

**THE JUDICIAL (CODE OF CONDUCT) (AMENDMENT)
BILL, 2006**

MEMORANDUM

The object of this Bill is to amend the Judicial (Code of Conduct) Act so as to —

- (a) rename the Complaints Committee as the Judicial Complaints Authority;
- (b) revise the provisions relating to the Complaints Committee; and
- (c) to provide for matters connected with or incidental to the forgoing.

G. KUNDA,
Attorney-General

N.A.B. 13, 2006
10th March, 2006

GOVERNMENT OF ZAMBIA

ACT

No. 13 of 2006

Date of Assent: 12th May, 2006.

An Act to amend the Judicial (Code of Conduct) Act.

[19th May, 2006

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Judicial (Code of Conduct) (Amendment) Act, 2006, and shall be read as one with the Judicial (Code of Conduct) Act, 1999, in this Act referred to as the principal Act.

Short title

Act No. 13 of 1999

2. Section *two* of the principal Act is amended —

Amendment of section 2

(a) by the deletion of the definition “ Committee ”; and

(b) by the insertion in the appropriate place of the following new definition:

“ Authority ” means the Judicial Complaints Authority established under section *twenty*;

3. Part VI of the principal Act is amended by the deletion of the heading “ COMPLAINTS COMMITTEE ” and the substitution therefor of the heading “ JUDICIAL COMPLAINTS AUTHORITY ”.

Amendment of Part VI

4. The principal Act is amended by the repeal of sections *twenty* and *twenty-one* and the substitution therefor of the following sections:

Repeal and replacement of sections 20 and 21

20. (1) There is hereby constituted a Judicial Complaints Authority which shall consist of five members who have held or are qualified to hold high judicial office.

Judicial Complaints Authority

(2) The members of the Authority shall be appointed by the President subject to ratification by the National Assembly.

(3) The members shall elect the Chairperson of the Authority from amongst themselves.

(4) A member shall hold office for a period of four years subject to renewal for a further like period.

(5) A member may resign upon giving one month's notice in writing to the President.

(6) The President may remove a member if —

(a) the member is absent without reasonable excuse from three consecutive meetings of the Authority of which the member has had notice;

(b) the member is found guilty of an offence involving dishonesty; or

(c) the member fails to perform the duties of the members's office.

(7) Where the office of a member falls vacant before the expiry of the term of office, the President may appoint another person to be a member in place of the member who vacates office but the new member shall hold office only for the unexpired part of the term.

(8) A member of the Committee who is in office on the date when this Act comes into operation shall continue to hold office as if appointed as a member of the Authority under this Act:

Provided that a member referred to in this section shall hold office only for the unexpired part of the term subject to re-appointment in accordance with subsection (4).

Secretary and
other staff

21. (1) There shall be a full-time Secretary to the Authority who shall be appointed by the President.

(2) The Secretary shall be responsible for—

(a) the management and administration of the Authority; and

(b) the implementation of any matters referred to the Secretary by the Authority.

(3) The Secretary shall be appointed for a period of five years and may be eligible for re-appointment.

(4) The Secretary shall serve on such terms and conditions of service as the Authority shall, with the approval of the Minister, determine.

(5) The Authority may appoint such other staff of the Authority as it considers necessary for the performance of its functions under this Act.

(6) The terms and conditions of service of the staff of the Authority shall be determined by the Authority with the approval of the Minister.

(7) The person holding office as Secretary to the Authority on the date when this Act comes into operation shall continue to hold office as if appointed under this Act:

Provided that the Secretary referred to in this section shall hold office only for the unexpired part of the Secretary's term of office and may be eligible for re-appointment in accordance with subsection (3).

5. Section *twenty-two* of the principal Act is amended by the deletion of the word "Committee" and the substitution therefor of the word "Authority".

Amendment
of section 22

6. The principal Act is amended by the repeal of section *twenty-three* and the substitution therefor of the following new section:

Repeal and
replacement
of section 23

23. A member of the Authority shall be paid such remuneration and allowances as may be determined by the Authority with the approval of the Minister.

Remunera-
tion and
allowances of
members

7. Section *twenty-four* of the principal Act is amended—
(a) in subsection (1)—

Amendment
of section 24

(i) by the deletion of the word "Committee" and the substitution therefor of the word "Authority";

(ii) by the deletion of the semicolon at the end of paragraph (a) and the substitution therefor of a colon; and

(iii) by the insertion after the colon of the following new proviso:

Provided that where, in the opinion of the Authority a complaint or allegation of misconduct made against the judicial officer does not disclose any *prima facie* case, the Authority may dismiss such a complaint or allegation without investigating the complaint or allegation.;
and

(b) by the deletion of subsection (3) and the substitution therefor of the following subsection:

(3) The appropriate authority or the Director of Public Prosecutions shall, where a report is made by the Authority under subsection (1), notify the member against whom the report is made within seven days from the date the report is received and shall thereafter notify the Authority of the action taken, if any, on the Authority's recommendation.

Amendment
of section 25

8. Section *twenty-five* of the principal Act is amended—

(a) in subsections (1) and (2) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”;

(b) in paragraph (c) of subsection (3) by the deletion of the word “ Administrator ” and the substitution therefor of the word “ Commissioner ”; and

(c) in subsection (8) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”.

Amendment
of section 26

9. Section *twenty-six* of the principal Act is amended in subsection (2) —

(a) by the deletion of the words “ seven days ” after the word “ within ” and the substitution therefor of the words “ twenty-one days ”; and

(b) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”.

Amendment
of section 27

10. Section *twenty-seven* of the principal Act is amended—

(a) in subsection (1) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”; and

(b) in subsection (2) by the deletion of the word “ Committee ” wherever it appears and the substitution therefor of the word “ Authority ”.

Amendment
of section 28

11. Section *twenty-eight* of the principal Act is amended by the deletion of the word “ Committee ” wherever it appears and the substitution therefor of the word “ Authority ”.

Insertion of
new section
28A

12. The principal Act is amended by the insertion immediately after section *twenty-eight* of the following new section:

Expenses
of Authority

28A. The expenses and costs of the Authority shall be paid out of funds appropriated by Parliament for the performance of the Authority's functions under this Act.

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- 13.** Section *twenty-nine* of the principal Act is amended in subsection (1) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”. Amendment of section 29
- 14.** Section *thirty* of the principal Act is amended in subsection (1) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”. Amendment of section 30
- 15.** Section *thirty-two* of the principal Act is amended by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”. Amendment of section 32
- 16.** Section *thirty-three* of the principal Act is amended in subsection (2) by the deletion of the word “ Committee ” and the substitution therefor of the word “ Authority ”. Amendment of section 33
- 17.** Section *thirty-five* of the principal Act is amended by the deletion of the words “ Chief Justice ” and the substitution therefor of the word “ Minister ”. Amendment of section 35
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