

**GOVERNMENT OF ZAMBIA**

**STATUTORY INSTRUMENT NO. 40 OF 2003**

**The Inquiries Act**  
(Laws, Volume 4, Cap. 41)

**A Commission**

THE COMMISSION in the Schedule hereto, issued by the President, is published in accordance with the provisions of section *two* of the Inquiries Act.

LUSAKA  
17th April, 2003  
[co. 101/8/11]

L. MBULA,  
*Secretary to the Cabinet*

## SCHEDULE

## A COMMISSION

THE PRESIDENT, MR. LEVY PATRICK MWANAWASA, SC. President of  
the Republic of Zambia—

To:

1. WILA MUNG'OMBA, ESQ
2. GENERAL GODWIN KINGSLEY CHINKUJ
3. DOCTOR SIPULA KABANJE, MP
4. SENIOR CHIEF NALUBAMBA
5. SENIOR CHIEF INYAMBO
6. CHIEFTAINNESS NKOMESHYA MUKAMAMBO II
7. CHIEF MWANSAKOMBE
8. MS ROSEMARY CHIPHAZI BANDA, MP
9. LUCAS LIMBIKANI PHIRI, MP
10. MWITILA CHRISPIN SHUMINA, MP
11. KENNEDY MBOLOBE SHEPANDE, MP
12. BENNY TETAMASHIMBA, MP
13. AUSTIN LIATO, MP
14. WYNTER KABIMBA, ESQ
15. BEN KAPITA, ESQ
16. FAUSTINO LOMBE, ESQ
17. RIDGEWAY LIWENA, ESQ
18. LEONARD HIKAUMBA, ESQ
19. MS JOYCE NONDE
20. REVEREND DAVID MASUPA
21. NGANDE MWANAJITI, ESQ
22. ALEX CHOLA KAFWABULUIA, ESQ
23. MRS NELLIE BUTETE KASHUMBA MUTTI
24. BISHOP JOHN MAMBO
25. PROFESSOR MUTALE CHANDA
26. CHRISTOPHER MUNDIA, ESQ
27. COSMAS MWANANSHIKU, ESQ
28. MRS DOROTHY MULWILA
29. MRS HILLARY MULENGA FYFE
30. PROFESSOR MPHANZA PATRICK MVUNGA
31. EMMANUEL MUSONDA, MP
32. RONALD BANDA, MP
33. DICKSON JERE, ESQ
34. PASSMORE MUDUNDULU, ESQ
35. MS CHARITY MWANSA
36. DEAN NAMULYA MUNG'OMBA, ESQ
37. MS ROSEMARY CHIPAMPE, MP
38. ALI SIMWINGA, ESQ
39. HICKS SIKAZWE, ESQ
40. JITESH NAIK, ESQ
41. DALE LITANA, ESQ

## GREETINGS:

WHEREAS the Government is committed to a review of the Constitution of Zambia in order to ensure that the Constitution eventually enacted is owned by the people of Zambia as their own Constitution;

AND whereas the Government believes that the Constitution of Zambia should place national interests above factional interests;

AND WHEREAS it is desirable that there should be the widest possible public participation in the formulation of the Constitution as well as in its operation;

AND whereas in my opinion it is advisable for the public welfare to appoint Commissioners to inquire into the matters hereinafter set out:

NOW THEREFORE, by virtue and in exercise of the powers conferred upon me by the Inquiries Act, I do, by this Commission under my hand and the public seal of the Republic of Zambia, appoint you the said—

1. WLA MUNG'OMBA, ESQ
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to be Commissioners with all powers of the said Act conferred and I do hereby authorise and require you in the manner of the said Act provided—

To:

1. Collect views by all practicable means from the general public, in such places, within Zambia, as you may consider necessary, and from Zambians living outside Zambia, on what type of Constitution Zambia should enact, bearing in mind that the Constitution should exalt and effectively entrench and promote legal and institutional protection of fundamental human rights and stand the test of time;
2. Recommend a system of government that will ensure that Zambia is governed in a manner that will promote the democratic principles of regular and fair elections, transparency and accountability, and that will guard against the emergence of a dictatorial form of government;
3. Recommend appropriate ways and means of entrenching and protecting human rights, the rule of law and good governance in the constitution;
4. Examine and recommend whether the death penalty should be maintained or prohibited by the Constitution;
5. Examine and recommend the elimination of provisions which are perceived to be discriminatory in the Constitution;
6. Recommend provisions to ensure the competence, impartiality and independence of the Judiciary, and access of the public to justice;
7. Examine and recommend the composition and functions of the organs of government and their manner of operating, with a view to maximising on checks and balances and securing, as much as possible their independence;
8. Examine and recommend whether the holder of the office of Attorney-General should vacate office following a change in Republican Presidents;

9. Examine the effectiveness of the office of the Auditor-General and that of the Investigator-General and recommend means of improving their effectiveness where necessary;

10. Recommend a suitable electoral system to ensure fairness in the conduct of Presidential and Parliamentary elections as well as local government elections;

11. Examine and recommend effective methods to ensure grassroots participation in the political process of the country, including what type of provincial and district administration should be instituted;

12. Recommend a suitable system for a smooth transfer of power by the outgoing administration to the incoming administration following an election;

13. Recommend the relationship that should exist between the party in power and the parties in opposition and whether or not political parties should be funded by government and, if so, to what extent;

14. Examine and recommend the status of a member of parliament who joins another political party or is expelled from the member's party, whether or not such member should vacate the seat in parliament;

15. Examine constitutional provisions relating to the settlement of election disputes following Presidential and parliamentary elections and recommend a method of ensuring expeditious and final disposal of election petitions;

16. Examine and recommend to what extent issues of gender equality should be addressed in the Zambian Constitution;

17. Examine and recommend whether international agreements should be considered and ratified by the National Assembly prior to Zambia's ratification of those agreements;

18. Take into account the provisions of the 1964 Republican Constitution, previous Constitutions and constitutions of other countries;

19. Examine the views submitted to the Chona Commission of 1972, the Mvunga Commission of 1990, the Mwanakatwe Commission of 1993 and views expressed in constitutional debates of a national nature and make recommendations thereon;

20. Recommend a suitable method of amending any part of the Constitution;

21. Recommend on whether the Constitution should be adopted, altered or re-enacted by the National Assembly, by a Constituent Assembly, by a national referendum or by any other method;

22. Recommend ways and means of implementing the recommendation made under item 21 in view of existing constitutional provisions;

23. Examine and recommend whether Cabinet should be appointed from outside the National Assembly or from the National assembly;

24. Examine and recommend whether the number of nominated members of Parliament should be increased or reduced in the light of past experience and if so, recommend a suitable number;

25. Examine and recommend to what extent members of the public should participate in the formulation of budgetary proposals and whether or not the time for presentation of the budget in Parliament should be changed and if so, to when;

26. Examine provisions relating to Government's accountability and transparency in the expenditure of public funds and those relating to the presentation of a financial report as required by Article 118 of the Constitution;

27. Examine provisions of the Constitution which impact on press freedom and the freedom of speech;

28. Examine and recommend on any subject-matter of a constitutional, political or economic nature which, in the Commission's view has relevance in the strengthening of parliamentary and multi-party democracy;

29. Examine the local government system and recommend how a democratic system of local government as specified in the Constitution may be realised;

30. Examine and recommend on any matter which is connected with or incidental to the foregoing terms of reference; and

31. In the discharge of your responsibilities, undertake wide consultations with the public and relevant social, political and economic groups on the terms of reference and endeavour to ensure a high degree of public debate on constitutional proposals for a democratic Zambia.

AND I hereby direct that you the said WILA MUNG'OMBA, ESQ, be the Chairperson, and that you the said GENERAL GODWIN KINGSLEY CHINKUU be the Vice-Chairperson, of the said Commission;

AND I hereby direct that you shall take your oath before me;

AND I hereby direct that twenty-two Commissioners shall constitute a quorum but the Commission may, for easier despatch of its business, break into committees;

AND I hereby direct that the said inquiry shall be held in public in such places in Zambia as the Commission may consider necessary;

AND I hereby direct that the report of the Inquiry, which should include a draft Constitution, be rendered to me not later than twelve months from the date of appointment of the Commission;

AND I hereby appoint MRS GETRUDE MUKUWA KALULU to be Secretary and MRS JUDY MULONGOTI to be Deputy Secretary for the purposes of the said Inquiry;

AND I hereby authorise the Commissioners to engage the services of such advisers and experts as they think necessary to aid and assist them in the said Inquiry;

AND I lastly do hereby command all persons whom it may concern to take due notice hereof and give their obedience accordingly.

GIVEN under my hand and the Public Seal of the Republic of Zambia at Lusaka this 17th day of April, the year of our Lord two thousand and three.



LUSAKA

LEVY P. MWANAWASA SC,  
*President*