial or for which he has been pardoned.

(4) Any court or other tribunal which is legally empowered to determine whether a person has a legal right or obligation or the extent of any such right or obligation will have to be established or recognized by law and to be independent and impartial; and any suit brought before any court or tribunal to obtain such a determination will have to be given a fair hearing within a reasonable time.

(5) All proceedings in any court or tribunal, including the announcement of the decision, will, unless the parties agree otherwise, have to be held in public, subject to the right of the court or tribunal to exclude anybody other than the parties and their legal representatives—

- (a) when publicity would prejudice the interests of justice;
- (b) in interlocutory proceedings or proceedings preliminary to trial;
- (c) in the interests of defence, public safety, public order, public morality, the welfare of minors or the protection of the private lives of persons concerned in the proceedings; or
- (d) when a minister certifies that the disclosure of certain information will not be in the public interest.

VIII. *Freedom of Conscience*

(1) It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of conscience. This freedom will be defined as including freedom of thought and of religion, freedom to change one's religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate one's religion or belief in worship, teaching, practice and observance.

(2) It will be forbidden to prevent any religious community from providing religious instruction for members of that community in the course of any education which it provides.

(3) It will also be forbidden, except with the consent of the person concerned or his guardian, to require any person attending a place of education to receive religious instruction, or to take part in a religious observance, except when it relates to his own religion.

(4) It will be forbidden to require anybody to take an oath which is contrary to his religion or belief or to take an oath in a manner which is contrary to his religion or belief.

(5) There will be an exception to the foregoing for any law (or for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health; or which makes reasonable provision for the purpose of protecting the rights and freedoms of others, including their freedom from unsolicited interference by persons of other religions or beliefs. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

IX. *Freedom of Expression*

(1) It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of expression. This freedom will be defined as including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with one's correspondence.

(2) It will be forbidden to prevent any person or group from establishing a school, or to prevent any person from sending a child to the school of his choice.

(3) There will, however, be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health, or which makes reasonable provision to protect the reputations, rights and freedoms of others or the private lives of persons concerned in legal proceedings, to prevent breach of confidence, to maintain the authority and independence of the courts or to regulate the administration or technical operation of telephones, telegraphs, posts, wireless broadcasting or television or to prevent the unlawful dispatch with correspondence of other matter; or which imposes restrictions on public officers. Any such law (and the measure taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

X. *Freedom of Assembly and Association*

(1) It will be forbidden, except with the consent of the person concerned, to interfere with anybody's freedom of assembly and association. This freedom will be defined as the right of every person to assemble freely and associate with others and in particular to form or belong to political parties or to trade unions or other associations for the protection of his interests.

(2) There will, however, be an exception for any law (and for any measures taken under it) which makes reasonable provision in the interests of defence, public safety, public order, public morality or public health; or which makes reasonable provision to protect the rights and freedoms of others; or which imposes restrictions on public officers. Any such law (and the measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

XI. Freedom of Movement

(1) It will be forbidden to interfere with anybody's freedom of movement. This freedom will be defined as the right to move freely throughout Zimbabwe, the right to reside in any part of Zimbabwe, the right to enter Zimbabwe, the right to leave Zimbabwe and immunity from expulsion from Zimbabwe.

(2) There will, however, be an exception for any law (and for any measures taken under it)—

- (a) which imposes reasonable restrictions on the movement within Zimbabwe of persons generally or any class of persons, or on their right to leave Zimbabwe, in the interests of defence, public safety, public order, public morality or public health;
- (b) which imposes reasonable restrictions on the acquisition or use of land;
- (c) which authorises a court to impose restrictions on any person's movement or residence within Zimbabwe or on his right to leave Zimbabwe, in consequence of his criminal conviction or to ensure his appearance before a court to stand trial for a criminal offence or to give evidence in criminal proceedings or to answer extradition or deportation proceedings;
- (d) which imposes restrictions on the freedom of movement of anybody who is not a citizen of, nor permanently resident in, Zimbabwe;
- (e) which authorizes the extradition of a person from Zimbabwe in respect of a criminal offence or his removal to some other country to serve his sentence for such an offence;
- (f) which imposes restrictions, in order to secure the fulfilment of any person's legal obligations, on his right to leave Zimbabwe; or
- (g) which imposes, for the protection of tribespeople, restrictions on residence within Tribal Trust Land for those who are not tribespeople. In all these cases, save the restrictions relating

to Tribal Trust Land, any such law (and any measures taken under it) will be tested against the criterion of what would be reasonably justifiable in a democratic society.

XII. Protection from Discrimination

(1) It will be forbidden for any law to contain a provision which is discriminatory either of itself or in its effect or for any person who is exercising statutory powers or acting in the performance of the functions of any public office or public authority to treat anybody in a discriminatory manner. A law or an executive action of this kind will be regarded as discriminatory if it affords special advantages or imposes special disabilities upon persons by reason wholly or mainly of their race, tribe, place of origin, political opinions, colour or creed.

(2) There will be an exception to the foregoing for any law (or for any measures taken under it which are authorized by it expressly or by necessary implication)—

- (a) which places certain restrictions on persons who are neither citizens nor permanent residents of Zimbabwe;
- (b) which makes provision with respect to matters of personal law such as adoption, marriage, divorce, burial and testamentary succession;
- (c) which makes provision for the application of their customary law in the case of members of a particular race or tribe;
- (d) which makes provision with respect to the standards or qualifications to be required of persons who are appointed to offices in the public service or in the service of a local government authority or of a public corporation, provided that these standards or qualifications do not themselves specifically relate to race, tribe, place of origin, political opinions, colour or creed;
- (e) which confers special rights on tribespeople in relation to Tribal Trust Land.

SAVINGS

1. The Constitution will permit certain of the substantive rights described above to be derogated from, within specified limits, during periods of emergency.

2. Existing laws will not be held in contravention of the Declaration for a period of five years, though such laws can be amended or repealed by Parliament at any time.

ENFORCEMENT

The Declaration of Rights will contain provisions to ensure that the rights which it guarantees are fully justiciable. These provisions will declare that anybody who alleges that any of his rights under the Declaration has been, is being or is likely to be infringed — and in the case of a detained person, any other person on his behalf — will, without prejudice to any other remedy which he may have, have the right to apply to the court for redress and the court will have jurisdiction to hear and determine that application. The court will be empowered to issue such orders as it may consider appropriate to enforce, or to secure the enforcement of, any of the provisions of the Declaration of Rights.

D: THE EXECUTIVE

I. The President

(1) The President will be head of State and Commander-in-Chief of the Defence Forces.

(2) The President will be elected by the members of Parliament. The qualifications for election as President will be the same as those required for election to the Senate.

(3) The President will hold office until he resigns or until a period of six years has elapsed. Thereafter he will be eligible for re-election for one further period of office.

(4) The President may be removed from office on the grounds of misconduct or inability to discharge efficiently the functions of his office. A motion for removal requires to be supported by not less than two-thirds of all the members of Parliament.

(5) Provision will be made for the discharge of the functions of the office of President during the President's absence or temporary incapacity.

(6) The executive power of Zimbabwe will be vested in the President and unless otherwise provided will be exercised on the advice of the Executive Council or, if authorized by the Executive Council, the Prime Minister or other Minister. The limited circumstances in which the President will act on his own discretion in accordance with the Constitution, e.g. appointment of the Prime Minister and dissolution of Parliament following a vote of confidence, will be specified in the Constitution.

(References to the exercise of power by the President in this summary are references to the President acting on advice unless otherwise indicated.)

(7) Provision will be made to keep the President informed of the general conduct of the Government.

(8) The exercise of the prerogative of mercy will be vested in the President.

(9) There will be vested in the President the power to declare a state of public emergency, or the existence of a situation which, if allowed to continue, may lead to a state of public emergency. Such a declaration will lapse unless it is approved within 14 days by the affirmative votes of more than one-half of the total membership of the House of Assembly. The declaration may not continue in effect for longer than six months unless it is renewed by a similar resolution.

II. Executive Council and Ministers

(1) The Executive Council will consist of the Prime Minister and other Ministers, appointed by the President on the advice of the Prime Minister.

(2) The President will appoint as Prime Minister the person who, in his opinion, is best able to command the support of a majority of the members of the House of Assembly. He will appoint and dismiss Ministers and Deputy Ministers on the advice of the Prime Minister. In the absence of the Prime Minister, the President may authorize another Minister to perform the functions of the Prime Minister.

(3) A Minister or Deputy Minister will be a member of the Senate or House of Assembly.

(4) The Prime Minister may assign Ministers responsibility for the administration of a Government department. Where a Minister is charged with responsibility for a department of Government, it will be his duty to exercise general direction and control over that department. Secretaries will have the supervision of departments subject to that general direction and control.

III. The Public Service

(1) There will be a Public Service Commission consisting of a chairman and not less than two and not more than four other members.

(2) The members of the Public Service Commission will be appointed by the President acting on the advice of the Prime Minister. They will be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members. The chairman and at least one other member will have held senior rank in the Public Service.

(3) Subject to the other provisions of the Constitution, the Public Service Commission will have vested in it the power to appoint persons to hold or act in public offices, to exercise disciplinary control over such persons and to remove them from office. The Public Service Commission will also have the power to make regulations for the administration and conditions of service of the Public Service. Its decisions will be reached by a majority vote.

(4) When considering candidates for appointment to vacant posts in the Public Service and Prison Service, the Commission will be required to give preference to the person who is in its opinion the most efficient and suitable for appointment. However, in making any decision the Commission will be required to take account of any general policy directions given by the President which are designed to achieve a suitable representation of all groups of the population in the service of the State.

(5) There will be an Attorney-General who will be a member of the Public Service. He will be appointed by the President on the advice of the Prime Minister. Before tendering his advice the Prime Minister will consider any recommendations by the Public Service Commission, which will in turn consult the Judicial Service Commission. If he departs from such recommendations Parliament will be informed before the appointment is made.

(6) Candidates for the office of Attorney-General must have the qualifications necessary for a judge or have served in the Office of the Attorney-General for at least six years.

(7) The Attorney-General will be responsible for criminal prosecutions. In the exercise of his powers in this capacity he shall not be subject to the direction or control of any person or authority. Once appointed the Attorney-General may be removed from office only on the recommendation of a tribunal.

(8) Secretaries of Ministries and the Secretary to the Executive Council shall be appointed by the President on the advice of the Prime Minister. Before tendering his advice the Prime Minister will consider any recommendations by the Public Service Commission. If he departs from such recommendations Parliament will be informed.

(9) Heads of Diplomatic Missions shall be appointed by the President on the advice of the Prime Minister after consultation with the appropriate Commission.

IV. The Police Force

(1) The Police Force will be under the command of the Commissioner of Police who will be appointed by the President on the advice

of the Prime Minister. Before tendering his advice, the Prime Minister will consider any recommendations made by a specially constituted board. If he departs from such recommendations Parliament will be informed.

(2) The power to relieve the Commissioner of his appointment will rest in the President acting on the advice of the Prime Minister. Before tendering such advice the Prime Minister will consult the Executive Council. Parliament will be informed.

(3) Subject to such general directions of policy as may be given to him by the Prime Minister (or other responsible Minister), the Commissioner of Police will be responsible for the administration and operations of the Police Force. Appointments to the Police Force will be made on the advice of or by the Commissioner of Police. When considering candidates for appointment to vacant posts the Commissioner of Police will be required to give preference to the person who, in his opinion, is the most efficient and suitable for appointment. However, in making any such decision the Commissioner of Police will be required to take account of any general policy directions given by the President which are designed to achieve a suitable representation of the various component groups of the population in the service of the State.

(4) There will be a Police Service Commission which will consist of a chairman (who will be the chairman of the Public Service Commission) and not less than two and not more than four other members appointed by the President on the advice of the Prime Minister. The persons to be appointed as members of the Commission will be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members. At least one member will have held senior rank in the Police Force.

(5) The functions of the Police Service Commission will be to consider grievances by members of the Police Force, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than two years' service and to make regulations for the general well-being, good administration and conditions of service of the Police Force.

E. PARLIAMENT

1. The legislature of Zimbabwe will consist of the President and Parliament, which will comprise a Senate and a House of Assembly.

2. An Electoral Law will make provision for the election of Senators and of members of the House of Assembly.

3. The registration of voters in elections to the House of Assembly and the conduct of these elections will be under the direction and supervision of an Electoral Supervisory Commission.

4. There will be provision for the establishment of a Delimitation Commission to delimit the common roll and white roll constituencies for general elections.

5. All citizens who are 18 years of age or over will be eligible to be enrolled as voters. There will be a common voters roll on which will be enrolled all voters except white (including Coloured and Asian) voters who, for so long as there is provision for separate minority representation in Parliament, will be enrolled on a whites voters roll.

SENATE

6. There will be a Senate of 40 members, chosen as follows—

(a) ten will be elected by an electoral college consisting of members of the House of Assembly elected on the white voters roll;

(b) fourteen will be elected by an electoral college consisting of members of the House of Assembly elected on the common voters roll;

(c) ten will be elected by the Council of Chiefs;

(d) six will be nominated by the President on the advice of the Prime Minister.

7. To be qualified for election or appointment as a Senator a person must be enrolled as a voter, have attained the age of 40 and have been ordinarily resident in Zimbabwe for not less than 10 years during the last 20 years. The residence qualification will not apply during an initial period.

8. The Senate will elect a President and a Deputy President of the Senate. A Minister or Deputy Minister will not be eligible for these posts. The President of the Senate will vacate his office on the dissolution of Parliament and may be removed from office by a resolution of the Senate supported by not less than two-thirds of all the members.

9. There shall be a Senate Legal Committee with powers of scrutiny over legislation.

HOUSE OF ASSEMBLY

10. The House of Assembly will consist of 100 members elected as follows—

(a) 80 members will be elected by voters on the common voters roll;

(b) 20 members will be elected by voters on the white voters roll.

11. To be qualified for election to the House of Assembly a person must be enrolled as a voter, have attained the age of 21 and have been ordinarily resident in Zimbabwe for not less than five years during the last 20 years. The residence qualification will not apply during an initial period.

12. The House of Assembly will elect a Speaker and a Deputy Speaker. A Minister or Deputy Minister will not be eligible for these posts. The Speaker will vacate his office on the dissolution of Parliament and may be removed at any time by a resolution of the House of Assembly supported by not less than two-thirds of all the members.

13. A general election for members of the House of Assembly must be held within not more than four months of the dissolution of Parliament. Election of members of the Senate will follow within 28 days.

PROCEDURE IN PARLIAMENT

14. The President or the Deputy President of the Senate will usually preside over the deliberations of the Senate. The Speaker or Deputy Speaker will usually preside at sittings of the House of Assembly.

15. The quorum of the Senate will be one-third of all its members. The quorum of the House of Assembly will be one-fourth of all the members.

16. There will be a Secretary to Parliament. He and the members of his staff will be public officers.

17. There will be provision for the privileges and immunities of members of Parliament.

18. The President will have the right to address either House of Parliament or a joint meeting of both Houses.

19. A Minister or Deputy Minister will have the right to sit and speak both in the Senate and in the House of Assembly but will only have the right to vote in the House of which he is a member.

20. Subject to the provisions of the Constitution, the Senate and the House of Assembly will be empowered to regulate their own procedure.

LEGISLATIVE POWERS OF PARLIAMENT

21. Subject to the provisions of the Constitution, Parliament will have full legislative powers for Zimbabwe.

22. The legislative powers of Parliament will be exercised through Bills passed by the House of Assembly and (subject to the House of Assembly's power to over-ride it after a period of delay) the Senate, and assented to by the President.

23. Parliament will not be entitled, except upon the recommendation of the Prime Minister signified by him or by another Minister, to proceed upon a Bill which imposes or increases taxation or imposes a charge on public funds or authorizes expenditure from public funds or compounds or remits a debt due to the Government.

24. If the Senate does not approve within 90 days an ordinary Bill (that is a Bill not amending the Constitution and not a Money Bill) which has been approved by the House of Assembly, the Bill may be presented to the President for his assent. The Senate will not have the power to amend Money Bills, and in the case of such Bills its power to delay will be limited to eight sitting days.

25. Save as is otherwise specifically provided in the Constitution the House of Assembly will decide all questions by a simple majority of the votes of the members present and voting. The Speaker or other member presiding will have neither an original vote nor a casting vote. If the votes are equally divided on any question, the motion will be lost.

26. Parliament will be able to amend any of the provisions of the Constitution. Any Bill to that effect must be published in the *Gazette* at least 30 days before first reading in the Senate or House of Assembly.

27. The Senate will have the power to delay any Bill to amend the Constitution for 180 days, but at the end of that period it can be sent to the President for his assent, even if it has not passed the Senate.

28. Except as provided in paragraphs 29 and 30 a Bill to amend the provisions of the Constitution will require the votes of not less than 70 per cent. of the members of the House of Assembly and, subject to paragraph 27, the votes of not less than two-thirds of the members of the Senate.

29. The provisions of the Constitution relating to the separate representation of the white minority in Parliament will for a period of seven years be amendable only by unanimous vote of the House of Assembly

and, subject to paragraph 27, not less than two-thirds of the members of the Senate. At the end of seven years, these provisions shall be capable of amendment as in paragraph 28 above.

30. The protective provisions of the Declaration of Rights will for a period of ten years be amendable only by the unanimous vote of the House of Assembly and, subject to paragraph 27, the votes of not less than two-thirds of the members of the Senate, but a Bill which amends the Declaration of Rights in such a way as to reduce the qualifications or exceptions to those provisions will be subject to the procedure in paragraph 28 above.

SUMMONING, PROROGATION AND DISSOLUTION OF PARLIAMENT

31. Each session of Parliament will be held at such place and will begin at such time as the President may determine but not more than six months will be permitted to elapse between the end of one session and the beginning of the next.

32. The President will be able to prorogue or dissolve Parliament at any time on the advice of the Prime Minister.

33. If the House of Assembly at any time passes a motion of no confidence in the Government and the Prime Minister does not within three days resign or ask for a dissolution, the President will be required to dissolve Parliament.

34. Unless it is already dissolved, Parliament will stand dissolved automatically at the end of five years from the date of the first sitting of the House of Assembly after the previous dissolution. There will be provision for limited extensions of Parliament's life if Zimbabwe is at war or in periods of emergency.

F: THE JUDICATURE

1. There will be a High Court of Zimbabwe, consisting of an Appellate Division and a General Division. It will have unlimited original jurisdiction in both civil and criminal matters and such other jurisdiction as may be conferred on it by the Constitution or any other law. Appeals will lie from decisions of the General Division to the Appellate Division.

2. There shall be a Chief Justice and other judges of the High Court.

3. The Chief Justice will be appointed by the President, acting on the advice of the Prime Minister. Before tendering his advice the Prime

Minister will consider any recommendations from the Judicial Service Commission. If he departs from any such recommendations Parliament will be informed before the appointment is made.

4. The other judges of the High Court will be appointed by the President, acting on the advice of the Judicial Service Commission.

5. A person will not be qualified to be appointed as a judge of the High Court unless—

(a) he is or has been a judge of a superior court in a country in which the common law is Roman-Dutch or English and English is an official language; or

(b) he is, and has been for not less than seven years, qualified to practise as an advocate in Zimbabwe or in a country in which the common law is Roman-Dutch or English and in any such case English is an official language. Experience in a country where the common law is English will count only in the case of citizens of Zimbabwe.

6. If the office of Chief Justice is vacant or the Chief Justice is temporarily unable to perform the functions of his office, the President will be able to designate one of the other judges of the High Court to act in his place.

7. A judge of the High Court will not be removable from office before reaching retiring age except for physical or mental incapacity or for misconduct. If the President considers that the question of removing a judge on one of these grounds ought to be investigated, he will appoint a tribunal consisting of a chairman and two other legally qualified members. When that tribunal has enquired into the matter, it will report to the President and advise him whether to refer the question of the judge's removal to the Judicial Service Commission. If the Commission recommends that the President should remove the judge from office, the President will do so. When the case of the judge is being investigated by the tribunal, the President may suspend him from performing the functions of his office.

8. There will be a Judicial Service Commission, consisting of the Chief Justice as the chairman, the chairman of the Public Service Commission, a legally qualified person appointed by the President and a member appointed by the President, in each case acting on the advice of the Prime Minister. The Judicial Service Commission will advise the President on the appointment of judges of the High Court and of judicial officers presiding over certain courts exercising specified functions.

9. In carrying out its functions the Judicial Service Commission will not be subject to direction or control by any other person or authority.

10. The power to appoint, exercise disciplinary control over and remove from office magistrates and certain other officers, e.g. registrars, connected with the High Court will rest with the Public Service Commission.

G: THE DEFENCE FORCES

1. All armed forces will be regulated by law. The Defence Forces will consist of the Army, the Air Force and any other branch established by law.

2. There will be a Commander of each branch. Each Commander will be appointed by the President, acting on the advice of the Prime Minister. Before tendering his advice the Prime Minister will consider any recommendations made by a specially appointed board. If he departs from such recommendations Parliament will be informed.

3. The power to relieve a Commander of his appointment will vest in the President acting on the advice of the Prime Minister. Before tendering his advice the Prime Minister will consult the Executive Council. Parliament will be informed.

4. The Commander of a branch of the Defence Forces will be responsible for that branch subject to any general directions of policy which may be given to him by the Prime Minister (or other responsible Minister) for the operations or administration of the branch concerned. Appointments within a branch will be made on the advice of or by the Commander, who will be required to give preference to the person who in his opinion is the most efficient and suitable for appointment. However, in making any decision the Commander will be required to take account of any general policy directions given by the President which are designed to achieve a suitable representation of the various component groups of the population in the service of the State.

5. There will be a Defence Forces Service Commission which will consist of a chairman (who will be the chairman of the Public Service Commission) and not less than two and not more than four other members appointed by the President acting on the advice of the Prime Minister. The persons appointed to be members of the Commission will be chosen for their ability and experience in administration or their professional qualifications or their suitability otherwise for appointment as members. At least one member will have held senior rank in the Defence Forces.

6. The functions of the Defence Forces Service Commission will be to consider grievances by members of the Defence Forces, to consider and, if it deems fit, to confirm any proposal to dismiss a member who has had more than two years' service, and to make regulations for the general well-being, good administration and conditions of service of the Defence Forces.

H: FINANCE

1. There will be a Consolidated Revenue Fund into which all Government revenues will be paid unless they are payable by law into some other fund established for a specific purpose or are revenues that may, by law, be retained by the authority that received them for the purpose of defraying its own expenses.

2. No moneys will be withdrawn from the Consolidated Revenue Fund except to meet expenditure charged on that Fund by the Constitution or another law; or where the withdrawal has been authorized by an Appropriation Act or a supplementary or additional estimate approved by or under an Act of Parliament.

3. No moneys will be withdrawn from any public funds of Zimbabwe other than the Consolidated Revenue Fund unless authorized by or under a law.

4. The Minister of Finance will be required to lay before the House of Assembly estimates of the revenues and expenditure of Zimbabwe for the next financial year. The expenditure included in those estimates (other than expenditure charged on the Consolidated Revenue Fund) will then have to be authorized by an Appropriation Act.

5. Provision will be made for supplementary or additional estimates to be laid before the House of Assembly for expenditure not covered by the Appropriation Act or if unauthorized expenditure has taken place.

6. There will be provision under which, if the Appropriation Act for any financial year has not come into operation by the beginning of that year, the President will be permitted to authorize the withdrawal of moneys from the Consolidated Revenue Fund for the purpose of meeting necessary expenditure until the end of the first four months of the financial year or until the Appropriation Act comes into operation, whichever is the earlier.

7. The public debt of Zimbabwe, i.e. all debt charges for which the Government of Zimbabwe is liable, will be charged on the Consolidated Revenue Fund.

8. There will be a Comptroller and Auditor-General who will be appointed by the President on the recommendation of the Public Service Commission. It will be his duty—

- (a) to satisfy himself that any proposed withdrawal from the Consolidated Revenue Fund is legally authorized and, if so satisfied, to approve it;
- (b) to satisfy himself that all disbursements and expenditure from public funds are covered by proper authority; and
- (c) at least once a year to audit all Government accounts, including the accounts of all courts which are paid for out of Government funds and the accounts of any Commission established by the Constitution and to report on that audit to the House of Assembly through the Minister of Finance.

For this purpose he will be entitled to have access to all relevant books and documents. In the exercise of his constitutional functions, he will not be subject to the direction or control of any other person or authority.

9. The Comptroller and Auditor-General will be removed from office only by the affirmative vote of an absolute majority of the House of Assembly.

I: PENSION RIGHTS OF PUBLIC OFFICERS

1. The Constitution will contain provisions relating to pensions payable in respect of service of a public officer.

2. The pension benefits to be paid to a public officer will be those applicable at the time he began his service or those provided under any subsequent law not less favourable to him.

3. All pension benefits payable by the State will be a charge on the Consolidated Revenue Fund.

4. Any person who is entitled to receive pension benefits may, if he is ordinarily resident outside Zimbabwe, have them remitted to him outside Zimbabwe free of any deduction, charge or tax in respect of its remission.

J: OMBUDSMAN

(1) There will be an Ombudsman, who will be appointed by the President on the advice of the Judicial Service Commission.

(2) The duty of the Ombudsman will be to investigate complaints against action taken by any employee of the Government, other than a member of the Defence Forces or Police Force, or by any employee of a local authority, where no legal redress or right of appeal to a court exists.

THE PRE-INDEPENDENCE ARRANGEMENTS

1. The British Government put forward the following proposals for implementing the Independence Constitution in amplification of those tabled on 22nd October.
2. Rhodesia continues to be part of Her Majesty's dominions. The Government and Parliament of the United Kingdom have responsibility and jurisdiction for and in respect of it. It is for the British Parliament to grant legal independence to Rhodesia.
3. An Independence Constitution has been agreed by the parties, subject to agreement on the arrangements for implementing it. The Constitution gives full effect to the principle of genuine majority rule and will give the Government of independent Zimbabwe the powers it needs to carry out the policies on the basis of which it is elected.
4. The question of majority rule, which gave rise to the war, has therefore been resolved. The question now at issue is who is to form the future independence government. The British Government's position is that this must be decided by the people of Zimbabwe, in free and fair elections in which all parties will be able to take part on equal terms. The British Government will transfer power to whatever leaders are chosen by the people of Rhodesia in elections held under these conditions and supervised under the British Government's authority. The British Government will not be prepared to transfer power to any party which has not won it in elections. The elections will be held on the basis of the Independence Constitution and all parties will be expected to abide by it. All parties taking part in the election will also be expected to commit themselves to abide by the outcome. Such a commitment will be essential if Zimbabwe is to come to independence in peace and with a prospect of stability and prosperity for all its people.
5. The proposals put to the conference by the Salisbury delegation and the Patriotic Front showed that there was a wide divergence of views on how to create the conditions in which fair elections can be held.
6. The Salisbury delegation maintained that they had been elected to govern Rhodesia, that most of their members had nothing to do with the illegal declaration of independence, that they had a mandate to govern Rhodesia, and that they should do so during the interim period. Elections should be supervised by the British Government, but they would continue to administer the country.

7. The Patriotic Front's position was set out in the paper on transitional arrangements which they circulated early in the course of this Conference and later amplified. Their proposals called for complex power-sharing arrangements in the interim and restructuring of the Police and Security Forces in advance of the election.

8. Against this background the British Government has reached certain conclusions. In the first place, the purpose of the pre-independence arrangements is to allow the parties to put their case to the people under fair conditions. The pre-independence period should not be concerned with the remodelling of the institutions of government. This will be a matter for the independence government elected by the people of Rhodesia. The essential requirement is that all parties should be free to put their policies to the people and should commit themselves to abide by the people's choice. The purpose of the interim period should be peaceful competition for power.

9. Secondly, the British Government proposes that the administration of Rhodesia during the election should be entrusted to the authority of the British Government, while the leaders of *all* parties explain their case to the people.

10. Thirdly, the British Government has concluded that, against the background of a war and the certain difficulties of a cease-fire, an interim period must not be excessively protracted, but must allow all the political parties adequate time to put their case to the people of Rhodesia. The longer the interim period lasts before the people of Rhodesia are given the chance to decide their political future for themselves, the greater will be the period of political uncertainty and the greater the risk of a break-down of the cease-fire. It is in the interests of the people of Zimbabwe that they should be enabled to choose their future leaders as soon as is reasonably possible.

11. Finally, it is clear to the British Government that whatever arrangements are proposed for the interim will be effective only if there is a genuine commitment by both sides to make them work. It is in the interests of all the parties to this Conference that there should be an end to the fighting and free and fair elections. The British Government is prepared to ensure the conditions under which those objectives can be achieved. But it can do so only if both sides accept its authority and its determination to ensure the impartiality of the election process.

THE MACHINERY OF GOVERNMENT

12. The British Government believes that it is only through a direct British involvement that conditions for elections, acceptable to both sides, can be created. To set in train the process which will enable free

and fair elections to be supervised under its authority, as was agreed at the Commonwealth Heads of Government meeting at Lusaka, the British Government will appoint a Governor for Rhodesia who will be British. The Governor's instructions will require him to do all things necessary to secure compliance with the conditions for free and fair elections.

13. The Governor will be established under an Order in Council which will confer on him executive and legislative authority. He will act according to the instructions given to him, for the fulfilment of his task, by the British Government. The Governor will have powers to make laws by Ordinance for the peace, order and good governance of the country. Legislative authority will not be exercised by any other body. Executive authority will be vested in the Governor and all public officers and authorities in Rhodesia, including the civil service, the Police and the Defence Forces, will be required to comply with the Governor's directions. The Patriotic Front's forces will also be required to comply with the directions of the Governor.

14. There will be a Deputy Governor who will be British. The Governor will also have a Military Adviser, Police Adviser, Legal Adviser and Political Adviser and such other supporting staff as the British Government may decide are necessary to enable him to discharge his functions effectively, all of whom will be British. In the day-to-day administration of the country, the Governor will, however, work through the existing public service. The British Government see no practical alternative to this. It will be for the Governor to ensure that his authority is effectively and impartially exercised.

15. The Order in Council providing for the establishment of the office of Governor will serve as the interim constitution of Rhodesia. Provision will be made to carry forward existing laws. It will be for the Parliament to be chosen in free elections to decide which laws shall be continued and which shall be changed. It will be the Governor's duty to ensure that powers conferred by existing laws on public officers and authorities are not used in an arbitrary manner, or in such a way as to affect the conditions for free and fair elections. Allegations of improper activity by any public authority or any political party or its representative in the election campaign may be brought to the attention of the Governor or his Deputy who will cause them to be dealt with.

16. All persons detained arbitrarily and on political grounds by any party will be released. The Governor will order a review of any such cases within his jurisdiction. The British Government will require to be satisfied that similar procedures will apply in the case of persons detained outside Rhodesia.

17. Once the Governor has arrived and his authority has been accepted in Rhodesia, Rhodesia will have returned to lawful government as a part of Her Majesty's dominions.

18. The Governor will proceed to Rhodesia as soon as possible after the conclusion of the Constitutional Conference. He will assume responsibility for the government of Rhodesia. All the political leaders will commit themselves to the election campaign. Bishop Muzorewa and his colleagues will not exercise ministerial functions during this period. The Governor will be responsible for the administration of the country on a caretaker basis. Heads of Ministries will report to him.

THE RETURN OF CITIZENS LIVING OUTSIDE RHODESIA

19. Many thousands of Rhodesian citizens are at present living outside the country. Most of them wish to return and it will be desirable that as many as possible should do so in order to vote in the election. The return of all refugees will be a task requiring careful organization. But a start should be made in enabling the refugees to return to their homes as soon as possible; and the British Government will be ready to assist with the process. The task of effecting the return of all refugees will need to be completed by the independence government in co-operation with the governments of the neighbouring countries.

LAW AND ORDER

20. In the event of an effective ceasefire, the necessity for martial law will disappear. The task of maintaining law and order in the pre-independence period will be the responsibility of the civil police. The police will act under the Governor's supervision, exercised through the Police Adviser and other British police officers. Special arrangements will be made by the Governor in consultation with the parties to ensure the protection of the political leaders in this period.

DEFENCE

21. The negotiation of a ceasefire will be the next task of the Conference as soon as there is agreement on the arrangements for holding elections and on the administration of the country in the interim period. Subject to this, the role of the military forces of both sides in the interim period will be to maintain the ceasefire. The commanders on both sides will be responsible to the Governor for this. The British Government proposes to establish machinery on which the military commanders on both sides will be represented to ensure compliance with the terms of the ceasefire. The success of the arrangements proposed

for the administration of Rhodesia in the period before independence will require all parties to commit themselves to accept the Governor's authority.

LEGISLATIVE PROCEDURES

22. The authority of the United Kingdom Parliament will be sought for the appointment of the Governor, the making of the Independence Constitution and the holding of elections under it. Legislation will be submitted to Parliament as a matter of urgency so that the Governor may, without loss of time after his arrival, take the steps necessary to allow elections to be held.

23. A bill will subsequently be introduced to provide for Rhodesia to become independent, following the holding of elections supervised by the British Government and held under the British Government's authority, and the establishment of a government of Zimbabwe on the basis of the Independence Constitution.

THE ELECTIONS

24. The administrative arrangements described in this paper will be implemented in such a manner as to ensure that the elections will be held under the following conditions:

- the administration of the elections will be fair and impartial as between all the political parties taking part;
 - peaceful political activity will be freely conducted by all the parties to the election;
 - there will be freedom of movement, assembly and expression during the election campaign;
 - all parties will conduct their political activities within the law;
 - all the parties will have free and uncensored access to the public media to put their case to the people of Rhodesia, and there will be freedom to advertise and to publish political views in the press;
 - appropriate measures will be taken to ensure the security of all parties taking part in the election campaign.
25. There will be an Election Council, chaired by the Election Commissioner or his nominated deputy, who will be British. The Election Commissioner will invite each party taking part in the elections to be represented on the Council. The Council will have a general consultative

function. Its individual members will be able to make representations to the Election Commissioner on any matter concerning the elections. The Election Commissioner and his staff will ensure that allegations of unfair practices are properly investigated and remedied.

26. Commonwealth Governments will be invited to send observers to the elections. Their role will be to observe that the elections are genuinely free and fair and that the British Government is carrying out its responsibility to supervise them. No restrictions will be placed upon their movements, and every effort will be made to facilitate their task.

27. All political parties which register for elections will be free to take part in the elections. Any order banning or restricting a political party will be revoked.

28. The election will be held on dates to be decided by the Governor as soon as possible after he takes up office and his authority is accepted. Three consecutive days will be set aside for polling to take place.

29. The British Government will take the legislative action necessary to bring into force those parts of the Independence Constitution required for elections to be held and for Parliament to be constituted in the terms of the Independence Constitution. Relevant provisions of the Electoral Law currently adopted in Rhodesia will be applied at the Governor's discretion.

30. The Governor will be responsible for all aspects of the conduct of the elections. There will be an Election Commissioner with appropriate staff appointed by the British Government who will be responsible for supervising the elections to the full extent necessary to ensure that they are free and fair as between the parties participating in them. He and his assistants will keep themselves fully informed of all matters relating to the elections and will enquire as necessary into any aspect of the conduct of the elections.

31. Elections for the Common Roll seats will be held on a party list basis. The most practical procedure may be to divide the country into districts, each of which could be allocated a number of seats in proportion to its population. The election on the white roll will take place on the basis of existing constituencies.

32. The Governor will fix a date not less than four and not more than six weeks before the elections on which political parties wishing to contest the elections should apply for registration, name each electoral district for which they wish to be registered and provide a list of the candidates whom they wish to nominate for each electoral district.

33. The qualifications for voters and for candidates for election as Senators and members of the House of Assembly will be as provided in the Independence Constitution, except that, in view of the special circumstances prevailing at present, residence qualifications will not apply.

34. Registration of voters will not be required, but voters will be required as necessary to produce evidence of identity and eligibility to vote. Steps will be taken to prevent fraudulent and multiple voting.

35. The Election Commissioner will supervise the printing and distribution of ballot papers.

36. There will be freedom to campaign, hold political meetings and carry out canvassing. Appropriate measures will be taken by the Governor, in consultation with the parties, to ensure the physical security of all political leaders during the campaign.

37. Appropriate provision will be made for the conduct of the poll, the counting of votes and the declaration of results. Every voter will be free to cast his vote for the party of his choice.

38. Each party presenting candidates will be entitled to have one representative at each polling station in the district concerned to observe the polling. The Election Commissioner and his staff will make sample checks on polling stations throughout the country.

39. It will be the responsibility of the Governor to ensure adequate security at polling stations and the security of the ballot boxes.

40. The Governor, on the advice of the Election Commissioner, will take appropriate steps regarding disclosure of election expenses, the definition of corrupt and illegal practices, and election petitions.

CONCLUSION

41. The British Government is confident that if these arrangements are accepted by the parties it will be possible for them to resolve their differences by political means, thereby enabling the people of Zimbabwe to decide for themselves their future government and enabling them and the people of the neighbouring countries to live at peace.

The British Government urges the parties to take this opportunity to achieve these aims.