

**THE CONSTITUTION OF THE
REPUBLIC OF THE GAMBIA
(S U S P E N S I O N A N D
MODIFICATION) DECREE, 1994**

DECREE NO.1

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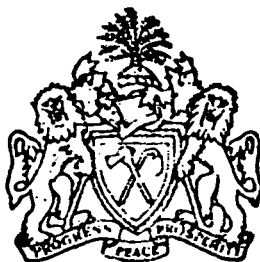
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**THE CONSTITUTION OF THE REPUBLIC OF
THE GAMBIA (S U S P E N S I O N A N D
MODIFICATION) DECREE, 1994**



THE GAMBIA

DECREE NO.1

(22ND JULY, 1994)

THE ARMED FORCES PROVISIONAL
RULING COUNCIL hereby decrees as
follows:

PRELIMINARY

Short title and
commencement.

1. (1) This Decree may be
cited as the Constitution of the
Republic of The Gambia
(Suspension and Modification)
Decree 1994 and shall apply
throughout The Gambia.

(2) This Decree shall be
deemed to have come into force on
22nd July, 1994.

Interpretation

2. (1) In this Decree, and in any other law "Decree" means an instrument made by the Armed Forces Provisional Ruling Council and expressed to be, or to be made as, a decree.

(2) Where a power to delegate a function is conferred by this Decree, that power includes,

- (a) power to delegate the function to a limited extent only; and
- (b) power to delegate the function to different persons or authorities for different purposes, or in respect of different matters or different parts of The Gambia.

STATUS OF CONSTITUTION AND SUPREMACY OF DECREES

Suspension and modification of some provisions of the Constitution of the Republic of The Gambia
Act No.1 of 1970

3. (1) The provisions of the Constitution of the Republic of The Gambia, 1970 mentioned in Schedule I of this Decree are hereby suspended.

(2) Subject to this and any other Decree, the provisions of the Constitution of the Republic of The Gambia, 1970 which are not suspended by subsection (1) shall have effect subject to the modifications specified in Schedule II of this Decree.

Supremacy of
Decrees

Act No.1 of 1970

Validity of
Decrees not
to be enquired
into

Establishment
of Armed Forces
Provisional
Ruling Council

4. Notwithstanding anything contained in this Decree, the provisions of the Constitution of the Republic of The Gambia, 1970 that are not suspended by this Decree shall apply in so far as they do not conflict with a provision of this Decree or any other Decree.

5. The validity of this or any other Decree shall not be questioned in any court of law.

**ESTABLISHMENT AND LEGISLATIVE
POWERS OF THE ARMED FORCES
PROVISIONAL RULING COUNCIL**

6. (1) There shall be for The Gambia an Armed Forces Provisional Ruling Council.

(2) The Armed Forces Provisional Ruling Council shall consist of its Chairman as Head of State who shall constitute the Council by such number of officers of The Gambia Armed Forces as he may determine and the Council shall include the Attorney General.

(3) There shall be a Vice - Chairman of the Armed Forces Provisional Ruling Council who shall in the absence of the Chairman perform the functions of the Chairman.

(4) The Armed Forces Provisional Ruling Council may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership or the absence of any member.

Power to
make laws

7. The Armed Forces Provisional Ruling Council shall have power to make laws for the peace, order and good government of The Gambia with respect to any matter.

Mode of exercising
legislative powers

8. (1) The power of the Armed Forces Provisional Ruling Council to make laws shall be exercised by means of Decrees signed by the Chairman of the Council.

(2) A decree may be made known to the public by means of a sound or television broadcast, or by publication in writing, or in any other manner.

(3) Where a Decree published on any date in the Gazette makes provision with respect to the same matters as a Decree which was made known to the public on or before that date but has not been published in the Gazette, the Decree published in the Gazette shall prevail.

Making and
commencement
of Decrees
and subsidiary
instruments

9. (1) A Decree is made when it is signed by the Chairman of the Armed Forces Provisional Ruling Council, whether or not it then comes into force.

(2) Where no other provision is made as to the time when a particular provision contained in a Decree or subsidiary instrument is to come into force, it shall, subject to subsection (4), come into force on the day when the Decree or subsidiary instrument, as the case may be, is made.

(3) .Where a provision contained in a Decree or subsidiary instrument is expressed to come into force on a particular day, it shall be construed as coming into force immediately on the expiration of the previous day.

(4) In this section "subsidiary instrument" means any order, rules, regulations, rules of court or byelaws made in the exercise of powers conferred by a Decree.

ESTABLISHMENT OF EXECUTIVE COUNCIL

Establishment
of Executive
Council

10. (1) There shall be for The Gambia an Executive Council.

(2) The Executive Council shall consist of the Chairman of the Armed Forces Provisional Ruling Council who shall constitute the Council by such number of Ministers as he may determine and the Council shall include the Attorney General.

(3) The Executive Council may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership or the absence of any member.

Offices of
Minister

11. (1) There shall be offices of Minister of the Government as may be established by the Chairman.

(2) The Ministers under the direction of the Chairman shall be responsible for such departments of State or other business of the Government as the Chairman may assign to them.

(3) Notwithstanding the provisions of subsection (2) of this section the Chairman shall be responsible for such departments of State or other business of the Government as he may determine.

Tenure of
office of
Ministers

12. (1) The Chairman may appoint a person from among members of the Executive Council to perform the functions of the office of Chairman in his absence and any person so appointed may discharge those functions accordingly:

Provided that a person appointed under this sub-section shall cease to perform the functions of the office of Chairman,

- (a) if his appointment is revoked by the Chairman;
- (b) if he ceases to be a member of the Executive Council; or
- (c) if the Chairman resumes his office.

(2) The office of Minister shall become vacant,

- (a) if the Chairman revokes the appointment of the holder thereof; or
- (b) on the acceptance of the Chairman of the resignation of the holder of such office.

DELEGATION OF POWERS AND FUNCTIONS

Powers of
Armed Forces
Provisional
Ruling Council

13. The Armed Forces Provisional Ruling Council may, subject to such conditions (if any) as it may think fit, delegate any function conferred on it by any law, including this Decree, to any of its members.

Powers of Chairman
to delegate to
Executive Council

14. (1) The Chairman may, subject to such conditions (if any) as he may think fit delegate any power or function conferred on him by any law, to the Executive Council or to any other authority in The Gambia:

Provided that this subsection shall not apply to the power of signing Decrees.

(2) Any function of the Chairman may be exercised by him notwithstanding any delegation of that function under this section.

(3) The Executive Council may, subject to such conditions (if any) as it may think fit, delegate any function conferred on it by any law, including this Decree, to any of its members or to any officer in the public service of The Gambia.

GENERAL PROVISIONS

Modification
of existing
law

15. (1) Subject to this and any other Decree all existing law, that is to say, all law (other than the Constitution of the

Republic of The Gambia, 1970) which, whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever, was in force immediately before 22nd July, 1994 or having been passed or made before that date came or comes into force on or after that date, shall, until that law is altered by an authority having power to do so, have effect with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with the Constitution, as affected by this or any other Decree, and with the provisions of any Decree relating to the performance of any functions which are conferred by law on any person or authority.

(2) It is hereby declared that the suspension by this or any other Decree of any provision of the Constitution of the Republic of The Gambia, 1970 shall be without prejudice to the continued operation in accordance with subsection (1) of any law which immediately before 22nd July, 1994 was in force by virtue of that provision.

(3) Any function which is conferred by any existing law within the meaning of subsection (1) on the President or any other Minister of the Government of The Gambia or on the House of Representatives shall, until other provision in respect of that function is made by an authority having power to do so,

vest in the Chairman, Minister of the Government and the Executive Council respectively.

Saving for existing offices appointments, etc

16. Subject to this and any other Decree, any court of law, authority or office which was established, any appointment which was made, and any other thing whatsoever which was done before 22nd July, 1994 in pursuance of any provision of the Constitution of the Republic of The Gambia, 1970, being a provision that

(a) is not suspended by this or any other Decree, but

(b) is modified by this Decree,

or which was deemed by virtue of any such provision to be so established, made or done before that date, shall be deemed to have been duly established, made or done in pursuance of that provision as modified by this Decree.

Succession to contracts and other arrangements

17. Without prejudice to the generality of section 15 of this Decree,

(a) any contract or other arrangement entered into before 22nd July, 1994 by any person or authority on behalf of the Government of The Gambia shall as from 22nd July, 1994 be deemed to have been entered into on behalf of the Government as constituted under this Decree; and

Caps. 75:03
and 75:04

(b) all loans, stock, bonds and debentures issued or raised under the General Loan and Stock Act and the Local Loans Act before 22nd July, 1994 by the Minister of the Government responsible for finance, or by any person acting on his behalf, shall, so far as any liability of the Government in respect thereof remained undischarged immediately before that date, be deemed

(i) to have been duly issued under the Act in question by the Executive Council, and

(ii) to have been so issued on the date on which (and with the date of redemption with which) they were actually issued,

and the principal sums and interest represented or secured thereby shall accordingly continue to be charged on the Consolidated Revenue Fund.

Application of
Interpretation
Act (Cap.4)

18. Without prejudice to the generality of section 15, of this Decree, the Interpretation Act shall apply in relation to a Decree as it applies in relation to an Act of Parliament, and accordingly any reference in that Act to an enactment shall include a reference to any provision of a Decree.

SCHEDULE I

**SUSPENDED PROVISIONS OF THE CONSTITUTION OF THE REPUBLIC
OF THE GAMBIA, 1970**

1. The whole of Chapter IV of the Constitution
2. Sections 43, 45 and 46
3. Subsection (2) of section 47
4. Section 50
5. The whole of Chapter VI
6. Subsection (6) of Section 107
7. Subsection (5) of section 111
8. Section 121
9. **FIRST SCHEDULE**

SCHEDULE II

MODIFICATIONS OF THE PROVISIONS OF THE CONSTITUTION OF THE REPUBLIC OF THE GAMBIA, 1970 NOT SUSPENDED BY SECTION 3.

GENERAL MODIFICATIONS

1. Any Reference in the Constitution or any other law to the words "President" and "Vice President" shall be substituted by the words "Chairman" and "Vice Chairman" respectively.
2. Any Reference in the Constitution or any other law to the words "House of Representatives", "House" and "Cabinet" shall be substituted by the words "Executive Council".
3. All References in the Constitution to the words "Parliamentary Secretary" are hereby deleted.

MODIFICATION OF PARTICULAR PROVISIONS

SECTION 23

Section 23 is modified by deleting the fullstop at the end of subsection (1) and substituting it with a semi-colon and adding a proviso thereafter as follows:

"Provided that all political parties shall cease to exist and no person shall assemble or associate for the purpose of forming a political party or engaging in any political activities".

SECTION 44

Section 44 is modified by adding the following further proviso:

"Provided further that every Minister shall be held accountable for the proper administration of his Ministry."

SECTION 107

Section 107 is modified by deleting the words

"a member of the Constituency Boundaries Commission" in subsection (5) thereof.

SECTION 109

Subsection (4) of Section 109 is modified by

- (a) substituting the words "Executive Council" for the word "Minister" appearing in the second line thereof; and
- (b) placing a fullstop immediately after the word "finance" appearing in the third line thereof and deleting every other word that follows thereafter.

SECTION 131

Section 131 is modified by

- (a) deleting paragraph (b) of subsection (1); and
- (b) substituting the word "Chairman" for the words "speaker of the House" in paragraph (c).

SECTION 133

Section 133 is modified by

- (a) deleting the interpretations of "Head Chief", "Deputy Head Chief", "Sub-Chief and Headman", "session", "sitting" and "voting member" in subsection (1) thereof;
- (b) deleting the words "the Speaker, or Deputy Speaker of the House of Representatives" in paragraph (a) of Subsection (3);
- (c) deleting paragraph (d) of subsection (3);
- (d) deleting the reference to "section 61(3) (d)" in paragraph (f) of subsection (3);
- (e) deleting the words "for election to the House of Representatives or" in paragraph (b) of subsection (4);
- (f) deleting the proviso to subsection (5);
- (g) deleting the proviso to subsection (12); and
- (h) deleting the words "subject to the provisions of section 72 of this Constitution" appearing in subsection (16).

SECOND SCHEDULE

The Second Schedule of the Constitution is modified by deleting the words "MEMBER OF CONSTITUENCY BOUNDARIES COMMISSION, SUPERVISOR OF ELECTIONS AND SPEAKER".

DATED THIS 29th Day of **JULY**, 1994.

LS

Lt. YAHYA A.J.J. JAMMEH
Head of State and Chairman
of the Armed Forces
Provisional Ruling Council