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rules regulating the procedure and practice of all Commissions of inquiry.

Free- 207  
dom and  
responsi-  
bility of  
the media

- (1) The freedom and independence of the press and other information media are hereby guaranteed.
- (2) An Act of the National Assembly may make provisions for the establishment and operation of the press and other information media.
- (3) The press and other information media shall at all times, be free to uphold the principles, provisions and objectives of this Constitution, and the responsibility and accountability of the Government to the people of The Gambia.

Res- 208.  
possi-  
bility of  
State  
owned  
media

All state owned newspapers, journals, radio and television shall afford fair opportunities and facilities for the presentation of divergent views and dissenting opinion.

Limit- 209.  
ations  
on  
rights  
and  
freedoms

The provisions of sections 207 and 208 are subject to laws which are reasonably required in a democratic society in the interest of national security, public order, public morality and for the purpose of protecting the reputations, rights and freedoms of others.

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210. An Act of the National Assembly shall within one year of the coming into force of this Constitution make provision for the establishment of a National Media Commission to establish a code of conduct for the media of mass communication and information and to ensure the impartiality, independence and professionalism of the media which is necessary in a democratic society.

CHAPTER XX

DIRECTIVE PRINCIPLES OF STATE POLICY

211. The principles of state policy in this Chapter shall form part of the public policy of The Gambia for the establishment of a just, free and democratic state. These principles shall not confer legal rights or be enforceable in any court but -

- (a) subject to the limits of the economic capacity and development of The Gambia, the Executive, the Legislature and all other organs of the State in taking policy decisions, making laws and in the administration of the Gambia, shall according to their respective functions be guided by and observe them with a view to achieving by legislation or otherwise the full realisation of these principles; and
- (b) the courts are entitled to have regard to these principles in interpreting any laws based on them.

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National  
Integration and  
Unity 212.

- (1) All organs of the State shall strive towards the realisation of national unity, peace and stability.
- (2) Every effort shall be made to integrate the people of The Gambia and foster loyalty to The Gambia without discrimination.
- (3) All the people of The Gambia shall be entitled to their ethnic, religious and cultural values which do not disturb the unity or cohesion of the State.

National  
Sovereignty and  
Independence 213.

- (1) The State and all citizens of The Gambia shall endeavour to protect and enhance national sovereignty including social, political, and economic independence and territorial integrity.
- (2) The State shall pursue policies which avoid undue dependence on other nations and institutions.

Political  
Objectives 214.

- (1) The Gambia shall be a democratic state dedicated to freedom, peace, progress, prosperity and justice.
- (2) The people shall express their will and consent as to who shall govern them and how they shall be governed, through regular, free and fair elections of their representatives.

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- (3) The State shall be guided by the principles of decentralisation and devolution of governmental functions and powers to the people at appropriate levels of control to facilitate democratic governance.
- (4) In the composition of the Government, women shall be fairly represented.
- (5) The Government, with due regard to the principles of an open and democratic society, shall foster accountability and transparency at all levels of government.

Econ - 213.  
mic  
object-  
ives

- (1) The State shall endeavour to create an economic environment that maximises the rate of economic growth and employment and secures the maximum welfare and prosperity for all persons in The Gambia.
- (2) The State shall endeavour to keep inflation under control.
- (3) Recognising that the most secure democracy is one that assures the basic necessities of life for its people, the State shall endeavour to establish an efficient, dynamic and self-reliant economy whose underlying principles shall include ensuring:
  - (a) ample and equal economic opportunity for all citizens and a pronounced role for the private sector, and the encouragement of private initiative;

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- (b) that persons bear their fair share of social and national responsibilities including their responsibility to contribute to the development of the country; and
  - (c) a balanced development of all parts of The Gambia, improvement in the quality of life in rural communities and redressing economic imbalances between rural and urban communities.
- (4) The State shall pursue a policy of:
- (a) giving adequate priority to those sectors of the economy which promote national prosperity;
  - (b) promoting the development of agriculture and related industry;
  - (c) encouraging and protecting beneficial foreign investment;
  - (d) protecting the environment of the nation for posterity; and
  - (e) co-operation with other nations and bodies to protect the global environment.
- (5) The State shall endeavour to ensure equal opportunity and full participation for women in the economic development of the country.

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Social 216.  
object-  
ives

- (1) The State shall endeavour to secure and promote a society founded on the principles of freedom, equality, justice, tolerance, probity and accountability.
- (2) The State shall pursue policies to protect the rights and freedoms of the disabled, the aged, children and other vulnerable members of society and to ensure that such persons are provided just and equitable social opportunities.
- (3) The State, in pursuing policies under subsection (2), shall be bound by the fundamental rights and freedoms in the Constitution and shall be guided by international human rights instruments to which The Gambia is a signatory and which recognise and apply particular categories of basic human rights to development processes.
- (4) The State shall endeavour to facilitate equal access to clean and safe water, adequate health and medical services, habitable shelter, sufficient food and security to all persons.
- (5) The State shall encourage and promote the establishment and maintenance of contributory schemes that shall provide economic security for all citizens.

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(6) The State shall endeavour to ensure safe systems of working for persons who are employed and to provide that such persons are entitled to adequate rest, leave and leisure.

(7) The State shall endeavour to ensure that adequate sports facilities are established throughout The Gambia and that sports are promoted as a means of fostering national integration, health and self-discipline and international friendship and understanding.

Educa- 217  
tional  
object-  
ives.

(1) The State shall endeavour to provide adequate educational opportunities at all levels of study for all citizens.

(2) The State shall pursue policies to ensure basic education for all citizens and shall endeavour to provide adequate resources so that such tuition for basic education shall be free for all citizens.

(3) The State shall endeavour to provide skills training centres.

(4) The State shall take measures to create an adult literacy programme, rehabilitative vocational training for the disabled, and continuing education programmes.

Cultur- 218.  
al  
object-  
ives

The State and all the people of The Gambia shall strive to protect, preserve and foster the languages, historic sites, cultural, natural and artistic heritage of The Gambia.



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Foreign 219.  
relations

The State shall endeavour to ensure that in international relations it:

- (a) promotes and protects the interest of The Gambia;
- (b) seeks the establishment of a just and equitable international economic and social order;
- (c) fosters respect for international law, treaty obligations and the settlement of international disputes by peaceful means; and
- (d) is guided by the principles and goals of international and regional organisations of which The Gambia is a signatory.

Duties 220.  
of  
a citizen

- (1) The exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations, and accordingly, every citizen shall:
  - (a) promote the prestige and good reputation of The Gambia and respect the symbols of The Gambia;
  - (b) uphold and defend the Constitution;
  - (c) foster national unity and live harmoniously with others;

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- (d) respect the rights, freedoms and legitimate interests of others and refrain from acting in a manner detrimental to the welfare of other persons;
  - (e) serve The Gambia by working conscientiously in his or her chosen occupation;
  - (f) protect and preserve public property and expose and combat the misuse and waste of public funds and property;
  - (g) contribute to the well being of the community in which the citizen lives;
  - (h) be loyal to The Gambia and contribute to its defence when necessary;
  - (i) co-operate with the appropriate agencies in the maintenance of law and order; and
  - (j) protect and conserve the environment of The Gambia.
- (2) It shall be the duty of every citizen to abide by and conform with the provisions set out in subsection (1), but such duties shall not, of themselves, render any person liable to proceedings of any kind in any court.

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CHAPTER XXI

CODE OF CONDUCT FOR PUBLIC OFFICERS

Appl-221  
cation  
tion of  
Code  
of  
Conduct.

- (1) The provisions of the Code of Conduct set out in section 222 shall apply to persons who hold public office or hold office in a public service, members and the staff of local government authorities and public enterprises, and members of a disciplined force (each of whom is in this Chapter referred to as a "public officer").
- (2) The failure on the part of a public officer to observe a provision of this Code shall not, of itself, render that officer liable to any civil or criminal proceedings in any court, but any such failure may -
  - (a) in any proceedings in the National Assembly under this Constitution, or any disciplinary proceeding against a person, be taken into account in determining any question at issue in those proceedings;
  - (b) in any proceedings before a court, be admissible in evidence and, if the provisions of the Code appear to the court to be relevant to any question arising in the proceedings, it may be taken into account in determining that question.
- (3) An Act of the National Assembly may make provision -

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- (a) for the modification of the Code of Conduct; or
- (b) the adoption of supplementary codes of conduct by the Judicial Service Commission, the Public Service Commission, the competent authority of any public service or the disciplinary authorities of any disciplined force.

The 232.  
Code of  
Conduct

The Code of Conduct is as follows:

#### THE CODE OF CONDUCT

In the performance of his or her duties, a public officer shall observe the following rules:

##### Duties of Public Officers

1. A public officer shall respect and comply with the law and shall conduct himself or herself at all times in a manner which promotes confidence in the integrity of public office.
2. A public officer shall acquire such professional competence to enable him or her to perform the functions of his or her office with efficiency. He or she shall dispose promptly of the business of his or her office, shall devote adequate time to his or her duties, be punctual in attending work and expeditious in bringing to a conclusion any matter under his or her attention. A public officer shall require his or her staff to observe the same standards.

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3. A public officer shall not, in the course of his or her official functions and without lawful excuse, do or cause to be done any action which is prejudicial to the rights of any other person.
4. In the exercise of his or her duties, a public officer shall avoid nepotism and favouritism.
5. A public officer shall not encourage others to convey the impression that they are in a special position to influence him or her.
6. A public officer shall take appropriate action with regard to contravention of this Code by members of his or her staff or others subject to his or her control.
7. A public officer who does any act prohibited by this Code through an agent shall himself or herself be deemed to have done such act.
8. A public officer who exercises judicial functions shall:
  - (a) maintain order and decorum in judicial proceedings before him or her;
  - (b) be patient, dignified and courteous to all litigants, witnesses, legal practitioners and others in the exercise of such functions, and shall require similar conduct from his or her staff and others subject to his or her control.

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- (c) abstain from comment about the outcome of any pending or anticipated legal proceedings in any court in The Gambia and require similar abstention from his or her staff and others subject to his or her control;

Financial

9. A public officer shall not hold more than one full-time public office in respect of which he or she is paid a salary.
10. A public officer shall not put himself or herself in a position where his or her personal interest conflicts with his or her duties or responsibilities.
11. A public officer shall not ask for or accept any property or benefits of any kind for himself or herself or any other person on account of anything done or omitted to be done by him or her in the course of his or her duties. The receipt of any gift or benefit from or on behalf of a commercial firm, business enterprise or a person having or negotiating a contract with the Government shall be deemed to be in contravention of this paragraph unless the contrary is established.
12. A public officer shall only accept gifts or benefits from relatives and friends to such extent and on such occasions as are customary. However the receipt of any gift or donation by a public officer on any public or official occasions shall, if surrendered to the office, department or agency represented

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by the public officer, not be treated as a contravention of this Code.

Association

13. A person holding an office in a public service or any disciplined force shall not -
- (a) allow his or her political inclinations to interfere with the discharge of his or her official duties;
  - (b) be a member of, or take part in any association of persons which might prevent him or her from impartially discharging his or her duties; or
  - (c) take part in any activities which cast doubt on his or her capacity to deal impartially with matters or issues which are the concern of his or her public office or which interfere with the performance of his or her public duties.

Additional provisions relating to  
The President

14. The President shall in person address the nation as and when necessary.
15. The President shall undertake a nation-wide tour at least twice a year in order to familiarise himself or herself with current conditions and the effects of government policies.

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Decla- 223.  
ration  
of  
assets

- (1) A public officer to whom this section applies shall submit to the Ombudsman a written declaration of all property and assets owned by him or her, and of liabilities owed by him or her, whether directly or indirectly -
  - (a) within six months of the coming into force of this Constitution;
  - (b) at the end of every two years;
  - (c) on ceasing to hold public office.
- (2) A false statement in any such declaration shall be deemed to be a contravention of the Code of Conduct set out in this Chapter.
- (3) A declaration made under sub-section (1) shall be produced if required -
  - (a) in proceedings before a court of competent jurisdiction, other than a district tribunal;
  - (b) in proceedings before a Commission of Inquiry appointed in accordance with this Constitution; or
  - (c) in disciplinary proceedings or proceedings against any person in accordance with this Constitution.



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- (4) Any property or asset acquired by a public officer after an initial declaration of assets required by subsection (1) which is not attributed to his income from his public office or other permitted employment, personal gifts as permitted by the Code of Conduct, inheritance or a loan or investment (including any savings scheme) on ordinary commercial terms shall be prima facie evidence of having been acquired, and in the absence of a credible explanation by the public officer concerned may be deemed to have been acquired, in contravention of the Code of Conduct and shall render the public officer liable -
- (a) in the case of a public officer in a public service or who is subject to other disciplinary procedures, to disciplinary action by the appropriate person or authority; or
  - (b) in any other case, to removal from office or, as the case may be, proceedings for removal, as provided by this Constitution or any other law.
- (5) The Ombudsman shall submit his or her declaration of assets to the Finance and Public Accounts Committee of the National Assembly.

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- (6) This section applies to all public officers other than members of the public service, the staff of a local government authority or public enterprise or members of a disciplined force, below such position or rank as may be prescribed by or under an Act of the National Assembly.

Omb- 224.  
udsmen  
to  
r e p o r t  
contraven-  
tion of  
Code of  
Conduct

Where, in the course of any investigation, it appears to the Ombudsman that there has been a contravention of the Code of Conduct set out in this Chapter, he or she may -

- (a) in the case of a public officer in a public service or who is subject to other disciplinary procedures, refer the matter to the appropriate disciplinary authority; or
- (b) in any other case, refer the matter to the authority having power to remove the public officer from office or, as the case may be, to the National Assembly.

Pay- 225.  
ment  
of  
Taxes

The holder of a public office shall promptly pay all taxes due from him or her, and he or she shall, when required, provide evidence of such payment.

## CHAPTER XII

## AMENDMENT OF THE CONSTITUTION

Alter- 228.  
ation of  
this  
Constitu-  
tion

- (1) Subject to the provisions of this section, an Act of the National Assembly may alter this Constitution.

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- (2) Subject to subsection (4), a bill for an Act of the National Assembly under this section shall not be passed by the National Assembly or presented to the President for assent unless -
- (a) before the first reading of the Bill in the National Assembly, the Bill is published in at least two issues of the Gazette, the latest publication being not less than three months after the first, and the Bill is introduced into the National Assembly not earlier than ten days after the latest publication; and
  - (b) the Bill is supported on the second and third readings by the votes of not less than three quarters of all the members of the National Assembly.
- (3) If the President fails to assent within thirty days to a Bill passed by the National Assembly in accordance with subsection (2), the Bill shall be returned to the Speaker who shall refer it to the Independent Electoral Commission. The Independent Electoral Commission shall cause a referendum to be held on the Bill in accordance with subsection (4) and, if the Bill is supported on such a referendum by the majority of voters provided for in that subsection, it shall again be presented to the President for his assent.

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- (4) A Bill for an Act of the National Assembly altering any of the provisions referred to in subsection (7) shall not be passed by the National Assembly or presented to the President for assent unless -
- (a) the Bill is published and introduced in the manner required by paragraph (a) of subsection (2);
  - (b) the Bill is supported on the second and third readings by the votes of not less than three quarters of all the members of the National Assembly;
  - (c) the Bill has been referred by the Speaker to the Independent Electoral Commission and the Commission has, within six months of such reference, held a referendum on the Bill; and
  - (d) at least fifty per cent of the persons entitled to vote in the referendum have taken part in the referendum and the Bill is supported in the referendum by a least seventy five per cent of those who voted.
- (5) The Speaker and, in the case of a Bill to which subsection (3) or (4) applies, the Independent Electoral Commission shall certify that the relevant provisions of this section have been complied with and such certificates shall be delivered to the President when the Bill is presented for assent.

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- (6) Where a Bill which has been supported in a referendum by the majority provided for in subsection (4) is presented to the President for assent, the President shall assent to the Bill within seven days.
- (7) Subsection (4) applies to -
  - (a) this section;
  - (b) sections 1 and 79 (2) (which relate to the sovereignty of The Gambia);
  - (c) sections 4, 5(1) and 6(2) (which relate to the Constitution, as the supreme law of The Gambia);
  - (d) sections 8 and 13(4) (which relate to citizenship);
  - (e) Chapter IV (which provides for the protection of fundamental rights and freedoms);
  - (f) sections 39(1), 42(1), 47(3) (which relate to elections and the Independent Electoral Commission);
  - (g) section 63(1) and the first sentence of section 71(2) (which relate to the term of the President and the qualifications for Secretaries of State);
  - (h) sections 85(4) and 160(7) (which relate to the Director of Public Prosecutions and the independence of the Auditor general);

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- (j) sections 87 and 100 (which relate to the National Assembly and the legislative power);
  - (j) sections 120(1)(a), (2) and (3), 121(1), 123, 126 to 128, 130, 132, 133, 135 (1) and (2), 136 and 136(1), (4), (5) and (6) (which relate to the judiciary);
  - (k) sections 149(1) and 151(1) which relate to taxation and the withdrawal of money from public funds);
  - (l) section 193(1) (which relates to local government).
- (8) No Act of the National Assembly shall be deemed to amend, add to, repeal or in any way alter any of the provisions of this Constitution unless the title of the Act clearly indicates that intention and the Act does so in express terms.
- (9) In this section -
- (a) references to this Constitution include references to any law that amends or replaces any of the provisions of this Constitution;
  - (b) to the alteration of this Constitution include references to the amendment, modification or re-enactment with or without amendment or modification, of the Constitution or of any provision for

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the time being contained in this Constitution, the suspension or repeal or the making of different provision in lieu thereof, and the addition of new provisions to this Constitution.

CHAPTER XXIII

MISCELLANEOUS

PART 1: APPOINTMENTS AND  
RESIGNATIONS

Acting 227.  
appoint-  
ments

- (1) In this Constitution, unless a contrary intention appears:
- (a) any reference to a power of appointment to an office shall be construed as including a reference to the power to appoint a person to act in or perform the functions of that office;
  - (b) any reference to the holder of an office by a term designating his or her office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.
- (2) Where in this Constitution power is vested in any person or authority to appoint any person to act in or perform the functions of any office if the holder thereof is himself or herself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of the office was not unable to perform those functions.

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Resig- 228.  
nation's

(1) Any person who is appointed or elected to, or otherwise selected for, any office established by or under this Constitution may resign from that office by writing under his or her hand addressed to the person or authority by whom he or she was appointed, elected or selected. In the case of:

- (a) the President, his or her resignation shall be addressed to the Speaker and to the Chief Justice;
- (b) the Vice-President, his or her resignation shall be addressed to the President;
- (c) the Speaker or the Deputy Speaker, his or her resignation from that office shall be addressed to the Clerk of the National Assembly; and
- (d) a member of the National Assembly, his or her resignation shall be addressed to the Speaker.

(2) Any such resignation shall take effect, when no date is specified, when the writing is received -

- (a) in the case of the President, by the Speaker;
- (b) in any other case, by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.



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Re- 229.  
appoint-  
ments

- (1) Subject to the provisions of this Constitution, where a person has vacated any office established by or under the Constitution, he or she may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.
- (2) Where by this Constitution a power is conferred on any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person maybe holding that office when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of any appointment made in pursuance of this subsection, then, for the purposes of any function conferred on the holder of that office, the person last appointed shall be deemed to be the holder of the office.

## PART 2: GENERAL

Inter- 230.  
pretation

- (1) In this Constitution, unless a contrary intention appears -

"An Act of the National Assembly" includes an Act of Parliament established under any previous Constitution of The Gambia and a Decree of any former government;

"All the members" in relation to the National Assembly, means all the members for the time being of the National Assembly;

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"Compulsory retirement age" has the meaning ascribed to it in section 171.

"Court" means any court of law in The Gambia, including a court martial;

"disciplined force" means the Police Force, the Prison Service and the Armed Forces;

"district tribunal" means a court established by the District Tribunals Act or any Act of the National Assembly replacing that Act;

"existing laws" means the laws in force in The Gambia immediately before the coming into force of this Constitution, other than any such laws which are repealed or abrogated on, or immediately before, the coming into force of this Constitution;

"The Gazette" means the official gazette of the Government;

"The Government" means the executive government of The Gambia;

"high judicial office" means the office of a judge of a court of unlimited jurisdiction in criminal and civil matters, or of a court with jurisdiction on appeal from such a court, in some part of the Commonwealth or such other country as the National Assembly may prescribe;

"judge" includes the Chief Justice of the Supreme Court, a Justice of the Court of Appeal and a Justice of the High Court;

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"legal practitioner" means a person entitled to practise as such in accordance with an Act of the National Assembly;

"local government authority" means a city council, a municipality and an area council;

"Secretary of State" includes the Attorney-General;

"oath" includes affirmation;

"prescribed oaths" mean such oaths as may be prescribed by an Act of the National Assembly in respect of the relevant office, and if no such oath is prescribed, means an oath of allegiance to The Gambia;

"public elections" mean the election for a President, National Assembly and a local government authority;

"Public Enterprise" has the meaning ascribed to it in section 175;

"public office" includes an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by an Act of the National Assembly, and the office of a member of a local government authority or the staff of a local government authority or a member of a Public Enterprise or of the staff of a Public Enterprise;

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"the public service" means, subject to subsection (3) and (4) of section 168, a service declared to be, or established as, a public service by or under that section;

"session" means the sittings of the National Assembly of The Gambia commencing when it first meets after a general election or after the adjournment of a session and ending when the session is adjourned or the National Assembly stands dissolved;

"superior court" in relation to the courts of The Gambia, means the Supreme Court, the Court of Appeal and the High Court.

- (2) In this Constitution, unless a contrary intention appears -
- (a) words importing natural persons shall include corporations;
  - (b) words in the singular shall include the plural and words in the plural shall include the singular;
  - (c) where a word is defined, other parts of speech and tenses of that word shall have the corresponding meaning;
  - (d) words directing or empowering a public officer to do any act or thing, or otherwise applying to him or her by the designation of his or her office, shall include his other successors in office;

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(e) references to a subsection, paragraph, sub-paragraph or item shall be construed as a reference to a subsection, paragraph, sub-paragraph or item of the section, subsection, paragraph or sub-paragraph, as the case maybe, in which the reference occurs.

(3) For the purposes of this Constitution, a person shall not be regarded as holding an office of emolument under the Government or in the service of The Gambia by reason only that he or she is in receipt of a pension or other like benefit in respect of his or her service in an office under the Government.

(4) For the avoidance of doubt it is hereby declared that any reference in this Constitution to the functions of the President includes reference to his or her functions as Commander-in-Chief of the Armed Forces of the Republic.

Cons- 231.  
truction  
of various  
powers

(1) Where any power is conferred by this Constitution to make any proclamation, order, regulation, rule or pass any resolution or give any direction or make any declaration or designation, it shall be deemed to include the power, exercisable in like manner and subject to like conditions, if any, to amend or revoke the same.

(2) Where any power is conferred by this Constitution on any person or authority to do or enforce the doing of any act of thing, all such powers shall be deemed to be also

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given as are necessary to enable that person or authority to do or enforce the doing of that act or thing.

- (3) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether or not such person or authority has performed those functions in accordance with this Constitution or any other law.
- (4) Where under any provision of this Constitution any person or authority is authorised or required to exercise any function after consultation with any other person or authority, the person or authority first referred to shall not be required to act in accordance with the advice of that person or authority.
- (5) Without prejudice to the provisions of section 167, but subject to the other provisions of this Constitution, the power to make any appointment to a public office includes the power to dismiss any person so appointed.

Trans- 232.  
itional  
and conse-  
quential  
provisions.

Notwithstanding any other provision of this Constitution, the provisions of Schedule 2 shall have effect on the coming into force of this Constitution.

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**SCHEDULE 1  
DIMENSIONS OF THE NATIONAL FLAG**

The National Flag of The Gambia shall be a flag of the following design:

The flag shall measure twenty-seven units across and eighteen units down.

It shall be divided into horizontal stripes which shall have the following colours and dimensions from the top to the bottom:

Red - six units one third

White - one unit

Blue - four units one third

White - one unit

Green - six units one third.

**SCHEDULE 2  
TRANSITIONAL AND CONSEQUENTIAL  
PROVISIONS**

**Interpretation**

1. In this Schedule, "existing" means in being, or as the case may be, having the force of law, immediately before the coming into force of this Constitution.

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Election of first President

2. Notwithstanding any other provision of this Constitution, the person duly elected President of The Gambia in accordance with the Elections Decree, 1996 shall be the first President of the Second Republic of The Gambia and shall assume office as President on the date he or she is sworn in. The first President shall hold the office of President in accordance with the provisions of this Constitution. This Constitution shall come into effect upon the swearing-in of the first President.

Elections to the National Assembly

3. (1) The register of voters established by the Elections Decree 1996 shall be deemed to have been compiled in accordance with an Act of the National Assembly made for the purposes of section 41 until it is replaced by a register of voters so compiled.
- (2) The Provisional Independent Electoral Commission established by the Provisional Independent Electoral Commission Decree 1996 shall, until the members of the Independent Electoral Commission are appointed in accordance with section 42, exercise the functions and powers of the Independent Electoral Commission.

First constituency members of the  
National Assembly



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4. Notwithstanding any other provision of this Constitution, the National Assembly constituencies established by the Elections Decree 1996 shall, until other provision is made in accordance with Chapter V of this Constitution, be deemed to be constituencies for the purposes of the Constitution and the persons duly elected as members of the National Assembly for those constituencies in accordance with the said Electoral Decree 1996 shall be deemed to have been elected as such members for their respective constituencies. Such members shall hold their seats in accordance with the provisions of this Constitution.

First meeting of the National Assembly

5. (1) The President shall appoint a person to be the acting Clerk of the National Assembly until an appointment to that office is made in accordance with the provisions of this Constitution.
- (2) The Standing Orders of the House of Representatives established under the Constitution of The Gambia 1970 shall, in so far as they are not inconsistent with this Constitution, constitute the Standing Orders of the National Assembly until the National Assembly makes other provision in accordance with section 108 of this Constitution.

Existing law

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6. (1) Where any matter that fails to be prescribed or provided for under this Constitution by an Act of the National Assembly or by any other authority or person, is prescribed or provided for by or under any existing law (including any Decree) or is otherwise lawfully prescribed or provided for immediately before the coming into force of this Constitution, that prescription or provision shall, as from the coming into force of this Constitution, have effect with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Constitution as if it were made under this Constitution by an Act of the National assembly or, as the case may be, by the other authority or person.
- (2) Where, immediately before the coming into force of this Constitution, any existing law had not been brought into force or was to come into force on a date subsequent to the coming into force of this Constitution, the law may be brought into force in accordance with its terms, or it shall come into force on such subsequent date, as the case may be, in so far as it is not inconsistent with this Constitution.
- (3) Subject to subparagraph (4) and to it being consistent with this Constitution in any existing law -

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- (a) a reference to the exercise of a legislative function (other than a power to make subsidiary legislation) by the Government or the Armed Forces Provisional Ruling Council shall, after the coming into force of this Constitution, be read as a reference to the exercise of that function by an Act of the National Assembly;
  - (b) a reference to a power to make subsidiary legislation by the Government or the Armed Forces Provisional Ruling Council shall, after the coming into force of this Constitution, be read as a reference to the President or to such Secretary of State or other authority as the President may by Order, published in the Gazette, direct; and
  - (c) a reference to the exercise of an executive function by the Government, or any function (other than a legislative function) or power by the Armed Forces Provisional Ruling Council or the Chairman thereof, shall, after the coming into force of this Constitution, be read as a reference to the exercise of that function or power by the President.
- (4) The President may, by Order published in the Gazette and made with the approval of the National Assembly, at any time after the coming into force of this Constitution make such

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provision as may appear necessary for repealing, modifying, adding to or adapting any existing law for bringing it into accord with the provisions of this Constitution.

The Court

7. (1) The High Court established by this Constitution shall be the successor of the existing Supreme Court and -
  - (a) proceedings commenced in the existing Supreme Court may be continued before the same judge in the High Court without any break; and
  - (b) after the coming into force of this Constitution, the judgments, decrees and orders of the existing Supreme Court shall continue in force and shall be given effect as if they were the judgments, decrees or orders of the High Court.
- (2) The existing Court of Appeal shall be deemed to have been established by this Constitution.
- (3) Until the Supreme Court is established in accordance with this Constitution -
  - (a) the jurisdiction and powers of the Supreme Court under section 127 shall be exercised by the Court of Appeal; and

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- (b) appeals shall continue to lie to the Judicial Committee of the Privy Council according to the existing law, and where any appeal, or petition for special leave to appeal, is entered with the Privy Council before the establishment of the Supreme Court, the proceedings may continue, and effect shall be given to any judgment or order of the Judicial Committee in such proceedings, according to the existing law.
- (4) Subject to the foregoing provisions of this paragraph, where any proceedings have been commenced before the coming into force of this Constitution in any existing court, they may be continued and concluded before the corresponding court as established or recognised by this Constitution, and judgments, decrees and orders of any existing court shall be given effect as the judgment, decrees and orders of such corresponding court.

#### Judges

8. (1) The Justices of the existing Court of Appeal shall be deemed to have been appointed as Justices of the Court of Appeal as established by this Constitution.
- (2) The Justices of the existing Supreme Court shall be deemed to have been appointed as Justices of the High Court as established by this Constitution.

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Existing offices

9. (1) Subject to the other provisions of this Schedule, where any office has been established by or under an existing law and this Constitution established or provides for the establishment of a similar or corresponding office, any person who, immediately before the coming into force of this Constitution holds or is acting in the former office shall, in so far as it is consistent with this Constitution, be deemed as from the coming into force of this Constitution to have been appointed, elected or otherwise selected to or to act in the latter office.

Provided that -

- (a) any person who, under the existing law, would have been required to vacate his or her office at the expiration of any period or the attainment of any age shall vacate his or her office on the expiry of that period or on the attainment of that age;
- (b) nothing in this paragraph affects the power of any person or authority under this Constitution to make provision for the abolition of any office or the removal of any person from office or to require any person to retire from office;

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- (c) nothing in this paragraph shall apply to the office of Secretary of State or Secretary General.
- (2) For the purposes of any law relating to pensions or other retirement benefits, the continuity of service of any person holding a public office shall not be affected by the coming into force of this Constitution.
- (3) Any person who, by virtue of this paragraph, is deemed as from the coming into force of this Constitution to have been appointed, elected or selected to hold or act in any office shall, as soon as may be, take and subscribe to the prescribed oaths.

Financial provision

- 10 (1) The Consolidated Revenue Fund and the Contingency Fund in existence immediately before the coming into force of this Constitution, shall, until otherwise provided by law, continue in existence as the Consolidated Fund and the Contingency Fund referred to in sections 150 and 154 of this Constitution.
- (2) Subject to this Constitution, every payment required or authorised to be made into a public fund or out of a public fund under any law in force immediately before the coming into force of this Constitution shall continue to be made into or out of that fund.

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- (3) The financial estimates for the financial year in being at the coming into force of this Constitution shall, until provision is otherwise made by an Act of the National Assembly, continue and shall have full effect.

Savings of Commissions of Inquiry  
Established During the Period Commencing  
22nd July 1994 up to the Coming into Force  
of This Constitution.

- 11.(1) Where any order, penalty or investigation has been made or commenced before the coming into force of this Constitution by any person or authority that has power for that purpose under any Decree establishing any Commission of Inquiry, that penalty, order or investigation may be carried on and be completed by the person or authority having power for the purpose after the coming into force of this Constitution, and it shall not be necessary for the person or authority to commence the investigation or make the Order or Penalty afresh.
- (2) For avoidance of doubt, any Commission of Inquiry established in accordance with a Decree of the Armed Forces Provisional Ruling Council before the coming into force of this Constitution shall continue to exist and shall exercise their functions in accordance with the Orders establishing them.



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- (3) Any Order, Ruling, finding of fact, seizure, sale or alienation of property or penalty imposed or thing done by or carried out under the authority of any Commission of Inquiry established in accordance with a Decree of the Armed Forces Provisional Ruling Council shall not be questioned or reversed by any Court or other authority under this Constitution or any other law.

Succession to property

12. As regards any property, assets or obligations -
- (a) The President shall be the universal successor as respects the office of a former President of The Gambia as established under any previous Constitution; and
- (b) the Government shall be the universal successor to a former Government of The Gambia as so established and to the Armed Forces Provisional Ruling Council.

Legal Proceedings

- 6 of 2001 13 (1) No member of the Armed Forces Provisional Ruling Council, any person appointed Minister by the Armed Forces Provisional Ruling Council, or other appointees of the Armed Forces Provisional Ruling Council shall be held liable or answerable before a Court or authority or under this Constitution or any other law, either jointly or severally, for an act or omission in the performance of his or her official duties.

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- (2) After the coming into force of this Constitution, it shall not be lawful for any court or tribunal to entertain any action or take any decision or make any order or grant any remedy or relief in any proceedings instituted against the Government of The Gambia or any person acting under the authority of the Government of The Gambia, or against any person or persons acting in concert or individually to assist or bring about the change in Government which took place on the twenty second day of July 1994, in respect of any act or omission relating to, or consequent upon:
- (a) the overthrow of the government in power before the formation of the Armed Forces Provisional Ruling Council; or
  - (b) the suspension or abrogation of the Constitution of The Gambia 1970; or
  - (c) the establishment of the Armed Forces Provisional Ruling Council; or
  - (d) the establishment of this Constitution.
- (3) For the avoidance of doubt, it is declared that no action taken or purported to have been taken in the exercise of the executive, legislative or judicial power by the Armed Forces Provisional Ruling Council or a member thereof, or by any person

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appointed by the Armed Forces Provisional Ruling Council in the name of the Armed Forces Provisional Ruling Council except judges of the Supreme Court or the Court of Appeal, shall be questioned in any proceedings whatsoever and, accordingly, it shall not be lawful for any court or tribunal to make any order or grant any remedy or relief in respect of any such act.

(4) The provisions of subparagraph (3) shall have effect notwithstanding that any such action as is referred to in that subparagraph was not taken in accordance with any procedure prescribed by law.

(5) It shall not be lawful for any court or tribunal to entertain an action instituted in respect of an act or omission against a person acting or omitting to act on the instructions or authority of the Armed Forces Provisional Ruling Council, or a member thereof, and alleged to be in contravention of any law whether substantive or procedural, in existence before or during the administration of the Armed Forces Provisional Ruling Council.

Preservation of Confiscation and Penalties Imposed by the Armed Forces Provisional Ruling Council.

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14. Any confiscation of any property or any other penalties imposed by the Armed Forces Provisional Ruling Council or the Chairman thereof shall not be questioned or reversed

by any court or other authority under this Constitution or any other law.

Abrogation of 1970 Constitution

15. The Constitution of The Gambia 1970 (Act No.1 of 1970) is hereby abrogated.

Substitution of life imprisonment for death penalty

16. Where any law makes provision for a sentence of death in any case other than that provided for in section 18 (2), the law shall have effect as if imprisonment for life were substituted for that penalty.

Paragraphs not to be amended

17. The National Assembly shall have no power to pass a Bill to amend or repeal this paragraph or paragraph 11, 12, 13 or 14 of this Schedule.



THE GAMBIA

NO. 15 OF 2004.

Assented to by The President,  
this 28th day of December, 2004.



YAHYA A. J. J. JAMMEH  
*President.*

**AN ACT** to amend the Constitution of the Republic of the Gambia, 1997 under section 226 (2) and for matters connected therewith.

[ 28th December, 2004 ]

**ENACTED** by the President and the National Assembly.

Short title

1. This Act may be cited as the Constitution of the Republic of the Gambia, 1997 (Amendment) Act, 2004.

Amendment of the Constitution

2. The Constitution of the Republic of The Gambia, 1997 is hereby amended by deleting section 210.

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2 Constitution of the Republic of The Gambia (Amendment) Act, 2004

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PASSED in the National Assembly this 13th day of December,  
in the year of Our Lord Two Thousand and Four

M. S. JALLOW  
*Clerk of the National Assembly.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill  
which was passed in the National Assembly, and found by me to be a true and correct copy  
of the said Bill.

M. S. JALLOW  
*Clerk of the National Assembly.*