

2019

**EXPLANATORY MEMORANDUM
TO THE PROPOSED DRAFT
CONSTITUTION**



Constitutional Review Commission

CONSTITUTIONAL REVIEW COMMISSION

11/13/2019

CHAPTER 1 – THE REPUBLIC AND THE SOVEREIGNTY OF THE PEOPLE

This Chapter in sections 1 to 5 recognizes that The Gambia is a Sovereign Republic and a multi-party Democratic State. All sovereign power belongs to the people of The Gambia and is exercised in accordance with the Constitution. This Chapter, unlike the 1997 Constitution, provides a framework for the definition of the territory of The Gambia, its national days and further establishes the two levels of government: the national government and the local governments. Devolution of government is important because it ensures that decisions are made closer to the local people and communities they affect. The recognition of the need for devolution of Government in the first Chapter is a key development.

CHAPTER II – THE CONSTITUTION AND THE LAWS

This Chapter in sections 6 to 9 installs the Constitution as the supreme law of The Gambia and stipulates the other laws of The Gambia. It further contains provisions on how to enforce provisions of the Constitution. This Chapter introduces broader rules on *locus standi* (standing) in enforcing the provisions of the Constitution. These rules effectively enable a person to initiate legal action by virtue of being a member, or in the interest, of a group of persons, or to act in the public interest, or an association to act in the interest of one or more of its members. This Chapter for the first time makes it clear that treaties to which The Gambia becomes a party form part of the laws of The Gambia after they have been ratified and domesticated.

CHAPTER III – NATIONAL VALUES AND PRINCIPLES

This Chapter is new and provides for national values and principles of governance which are meant to bind all State organs, Local Government Authorities, public officers and all other persons in sections 10 to 12.

It recognizes culture as the foundation of the nation and as the cumulative civilization of the Gambian people and nation. It further outlines the duties of all Gambian citizens, which include the duty to promote and protect the prestige and good reputation of The Gambia, the duty to foster national unity, cohesion and live harmoniously with others, the duty to protect and conserve the environment, and the duty to be loyal to The Gambia and contribute to its defence when necessary. These values and duties are important for nation-building in that they encourage orderliness, credibility, tolerance, hard work, patriotism and the equitable distribution of resources.

CHAPTER IV – CITIZENSHIP

This Chapter contains sections 13 to 21 and defines who a citizen of The Gambia is and how to acquire Gambian citizenship.

The Chapter preserves the citizenship of persons who were citizens of The Gambia before the coming into force of the draft Constitution. A distinction is no longer made between citizens by birth or citizens by descent. Children of 8 years or under who are found in The Gambia and whose parents are unknown are presumed to be Gambian citizens. It also provides for citizenship by registration to persons who marry Gambian citizens and continue to be ordinarily resident in The Gambia for a period of 5 years (reduced from 7 years). Citizenship by

naturalization is also provided for but naturalized persons are no longer required to renounce their original nationality if their country of origin does not require Gambians who wish to naturalise to renounce their Gambian nationality. Non-Gambian children adopted by Gambian parents can apply to register as Gambian citizens. Dual citizenship, restoration of citizenship and deprivation of citizenship are also provided for. The National Assembly is further empowered to make a provision for registration of persons born in The Gambia to non-Gambian parents on or before 15th November 2019 and for registration of persons who are not eligible for Gambian citizenship under this Chapter.

CHAPTER V – LEADERSHIP AND INTEGRITY

This new Chapter is in sections 22 to 29 and deals with leadership and integrity, which are significant attributes in a genuine democracy. It covers areas such as responsibilities of citizenship, conduct and oath of public officers, financial probity of public officers, restrictions on the activities of public officers and obligations of persons dealing with public officers in the service of the State. The Chapter further provides that persons contravening its provisions commit the offence of violating the Constitution and may be subject to disciplinary process or termination of contractual relationships.

CHAPTER VI – FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

The protection of fundamental rights and freedoms is a key feature of any democracy. This Chapter provides for fundamental human rights and freedoms in sections 30 to 79 with notable new provisions (listed below). The Chapter provides for the enforcement of civil and political rights as well as economic, social and cultural rights. It is divided into two Parts.

Part I – General provisions on fundamental human rights and freedoms

This Part provides for the objectives of human rights, the enforcement and implementation of rights guaranteed in the Chapter and the authority of the courts in dealing with rights and limitation of rights. Unlike the 1997 Constitution, this Chapter introduces a new provision imposing a positive obligation on the State to respect and uphold the rights guaranteed in the Constitution.

Part II – SPECIFIC RIGHTS AND FREEDOMS

This Part provides for specific rights and freedoms which include civil and political rights, economic, social and cultural rights and group rights. In particular, economic, social and cultural rights that are currently provided for in the 1997 Constitution as directive principles of state policy are now made justiciable in this Chapter. The right to access to information is also introduced. Instead of maintaining the current Chapter in the 1997 Constitution on the media, this Part makes rights relating to the media and media freedom enforceable as fundamental rights. Rights of the youth, the elderly and the sick and consumer protection rights are also introduced for the first time. The right to a clean environment and the right to development are also provided for the first time in this Chapter. In applying economic, social and cultural rights,

this Chapter for the first time imposes an obligation on the State to show, where it claims that resources are not available, that it has given priority to ensuring the widest possible enjoyment of these rights having regard to the prevailing circumstances. A general clause on limitation of rights is also introduced. This Chapter further provides for non-derogable rights during a period of national public emergency and also contains more progressive rules on *locus standi* (standing) in enforcing human rights provisions in the Constitution.

CHAPTER VII – REPRESENTATION OF THE PEOPLE

This Chapter contains sections 72 to 82 and provides for the Franchise, establishment of the Independent Electoral and Boundaries Commission (renamed from Independent Electoral Commission) and Political Parties in three Parts.

Part I – FRANCHISE

This Part contains a novel provision on general principles for the electoral system, guarantees the right to register and to vote and makes general provisions on the franchise.

Part II – THE INDEPENDENT BOUNDARIES AND ELECTORAL COMMISSION

This Part establishes the Independent Boundaries and Electoral Commission (IBEC), its composition and functions. The name change from the Independent Electoral Commission has been necessitated by the fact that the IBEC is now constitutionally mandated to demarcate electoral boundaries.

Part III – POLITICAL PARTIES

This Part deals with political parties. The Part, unlike the 1997 Constitution, requires political parties to respect the rights of all persons to participate in the political process, including women, youth, persons with disabilities, and other marginalised groups. Each political party is required to ensure that at least ten percent of candidates for election to the National Assembly are youth.

CHAPTER VIII – EXECUTIVE

This Chapter provides for the Executive in sections 83 to 131. It has 5 Parts.

PART I – GUIDING PRINCIPLES OF EXECUTIVE AUTHORITY

This Part provides that Executive authority is derived from the people of The Gambia and that such authority is vested in the President who shall exercise the authority in a manner that accords with the rule of law. It further provides that the Executive comprises the President, Vice President and members of the Cabinet and that the Executive shall reflect the diversity of the Gambian people.

PART II – OFFICE OF PRESIDENT, POWERS AND DUTIES

This Part establishes the Office of President. The President shall be the Head of State and of Government and the Commander in Chief of the Armed Forces of The Gambia. The Part further requires the President to uphold the law at all times, to safeguard the sovereignty of The

Gambia, to uphold, promote and enhance the unity of Gambians and to uphold and promote respect for the diversity of the people of The Gambia. The powers of the President are also defined and he or she is required to address the National Assembly on matters concerning the state of the nation at least once a year. Decisions or directives issued by the President are required to be in writing, a novel provision, and must also bear the seal and signature of the President and whoever acts contrary to these requirements resulting in loss or injury to the State shall be personally liable. Where an inquiry into the President's mental or physical capacity is initiated, he or she is required to step down temporarily until the inquiry is completed and when this happens, the Vice President shall assume and perform the functions of the Office of President. This is new. Where the Vice President is unable to assume office, the Speaker shall assume and perform the functions of President.

PART III – ELECTION TO THE OFFICE OF PRESIDENT

This Part provides that the election of the President in a national election is to be held three weeks before the end of the term of the incumbent President. It outlines the qualifications and disqualifications for election as President. The nomination of candidates for election to the Office of President is also provided for and candidates are required to satisfy the conditions and procedures laid down in this Part. This Part further requires the Independent Boundaries and Electoral Commission to declare a candidate elected as President if the candidate has received more than half of the votes cast at the election. If no candidate is elected at the first election, the Commission shall hold a fresh election within fourteen days where the two candidates who received the most votes would be the only contestants. This is a departure from the simple majority rule in the 1997 Constitution.

The Independent Boundaries and Electoral Commission is required to declare the results and the winner of the election within seventy-two hours and to deliver a written notification of the result to the Chief Justice. This is also a novel provision. Where the President-elect dies before assumption of office and before a Speaker is elected to assume office, the Chief Justice is sworn as acting President until a Speaker is elected. The Independent Boundaries and Electoral Commission is then required to conduct a fresh presidential election within ninety days. This is also new.

This Part further provides that a person declared as winner of a presidential election shall assume office on the day after the expiry of the incumbent President's tenure. The winner of the election shall then subscribe to the prescribed oath to be publicly administered by the Chief Justice and if the Chief Justice is not available, the most senior judge of the Supreme Court. These are new provisions.

A registered political party or an independent candidate who has participated in a presidential election may apply to the Supreme Court challenging the validity of the election. If the presidential election is declared invalid, the Independent Boundaries and Electoral Commission shall conduct a fresh election within ninety days.

PART IV – TERMS AND CONDITIONS OF OFFICE OF PRESIDENT

This Part provides that the term of office of President is five years and bars any person from holding office as President for more than two terms of five years. This is a novel provision meant to prevent self-perpetuation in office. The President is required, within three months of

assuming office, to disclose all his or her liabilities, business interests and assets to the Anti-Corruption Commission. The President is further required to disclose all his or her liabilities, business interests and assets to the Anti-Corruption Commission within three months after leaving office. These requirements are similarly applicable to the spouse of the President.

This Part bars a sitting President from holding any other public or private office or to engage in the establishment of any organization or charitable institution. It provides for the immunity of the President from civil and criminal proceedings, but only while in office. The immunity does not extend to acts, omissions or offences committed while in office. Both provisions are new.

This Part further provides that where the Office of President for any reason becomes vacant, the Vice President or, if the Vice President is unable to assume office, the Speaker, shall assume office as acting President. If the Speaker is unable to assume office, the Chief Justice shall assume office as acting President.

The procedure to be followed where the President is found incapable of performing the functions of Office of President by reason of his or her mental and physical capacity is provided. The procedure to be followed where the President is to be removed by impeachment is prescribed. The grounds for impeachment are abuse of office, failure to adhere to the oath of office of President, violations of provisions of the Constitution, obstruction of justice and misconduct.

PART V – OFFICES IN THE EXECUTIVE

(i) *Vice President and Ministers*

This sub-Part establishes the Office of Vice President who is appointed by the President within thirty days of assuming office. The National Assembly confirms the appointment of the Vice President. It prescribes the qualifications and disqualifications for the Office of Vice President and the functions and vacancy in that Office. The Office of Vice President shall become vacant on the death or resignation of the holder of that Office, on the revocation of the appointment of that person or if the holder of that Office assumes the Office of President.

The appointment of Ministers including the Attorney General is provided for in this sub-Part. This sub-Part further prescribes the qualifications and disqualifications of Ministers. It also specifies when the Office of Minister becomes vacant. The Vice President and Ministers shall be responsible for such ministries and departments the President may assign to them.

The Vice President and Ministers are required to declare their assets, liabilities and business interests within three months before they leave office and within three months after they leave office. The holder of the position of Vice President or Minister is barred from holding any other public or private office during his or her tenure, use his or her office for personal gain, establish or advocate for or participate in or promote the establishment of a charitable organization or institution. These are improvements on the 1997 Constitution. An obligation is further imposed on the Vice President and Ministers to report to the National Assembly whenever required to do so. The National Assembly by a resolution supported by not less than two-thirds of all members can pass a vote of censure against the Vice President or a Minister.

ii. The Cabinet

This sub-Part establishes the Cabinet and further prescribes its composition and functions. The office of Secretary to the Cabinet is provided for in the Constitution.

It is provided that The Gambia Government shall not enter into an agreement which would make The Gambia lose its sovereignty. It is further provided that treaties signed by the President shall be ratified by the National Assembly.

Committees on Prerogative of Mercy Committee and an Honours and Awards Committee are also provided for and their compositions spelt out.

iii. Other Public Offices

This sub-Part establishes the Office of Chief of Staff to the President and his or her responsibilities. This is new. The Office of the Director of Public Prosecutions is also established independent of the Office of Attorney General. This is also new.

CHAPTER IX- LEGISLATURE

Chapter IX is divided into eight Parts and deals with the Legislature which is an organ of State and is responsible for enacting laws, providing oversight on the Executive and approving financial expenditures of the Government among other functions . The principles that guide its functions and members are necessary for the effective performance of their roles.

PART I – PRINCIPLES OF PARLIAMENTARY GOVERNANCE

This Part deals with the principles of parliamentary governance and the relationship between members of the National Assembly and the citizens. It is important that to pursue and promote democratic governance both the citizens and the National Assembly are able to hold the Executive accountable and ensure good leadership that fosters national cohesion, unity and peace. This Part is new and considered fundamental to democratic governance. It reinforces the National Assembly's accountability to the people of The Gambia.

PART II – ESTABLISHMENT AND COMPOSITION OF THE NATIONAL ASSEMBLY

Under this Part, the CRC in its deliberations and consultations with the citizens recognized, and took on board the views expressed by the citizenry on the vulnerable status of the youth, women, and persons with disabilities and the need to encourage them to actively participate in politics. The strong opinion that cannot be ignored was to prescribe a procedure that would enable this group to be adequately represented in the National Assembly. Thus the provision of the present composition of the National Assembly to include a number of women and persons with disabilities, in addition to those who may be elected from single member constituencies.

The Part as proposed also establishes the National Assembly as an organ of State, prescribes the qualification and disqualification of its membership, election of members and gives opportunity to citizens to be able to recall their members.

PART III – LEADERS OF THE NATIONAL ASSEMBLY

This Part establishes the offices of the leaders of the National Assembly, their order of precedence, their roles and functions as well as providing for their remuneration. This is

important for the orderly execution of the mandate of members of the Assembly. The leaders are the Speaker, Deputy Speaker, Majority and Minority Leaders. The Part further provides for their election.

PART IV- SESSIONS AND SITTINGS OF THE NATIONAL ASSEMBLY

The National Assembly is to sit in sessions and requires a quorum before it can sit. There is an obligation for members to attend sittings, unless they are otherwise excused, in order to effectively represent their constituents.

The Part makes provision for the first session of the National Assembly after every general election to be fixed by the Clerk and announced in the Gazette by way of a Proclamation. The time for other sessions is to be determined by members of the National Assembly although the President may request the Speaker to summon a session in the event of a declaration of war or a state of emergency.

PART V- LEGISLATIVE AND OTHER POWERS OF THE NATIONAL ASSEMBLY

This Part makes provision for the exercise of legislative power by the Assembly. It prescribes how Bills and motions are to be introduced and passed. This is an important regulation of a fundamental procedure to be followed by the Assembly. The same Part prohibits the Assembly from passing a Bill that would establish a one party state, state religion or alter the decision or judgment of a court in any proceedings or retroactively deprive a person of a vested or acquired right.

PART VI- PROCEDURE IN THE NATIONAL ASSEMBLY

This Part sets out the procedure to be followed when the National Assembly is sitting. It also provides for the language to be used in the Assembly, which includes facilitating the use of local languages. The Part further provides for how decisions are reached, and spells out the required quorum for each sitting.

PART VII- NATIONAL ASSEMBLY SERVICE COMMISSION

This Part establishes a National Assembly Service, and a National Assembly Service Commission, for the National Assembly to deal with administrative and staff matters of the Assembly.

PART VIII- RESPONSIBILITIES, PRIVILEGES AND IMMUNITIES

In the performance of their functions, members of the Assembly are to be responsible to their constituents and above all act in the best interest of the country. This Part recognizes and makes provision for immunity to be given to members for whatever they may say during deliberations at the Assembly and offers privileges to witnesses who appear before the Assembly.

CHAPTER X- JUDICIARY

This Chapter is divided into six parts and deals with the Judiciary as an organ of State, and provides for matters relating to the administration of Justice.

PART I- PRINCIPLES GOVERNING THE ADMINISTRATION OF JUSTICE

This Part lays down the governing principles for the administration of justice. It seeks to promote the Rule of Law and to ensure that the law is administered fairly without regard to the status of anyone. It also makes provision for reasonable compensation to be paid to a victim. It ensures and reinforces judicial independence. Judicial authority is vested in the courts, which cannot be taken away. This Part is new.

PART II -OFFICE OF THE CHIEF JUSTICE AND JUDICIAL SYSTEM

This Part establishes the Office of the Chief Justice. It also addresses the overwhelming views of Gambians that the Chief Justice must be a Citizen of The Gambia. It also outlines the different courts in The Gambia.

PART III- SUPERIOR COURTS AND JURISDICTION

This Part establishes the superior courts, prescribes their respective jurisdiction and composition. It provides for the very first time for the establishment of the Sharia'h High Court, to hear appeals from the Sharia'h Court. It also provides for appeals from the Shariah High Court to the Court of Appeal and onwards to the Supreme Court. This is new.

PART IV- THE JUDGES

This Part deals with the appointment of judges, the qualification for appointment, tenure of office and their remuneration and retirement benefits.

PART V- ADMINISTRATION OF THE COURTS

Under this Part, the office of Judicial Secretary is established and provisions are made for administrative and financial matters of the judiciary.

PART VI- THE JUDICIAL SERVICE COMMISSION

The appointment of judicial officers and judiciary staff is regulated under this Part. The Judicial Service Commission is established to be responsible for matters of appointment and other related staff matters and to assist in the general administration of the judiciary.

CHAPTER XI-LOCAL GOVERNMENT AND DECENTRALISATION

This Chapter recognizes the importance and relevance of local government and effective devolution of power for the overall development of The Gambia. It reinforces the participation of people at grass root level to participate in the development of their communities. It also seeks to empower Local Government Authority to enable them carry out their functions effectively.

PART I- PRINCIPLES OF DECENTRALISED LOCAL GOVERNMENT

This Part deals with local government administration and devolution of power. It lays down the principles of decentralization to be observed by the Government and Local Government Authorities and prescribes the systems of local government.

PART III - ESTABLISHMENT AND COMPOSITION OF LOCAL GOVERNMENT AUTHORITIES

Under this Part, the Local Government Authorities are established, their powers and functions defined to ensure their autonomy and independence in the dispensation of their functions. The participation of people in grassroots politics and development of their communities as well as preservation of the natural resources, the environment and cultural values of each local government area is a key objective of this Part.

PART III- ELECTION AND TERMS AND CONDITIONS OF APPOINTMENTS OF LOCAL GOVERNMENT AUTHORITIES

This Part provides for election of members of Local Government Authorities and their term of office. Provision is also made for the financial autonomy and accountability of Local Government Authorities.

PART IV-OTHER OFFICES OF LOCAL GOVERNMENT AUTHORITIES (SEYFOS AND ALKALOS)

In this Part, the institution of Seyfos and Alkalos as traditional rulers is recognized. Provision is made for the appointment of Alkalos in accordance with traditional lines, and election of Seyfos on a non-partisan basis. This is in accordance with the strong views and submissions received from the public consultation. The tenure of office, qualifications and disqualification of holders of these two offices is prescribed under this Part. Once they assume office Seyfos and Alkalos serve for life unless the office becomes vacant in accordance with the terms of the Constitution.

It is recognized that the traditional role of the Seyfos and Alkalos is to foster harmony within their communities and to that extent they are prohibited from open participation in partisan politics when executing their functions of office.

CHAPTER XII- INDEPENDENT INSTITUTIONS

This Chapter, which is divided into seven Parts, is novel and it recognizes and caters for certain institutions that are vital to public administration and the economic development of The Gambia. The rationale being to build strong institutions for an enduring democracy. It seeks to ensure independence and security of tenure of the governing bodies of these institutions. This ensures effectiveness and prevents executive interference. The National Human Rights Commission and the Anti-Corruption Commission are provided for in the Constitution, for the very first time.

PART 1- ESTABLISHMENT OF INDEPENDENT INSTITUTIONS AND OFFICES

Under this Part independent institutions are established and their objects, funding, finances and reporting obligations clearly stated. Provision is made for appointment and qualification of office holders.

PART II- NATIONAL HUMAN RIGHTS COMMISSION

This Part provides for the composition, functions and powers of the Commission which is established as an independent institution.

PART III- ANTI CORRUPTION COMMISSION

This Part provides for the Commission's composition, functions and powers.

PART IV- THE OMBUDSPERSON

This Part provides for composition, functions and powers of the office.

PART V- THE AUDITOR- GENERAL AND NATIONAL AUDIT OFFICE

Under this Part, the Auditor General is to be appointed and his or her powers and functions are prescribed. One crucial role of the Auditor –General is to audit the accounts of the Government, state organs as well as the Local Governments Authorities among others.

PART VI- CENTRAL BANK OF THE GAMBIA

This Part establishes the Central Bank as banker to the Government and makes provision for its functions which includes supervising, regulating and directing monetary policy, the currency system and banking sector.

PART VII- COMMISSION OF INQUIRY

This Part gives the President the power to establish commissions of inquiry and sets out the powers and functions of a commission of inquiry.

CHAPTER XII- PUBLIC FINANCE

This Chapter is divided into six parts and deals with Public finance which is important for proper management of public funds, good financial governance, which are vital for peace, stability, development and good democratic governance. The Chapter deals with taxation, public funds, loans, grants, the budget and public procurement.

PART I- PRINCIPLES OF PUBLIC FINANCE

This Part makes provision for the principles that would direct public finance in the country.

PART II- TAXATION

Under this Part, provision is made for the raising of taxes and how taxation is to be administered in the country. It controls waiver and variation of taxes and prescribes the procedure to be followed for imposition, waiver or variation of taxes.

PART III-PUBLIC FUNDS

The public funds are created and provision is made for the administration of each fund which requires transparency and accountability. Some protective mechanisms have been put in place to prevent misuse of public funds.

PART IV- LOANS, GRANTS, GOVERNMENT GUARANTEES AND PUBLIC DEBT

This Part regulates how loans are to be contracted and the management of the public debt among others. It recognizes the oversight role of the National Assembly regarding the public debt.

PART V- BUDGET

Under this Part provision is made for the Annual Estimates of Government which are to be laid before the National Assembly for approval. The procedure to be followed for passing an Appropriation Bill or a Supplementary Appropriation Bill is prescribed.

PART VI- PUBLIC PROCUREMENT

This Part provides a framework for the regulation of public procurement and requires transparency in all procurements to prevent corruption.

CHAPTER XIV- LAND, NATURAL RESOURCES AND THE ENVIRONMENT

This Chapter has three Parts and recognises and reinforces the importance of land, natural resources and the environment. It is being provided for the very first time in the Constitution. It incorporates the views generated during the public consultations relating to ownership of land by citizens and non-citizens, dwindling of natural resources and the emerging environmental challenges.

PART I -PRINCIPLES OF EQUITABLE USE OF LAND, ENVIRONMENT AND NATURAL RESOURCES

The principles governing the equitable use, management and protection of land, environment and natural resources are set out in this Part as a guide.

PART II- LAND, ENVIRONMENT AND NATURAL RESOURCES COMMISSION

This Part establishes an independent Commission with powers and functions that are geared towards proper administration of land and equitable use of natural resources and the environment.

PART III- GENERAL PROVISIONS

This Part regulates land ownership by citizens and non-citizens. It limits the land ownership rights of non-citizens and recognizes the different types of land tenure.

CHAPTER XV-THE PUBLIC SERVICE

This Chapter has four Parts and deals with the Public Services of The Gambia. It is a response to the demands of the public to create separate service commissions for Teachers, Health Service Providers and the traditional Civil Service. Thus, the Teachers Service Commission and the

Health Service Commission are created for the very first time in the Constitution. It also makes provisions for State Owned Enterprises. State Owned Enterprises are entrusted with responsibility for the management of vital sectors of the economy of The Gambia. It provides for the security of tenure of the Chief Executive Officers and members of their Governing Boards, so as to protect them from executive interference.

PART I- THE PUBLIC SERVICES OF THE GAMBIA

Under this Part the public services of The Gambia are created and appointments, removals, retirement as well as qualification for appointment of office holders are set out. Restriction is placed on political activities by public officers.

PART II- SERVICE COMMISSIONS

(i) General provisions

This sub-Part establishes three service commissions for the Civil Service which are the Public Service Commission, Teachers Service Commission and the Health Service Commission to be responsible for appointment of officers, their disciplinary control, removal from office of such officers under their control. A secretariat is established to provide support, guidance and proper streamlining of the work of the service commissions.

(ii) Public Service Commission

This Commission is to ensure that the public service is efficient and effective and to provide for development of human resources while affording adequate and equal opportunities to everyone. The jurisdiction of the Public Service Commission does not extend to the National Assembly, the Judiciary, the Security Services and a service in the Local Government.

(iii) Teachers Service Commission

This Commission is responsible for appointment of teachers, assigning them to schools and reviewing the standards of education and training needs of those entering the teaching service, among others.

(iv) Health Service Commission

This Commission is responsible for appointments into the field of health and health care delivery system and for the development of human resources within the health care system. It is to ensure that there is an efficient and effective health care delivery system.

PART III- GENERAL PROVISIONS ON SERVICE COMMISSIONS

Provision is made for the qualifications, tenure of office as well as the independence of the service commissions under this Part.

PART IV- STATE OWNED ENTERPRISES

This Part regulates the appointment, qualification and disqualification of board members and the Chief Executive of a State Owned Enterprise. It makes provision for a body to monitor the operations of State Owned Enterprises. The said Enterprises are to submit their annual report to the National Assembly.

CHAPTER XVI- NATIONAL SECURITY

This Chapter has four Parts and deals with national security. It expands the membership of the National Security Council and provides for the establishment of the National Security Service Commission, a novel provision.

PART I- THE SECURITY SERVICES AND NATIONAL SECURITY COUNCIL

The Security Services and National Security Council are created under this Part with their functions clearly defined.

PART II- ARMED FORCES

The Gambia Armed Forces are defined and regulation is made for appointments in the Armed Forces.

PART III- THE POLICE FORCE

The Gambia Police Force is established and provision is made for its objects and functions in addition to the appointment of its head.

PART IV-NATIONAL SECURITY SERVICE COMMISSION

This is a Commission to regulate appointments and other matters relating to employment of persons within the security service.

CHAPTER XVII – NATIONAL YOUTH DEVELOPMENT

This Chapter lays down the principles of youth development which should guide the State in matters relating to the youth.

CHAPTER XVIII- THE NATIONAL COUNCIL FOR CIVIC EDUCATION

This Chapter establishes the Council, sets out its functions and the qualification and disqualification of its members.

CHAPTER XIX –AMENDMENT OF THE CONSTITUTION

This Chapter makes provision on how the Constitution is to be amended. It also makes specific provision prohibiting the National Assembly from amending the Constitution to increase the term of the President contrary to the prescribed term. This is new.

CHAPTER XX-MISCELLANEOUS

This Chapter has Parts providing for miscellaneous matters.

PART I- APPOINTMENT, RESIGNATIONS, ETC

This Part regulates appointments and resignations of public officers and prescribes other duties and powers such as the duty not to act on an unlawful directive.

PART II- GENERAL

This Part provides for the Interpretation of the Constitution, construction of various powers and makes transitional and consequential provisions. It also repeals the existing Constitution.

SCHEDULES

The draft Constitution provides three Schedules. The first relates to the administrative areas of The Gambia; the second outlines the constituencies for the National Assembly elections; and the third creates transitional and consequential provisions.

The third Schedule establishes the Constitution Implementation Commission with responsibility for the implementation of the Constitution. In addition, the Schedule clarifies that the term of office of the incumbent President shall count in computing the maximum term that can be served in office.

CRD