

NOTE BY VERITAS

This copy of the Bill has been annotated to indicate two amendments approved by the National Assembly on 27th June 2017 to clauses 6 and 8.

Both amendments appear on page 3 below.

BILL

To amend the Constitution of Zimbabwe.

ENACTED by the Parliament and the President of Zimbabwe.

1 Short title

5 This Act may be cited as the Constitution of Zimbabwe Amendment (No. 1) Act, 2017.

2 Interpretation

In this Act—

10 “the Constitution” means the Constitution of Zimbabwe set forth in the Schedule to the Constitution of Zimbabwe Amendment (No. 20) Act, 2013.

3 Amendment of section 172 of Constitution

Section 172 (“Labour Court”)(1) of the Constitution is amended by the repeal of paragraph (a) and the substitution of—

15 “(a) a senior judge; and;”.

H.B. 1, 2017.]

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4 Amendment of section 173 of Constitution

Section 173 (“Administrative Court”)(1) of the Constitution is amended by the repeal of paragraph (a) and the substitution of—

“(a) a senior judge; and;”.

5 Amendment of section 174 of Constitution

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(1) Subject to subsection (2), section 174 (“Other courts and tribunals”) of the Constitution is amended by the insertion of the following subsection, the existing section becoming subsection (1)—

“(2) For the purpose of this section and section 171(1)(b), it is declared, for the avoidance of doubt, that the Labour Court and Administrative Court are courts subordinate to the High Court.” 10

(2) In conformity with section 188(4) of the Constitution, the salaries, allowances and other benefits of judges of the Labour Court and Administrative Court holding or acting in office as such on the date of commencement of this Act shall not be reduced. 15

6 New section substituted for section 180 of Constitution

(1) Subject to subsection (2), section 180 of the Constitution is repealed and replaced by—

“180 Appointment of judges

(1) The Chief Justice, the Deputy Chief Justice, and the Judge President of the High Court and all other judges are appointed by the President in accordance with this section. 20

(2) The Chief Justice, the Deputy Chief Justice, and the Judge President of the High Court shall be appointed by the President after consultation with the Judicial Service Commission. 25

(3) If the appointment of a Chief Justice, Deputy Chief Justice or Judge President of the High Court is not consistent with any recommendation made by the Judicial Service Commission in terms of subsection (2), the President shall cause the Senate to be informed as soon as is practicable: 30

Provided that, for the avoidance of doubt, it is declared that the decision of the President as to such appointment shall be final.

(4) Whenever it is necessary to appoint a judge other than the Chief Justice, Deputy Chief Justice or Judge President of the High Court, the Judicial Service Commission must— 35

- (a) advertise the position;
- (b) invite the President and the public to make nominations;
- (c) conduct public interviews of prospective candidates;
- (d) prepare a list of three qualified persons as nominees for the office; and 40
- (e) submit the list to the President; whereupon, subject to subsection (5), the President must appoint one of the nominees to the office concerned.

5 (5) If the President considers that none of the persons on the list submitted to him or her in terms of subsection (4)(e) are suitable for appointment to the office, he or she must require the Judicial Service Commission to submit a further list of three qualified persons, whereupon the President must appoint one of the nominees to the office concerned.

(6) The President must cause notice of every appointment under this section to be published in the *Gazette*.

10 (7) The offices of senior judge of the Labour Court and senior judge of the Administrative Court must be filled by another judge or an additional or acting judge, as the case may be, of the court concerned, and are appointed by the Chief Justice after consultation with the Judicial Service Commission.”.

15 ~~(2) For the avoidance of doubt it is declared that the amendment to the Constitution made by subsection (1) applies to the appointment of a Chief Justice to fill the vacancy in that office that exists on the date of commencement of this Act.~~

Subclause (2) deleted

7 Amendment of section 181 of Constitution

Section 181 (“Acting judicial appointments”)(2) of the Constitution is amended by the repeal of paragraphs (b) and (c) and the substitution of—

20 “(b) senior judge of the Labour Court; and;”.

(c) senior judge of the Administrative Court;”.

8 Amendment of Sixth Schedule to Constitution

The Constitution is amended in the Sixth Schedule (“Commencement of this Constitution, Transitional Provisions and Savings”) by the insertion of the following proviso to subparagraph (3) of paragraph 18 (“Courts and legal proceedings”)—

25 “Provided that a vacancy in the office of ~~Chief Justice and~~ Deputy Chief Justice occurring during that period must be filled in accordance with section 180(2) and (3).”.

Words deleted in line 25 - "Chief Justice and".