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NOTICE OF AMENDMENTS

CONSTITUTION OF ZIMBABWE AMENDMENT (NO. 2) BILL (H.B. 23, 2019)

DELETION OF CLAUSES 12 (“AMENDMENT OF SECTION 161 OF CONSTITUTION”)

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On page 4 of the Bill, delete clause 12 and renumber the following clauses accordingly.

substitution of Clauses 12 (formerly clause 13 “amendment of sixth schedule to constitution”) and 13 (formerly clause 14 “new section substituted for section 186 of constitution”)

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On pages 4 and 5 of the Bill, in clauses 13 and 14 and substitute the following clauses:

“12 Amendment of section 180 of Constitution

Section 180 (“Appointment of judges”) of the Constitution is amended—

(a) by the repeal of subsection (4) and the substitution of the following—

“(4). Subject to subsection (4a), whenever it is necessary to appoint a judge, other than the Chief Justice, Deputy Chief Justice, Judge President or a sitting judge of the Supreme Court, High Court, Labour Court or Administrative Court to be a judge of the next higher court, the Judicial Service Commission must –

- (a) advertise the position; and
- (b) invite the President and the public to make nominations; and
- (c) conduct public interviews of prospective candidates; and
- (d) prepare a list of three qualified persons as nominees for the office; and

- (e) submit the list to the President, whereupon, subject to subsection (5), the President must appoint one of the nominees to the office concerned.”;
- (b) by the insertion of the following subsection after subsection (4)□□
 - “(4a). Notwithstanding subsection (4) the President, acting on the recommendation of the Judicial Service Commission may, at any time whenever it is necessary to do so, appoint a sitting judge of the Supreme Court, High Court, Labour Court or Administrative Court to be a judge of the next higher court.”.

13 New section substituted for section 186 of Constitution

Section 186 of the Constitution is repealed and replaced by—

“186 Tenure of office of judges

(1) The Chief Justice and the Deputy Chief Justice hold office from the date of their assumption of office until they reach the age of seventy years, when they must retire unless, before they attain that age, they elect to continue in office for an additional five years:

Provided that such election shall be subject to the submission to, and acceptance by the President, after consultation with the Judicial Service Commission, of a medical report as to their mental and physical fitness so to continue in office.

(2) Judges of the Constitutional Court are appointed for a non-renewable term of not more than fifteen years, but—

- (a) they must retire earlier if they reach the age of seventy years unless, before they attain that age, they elect to continue in office for an additional five years:

Provided that such election shall be subject to the submission to, and acceptance by the President, after consultation with the Judicial Service Commission, of a medical report as to the mental and physical fitness of the judge so to continue in office;

- (b) after the completion of their term, they may be appointed as judges of the Supreme Court or the High Court, at their option, if they are eligible for such appointment.

(3) Judges of the Supreme Court hold office from the date of their assumption of office until they reach the age of seventy years, when they must retire unless, before they attain that age, they elect to continue in office for an additional five years:

Provided that such election shall be subject to the submission to, and acceptance by the President, after consultation with the Judicial Service Commission, of a medical report as to the mental and physical fitness of the judge so to continue in office.

(4) Notwithstanding subsection (7) of section 328, the provisions of subsections (1),(2) and (3) of this section shall apply to the continuation in office of the Chief Justice, Deputy Chief Justice, judges of the Constitutional Court and judges of the Supreme Court.

(5) Judges of the High Court and any other judges hold office from the date of their assumption of office until they reach the age of seventy years, when they must retire.

(6) A person may be appointed as a judge of the Supreme Court, the High Court or any other court for a fixed term, but if a person is so appointed, other than in an acting capacity, he or she ceases to be a judge on reaching the age of seventy-five years (in the

case of a judge of the Supreme Court) or seventy years (in the case of a judge of the High Court or any other court) even if the term of his or her appointment has not expired.

(7) Even though a judge has resigned or reached the age of retirement or, in the case of a judge of the Constitutional Court, reached the end of his or her term of office, he or she may continue to sit as a judge for the purpose of dealing with any proceedings commenced before him or her while he or she was a judge.

(8) A judge may resign from his or her office at any time by written notice to the President given through the Judicial Service Commission.

(9) The office of a judge must not be abolished during his or her tenure of office.

**deletion of Clauses 16 (formerly clause17 “Amendment of section 243 of constitution”)
and 17 (formerly clause18 “new section inserted in chapter 13 of constitution”)**

BY THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

On pages 6 and 7 of the Bill, in clause 6, delete clause 18 and renumber the following clauses accordingly.