

## **CHAPTER 32**

# **THE ZAMBIA LAW DEVELOPMENT COMMISSION ACT**

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## **CHAPTER 32**

ZAMBIA LAW DEVELOPMENT COMMISSION

*Act No.*  
11 of 1996  
38 of 1996

An Act to establish the Zambia Law Development Commission; to define the functions of the Zambia Law Development Commission; to repeal and replace the Law Development Commission and Institute for Legislative Drafting Act and to provide for matters connected with or incidental to the foregoing.

[1st April, 1996]

## **PART I**

## **PRELIMINARY**

1. This Act may be cited as the Zambia Law Development Commission Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"Commission" means the Zambia Law Development Commission established under section *three*;

"Commissioner" means the person appointed as Commissioner under section *five*;

"Chairperson" means the person appointed as Chairperson under section *five*;

"Deputy Chairperson" means the person appointed as Deputy Chairperson under section *five*;

"Deputy Director" means the person appointed as Deputy Director under section *twelve*;

"Director" means the person appointed as Director under section *twelve*;

"former Commission" means the Law Development Commission established under the repealed Act;

"repealed act" means the Law Development Commission and Institute of Legislative Drafting Act. *Act No. 5 of 1974*

## **PART II**

### **THE ZAMBIA LAW DEVELOPMENT COMMISSION**

3. There is hereby established the Zambia Law Development Commission which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform. Establishment of the Zambia Law Development Commission

4. (1) The functions of the Commission shall be to research and Functions of

make recommendations on-

Commission

- (a) the socio-political values of the Zambian people that should be incorporated into legislation;
- (b) the anomalies that should be eliminated in the statute book;
- (c) new and more effective methods of administration of the law and the dispensation of justice that should be adopted and legislated;
- (d) new areas of the law that should be developed which are responsive to the changing needs of Zambian society; and
- (e) the removal of archaic pieces of legislation from the statute book.

(2) Without prejudice to the generality of subsection (1) the functions of the Commission shall be to-

- (a) revise and reform the law in Zambia;
- (b) codify unwritten laws in Zambia;
- (c) review and consider proposals for law reform referred to the Commission by the Minister or the members of the public;
- (d) hold seminars and conferences on legal issues;
- (e) translate any piece of legislation into local languages;
- (f) encourage international co-operation in the performance of its functions under this Act; and
- (g) do all such things incidental or conducive to the attainment of the functions of the Commission.

**5.** (1) The Commission shall consist of the following part-time members:

Composition of  
Commission

- (a) a Judge nominated by the Judiciary;
- (b) a representative of any School of Law in a public university;
- (c) a representative of the Institute of African Studies at the University of Zambia;
- (d) the Chief Parliamentary Draftsman;
- (e) a representative of the Law Association of Zambia;
- (f) the Director of the Institute of Advanced Legal Education; and
- (g) not more than four other persons appointed;

(2) The Chairperson and the Vice-Chairperson shall be appointed by the Minister.

(3) The Chairperson shall be a person qualified to be a judge of the High Court with a bias in research.

(4) The members referred to in subsection (1) shall be appointed by the Minister.

*(As amended by Act No. 38 of 1996)*

**6.** (1) A member referred to in section *five* shall hold office for a period of three years from the date of that person's appointment and shall be eligible for re-appointment for a further period of three years.

Tenure of office

(2) A member referred to in subsection (1) may resign upon giving one month's notice in writing to the organisation that nominated him and to the Minister.

(3) The Minister may remove a member if-

- (a) the member is absent without reasonable excuse from three

consecutive meetings of the Commission of which he has had notice;

(b) he ceases to hold the office which he occupies or ceases to be a representative of the organisation which nominated him; or

(c) the member is declared bankrupt.

*(As amended by Act No. 38 of 1996)*

**6A.** A member shall be paid such remuneration or allowances as the Commission may, with the approval of the Minister, determine. Remuneration and allowances

*(As amended by Act No. 38 of 1996)*

**7.** (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary. Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson or any other person authorised in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**8.** Subject to section *seven*, whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another person to be a member in place of the member who vacates the office. Filling of casual vacancy

**9.** (1) Subject to the other provisions of this Act, the Commission may regulate its own procedure. Proceedings of Commission

(2) The Commission shall meet for the transaction of business at least once every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may at any time call a meeting of the Commission and shall call a special meeting to be held within fourteen days of receipt of a written request addressed to him by at least five Commissioners.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Two-thirds of the Commissioners shall form a quorum at any meeting of the Commission.

(6) There shall preside at any meeting of the Commission-

(a) the Chairperson;

(b) in the absence of the Chairperson the Vice-Chairperson; or

(c) in the absence of both the Chairperson and Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Commission on any question shall be by a majority of the Commissioners present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(8) The Commission may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Commission, but such person shall have no vote.

(9) The validity of any proceedings, acts or decisions of the Commission shall not be affected by any vacancy in the membership of the Commission or by any defect in the appointment of any Commissioner by reason that any person not entitled to do so took part in the proceedings.

**10.** (1) The Commission may, for the purpose of performing its Committees

functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it considers fit.

(2) Subject to subsection (1), the Commission may appoint as members of a committee, persons who are, or are not, Commissioners, except that at least one member of a committee shall be a Commissioner.

(3) A person serving as a member of a committee shall hold office for such period as the Commission may determine.

(4) Subject to any specific or general direction of the Commission, a committee may regulate its own procedure.

**11.** (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or his spouse is directly or indirectly interested in a private capacity, that person shall as soon as practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

### **PART III**

#### **THE DIRECTORATE OF THE COMMISSION**

**12.** (1) The Commission shall appoint the Director and Deputy Director of the Commission. Director and Deputy Director

(2) The Director shall be the Chief Executive Officer of the Commission who shall be responsible for the management and administration of the Commission.



(3) The Director shall be responsible for the implementation of the decisions of the Commission.

13. (1) The Director shall be the Secretary to the Commission.

Secretary,  
Research fellows  
and other staff

(2) The Commission may appoint Research Fellows on such terms and conditions as it may determine.

(3) There shall be such other staff of the Commission as the Commission may consider necessary.

14. (1) A person shall not without the consent in writing given by, or on behalf of the Commission, publish or disclose to any person otherwise than in the course of his duties, the contents of any documents, communication, or information which relates to, and which has come to his knowledge in the course of his duties under this Act.

Prohibition of  
disclosure of  
information

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

(3) If any person having any information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

## **PART IV**

### **FINANCIAL PROVISIONS**

15. (1) The funds of the Commission shall consist of such moneys as Funds of

may-

Commission

(a) be appropriated by the National Assembly for the purposes of this Act;

(b) be paid to the Commission by way of grants or donations; and

(c) vest in or accrue to the Commission.

(2) The Commission may-

(a) subject to the approval of the Minister, accept money by way of grants or donations from any source;

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such money as it may require for the discharge of its functions;

(c) charge and collect fees in respect of programmes, publications, seminars, consultancy services and other services provided by the Commission.

(3) There shall be paid from the funds of the Commission-

(a) the salaries, allowances and loans of the staff of the Commission;

(b) such reasonable travelling, transport and subsistence allowances for the Commissioners and members of any committee of the Commission when engaged in the business of the Commission, and at such rates as the Minister may after consultation with the Commission, determine; and

(c) any other expenses incurred by the Commission in the performance of its functions.

*(As amended by Act No. 38 of 1996)*

**16.** The financial year of the commission shall be the period of Financial year

twelve months ending on 31st December in each year.

**17.** (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Commission, subject to the approval of the Minister.

(3) The auditors' fees shall be paid by the Commission.

**18.** (1) As soon as practicable, but not later than ninety days after the Annual report end of the financial year, the Commission shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report-

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

## **PART V**

### **MISCELLANEOUS**

**19.** (1) Subject to the other provisions of this Act, a person who immediately before the commencement of this Act, held office as a Savings and transitional

member of the former Commission, shall hold office as a member of the Commission for a period of three months. provisions

(2) After the period referred to in subsection (1) the Commissioners shall be appointed in accordance with this Act.

(3) Nothing in this Act affects the rights or liabilities of any person employed by the former Commission immediately before the commencement of this Act.

(4) On the appointed date, all property, assets, rights, liabilities and obligations of the former Commission shall vest in the Commission established by this Act.

(5) Any proceedings or cause of action instituted or pending by or against the former Commission immediately prior to the commencement of this Act, shall continue as if instituted under this Act.

**20.** (1) The employees of the former Commission shall be deemed to be transferred to the Commission from the commencement of this Act. Transfer of staff

(2) The service of the employees referred to in subsection (1) shall be treated as continued service.

(3) The employees of the Commission shall continue to contribute to the Public Service Pension Scheme under the Public Service Pensions Act. Cap. 260

**21.** The Minister may, by statutory instrument, make Regulations for the better carrying out of the purposes of this Act. Regulations