

## CHAPTER 4

### THE STATUTORY FUNCTIONS ACT

# ARRANGEMENT OF SECTIONS

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## CHAPTER 4

STATUTORY FUNCTIONS

43 of 1970

An Act to make provision for the allocation of statutory functions and for the transfer and delegation thereof; and to provide for matters incidental to or connected with the foregoing.

[6th October, 1970]

1. This Act may be cited as the Statutory Functions Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Act" means a written law;

"council" has the meaning assigned thereto in the Local Government Act. Cap. 281

"identified person", in relation to statutory functions, means a person who is identified-

(a) by his title as President, Vice-President, named Minister, Secretary to the Cabinet, Deputy Secretary to the Cabinet, Attorney-General, Solicitor General or Deputy Minister assisting the President or the Vice-President or a named Minister; or

(b) in the case of the holder of a public office or an official post, by the title of such office or post;

(c) in the case of an official body, by the title of such body;

"official body" means a statutory corporation, body or commission or a council, and includes a committee thereof;

"official post" means a post held by a member or employee of an official body;

"President" includes the person for the time being discharging the functions of the President in terms of the Constitution;

"statutory functions" means the powers and duties conferred and imposed by an Act.

3. (1) Whenever in any Act, other than the Interpretation and General Provisions Act, there appears a definition of "Minister", such definition shall be deleted. Meaning of "Minister". Cap. 2

(2) Unless the context otherwise requires, any reference in any Act to the "Minister" or other person on whom statutory functions are conferred or imposed by any provision thereof shall be construed as a reference to the member of the Cabinet or other person for the time being vested with such functions.

(3) The person for the time being vested with statutory functions shall be-

- (a) the identified person, if any, on whom such functions are conferred or imposed by the provision in question; or
- (b) the person to whom the President has allocated or transferred such functions; or
- (c) if such provision does not confer or impose such functions on an identified person and the President has made no allocation, or if the President has revoked an allocation or transfer, the President; or
- (d) during any period when the person on or to whom statutory functions have been conferred or imposed, allocated or transferred, as the case may be, is absent from Zambia or unable through illness or other cause to perform such functions-
  - (i) in the case of a public officer, the person duly appointed to act in the office in question, or if no such appointment has been made, the President; or
  - (ii) in any other case, the President.

(4) Save where such functions are expressly conferred or imposed, allocated or transferred on or to some other person, the person for the time being vested with the functions conferred or imposed by a statutory instrument shall be the person for the time being vested with the functions conferred or imposed by the provision under which such statutory instrument was made.

4. (1) In relation to any provision, other than a provision the functions under which are conferred or imposed on an identified person, the President shall either retain the functions conferred or imposed thereby or allocate such functions to some other person.

Allocation, transfer, etc., of statutory functions

(2) In any case where the President has allocated such functions or where the provision in question confers or imposes the functions thereunder on an identified person, the President may, subject to section *six*, transfer such functions to himself or to some other person, or may revoke such allocation.

(3) Nothing in this Act shall prejudice any power exercisable by the President by virtue of the provisions of the Constitution. Cap. 1

(4) A transfer or revocation under this section shall not affect the validity of any delegation of the functions in question by a previous holder, and such delegation shall continue of force and effect as if it had been made by the person currently vested with the functions.

5. (1) No person may delegate a statutory function with which he is vested unless he is expressly so authorised by the Act by or under which such function was conferred or imposed: Delegation

Provided that the President, the Vice-President, a Minister, the Secretary to the Cabinet, the Attorney-General or a Deputy Minister may, subject only to section *six*, by writing under his hand, delegate to any other person any statutory function with which he is vested.

(2) Any delegation of a statutory function may be made subject to such conditions, qualifications or exceptions as may be prescribed therein.

(3) Any person who has delegated a statutory function may, notwithstanding such delegation, discharge, such function himself.

6. (1) The President shall not transfer any statutory function- Restrictions on  
transfer and  
delegation

(a) conferred on any person by the Constitution; or

(b) conferred on a Judge of the High Court or the Supreme Court;  
or

(c) which he is expressly prohibited from transferring by any Act.

(2) No person shall delegate any statutory function-

(a) which he is expressly prohibited from delegating by any Act; or

(b) unless a contrary intention is expressed-

- (i) which is conferred on him by the Constitution; or
- (ii) to make statutory instruments or to hear appeals.

7. (1) Every allocation, transfer, revocation or delegation of statutory functions shall be in writing under the hand of the President or the person delegating such functions, as the case may be, and shall be deemed to come into effect immediately on the expiration of the day next preceding the day on which it was signed.

Formalities and  
publication

(2) Every such allocation, transfer, revocation or delegation shall be notified for public information by *Gazette* notice, but no failure so to notify shall invalidate any such allocation, transfer, revocation or delegation or anything done thereunder.

(3) Any appeal, application or other representation required to be made or addressed to the person vested with the functions in question, and made or addressed after the allocation, transfer or delegation of such functions or the revocation thereof came into effect and before the publication of notice thereof, shall be deemed to have been validly made or addressed if made or addressed to the person vested with such functions prior to such allocation, transfer, revocation or delegation.

8. A certificate of the Secretary to the Cabinet that any statutory function or the responsibility for any Government business, department or matter has been retained by the President or allocated, transferred or assigned, as the case may be, to any person, and was so retained, allocated, transferred or assigned at any time or for any period specified in the certificate, shall be *prima facie* evidence in all courts and for all purposes of the matters stated therein.

Certificate of  
Secretary to the  
Cabinet

9. (1) Where the President is vested with any statutory function, the discharge of such function by the President may be signified under the hand of the Vice-President, a Minister, the Secretary to the Cabinet, the Attorney-General, a Deputy Minister or a Permanent Secretary:

Signification

Provided that Proclamations and warrants shall be issued only under the hand of the President.

(2) Where any person (other than the President) is vested with any

statutory function, the discharge by such person of such function may be signified under the hand of a Deputy Minister, a Permanent Secretary or such other public officer as the person concerned may either generally or specifically authorise.

**10.** Forthwith on the commencement of this Act and thereafter at such intervals as the Minister may direct there shall be notified for public information, by *Gazette* notice, a schedule setting out the Acts comprising the written laws of Zambia and the person at the time vested with the functions under each Act.

Schedule of statutory  
functions