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70. Constitution of Zimbabwe: Proclamation 1 of 2020.

## PROCLAMATION

by

HIS EXCELLENCY THE HONOURABLE EMMERSON DAMBUDZO MNANGAGWA, G.C.Z.M., President of Zimbabwe and Commander-in-Chief of the Defence Forces of Zimbabwe.

WHEREAS section 187(1) of the Constitution of Zimbabwe, 2013, provides that a judge may be removed from office only for inability to perform the functions of his or her office, due to mental or physical incapacity, gross incompetence or gross misconduct;

AND WHEREAS section 187(3) of the Constitution of Zimbabwe provides that if the Judicial Service Commission advises the President that the question of removing a judge from office ought to be investigated, the President must appoint a tribunal to inquire into the matter;

AND WHEREAS the Judicial Service Commission, by letter dated 15th January, 2020, formally advised the President that the question of removal from office of the Honourable Mr. Justice Francis Bere JA, ought to be investigated;

AND WHEREAS section 187(4) of the Constitution of Zimbabwe, 2013, provides that the President may, when he considers it advisable, appoint a tribunal consisting of three (3) or more members;

AND WHEREAS section 187(9) of the Constitution of Zimbabwe, 2013, provides that a tribunal appointed under section 187 has the same rights and powers as commissioners under the Commissions of Inquiry Act [*Chapter 10:07*], or any law that replaces that Act;

AND WHEREAS the President may authorise the tribunal members or any quorum of them specified in the proclamation into any matter in which any inquiry would, in the opinion of the President, be of public welfare:

## Proclamation 1 of 2020

NOW, THEREFORE, under and by virtue of the powers vested in the President as afore-said, I do, by this proclamation—

- (a) establish a Tribunal to inquire into the question of removal from office of the Honourable Justice Francis Bere JA;
- (b) appoint retired Justice Professor Simbi Veke Mubako as Chairperson of the Tribunal;
- (c) appoint the Secretary for Justice, Legal and Parliamentary Affairs to be the Secretary to the Tribunal;
- (d) direct that the Tribunal shall be held for a period of four (4) months from the date of swearing in of members, at such appropriate venue as shall be determined by the Tribunal;
- (e) direct that the report shall be availed at the conclusion of the inquiry;
- (1) direct that the terms of reference shall be as follows —
  - (i) to investigate into the matter of the removal from office of Honourable Justice Francis Bere JA;
  - (ii) to investigate into the matter of Honourable Justice Bere's conduct, whether it can be deemed to have been tantamount to gross misconduct;
  - (iii) to investigate whether the Honourable Judge conducted himself or presided over matters where there was conflict of interest;
  - (iv) to investigate any other matter which the Tribunal may deem appropriate and relevant to the inquiry;
  - (v) to consider all information submitted by the Judicial Service Commission and any other relevant information in order to arrive at an appropriate recommendation to the President;
  - (vi) to recommend to the President whether or not the Honourable Judge should be removed from office in terms of section 187 of the Constitution; and
  - (vii) to report to the President, in writing, the result of the inquiry within a period of five (5) months from the date of swearing in of the members;

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- (g) direct that the inquiry shall be held both in public and privately, as the exigencies of the Tribunal may determine; and
- (h) appoint the members listed in the Schedule.

SCHEDULE

APPOINTMENT OF MEMBERS TO THE TRIBUNAL

1. Retired Justice Professor Simbi Veke Mubako (Chairperson).
2. Mrs Rekai Maposa (Member).
3. Advocate Takawira Nzombe (Member).

Given under my hand and the Public Seal of Zimbabwe at Harare this seventeenth day of March, in the year of Our Lord two thousand and twenty.

E. D. MNANGAGWA,  
President.

By Command of the President.

