

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 90 OF 2006

The Electoral Act
(Act No. 12 of 2006)**The Electoral (Code of Conduct) Regulations, 2006**

IN EXERCISE of the powers contained in section *one hundred and nine* of the Electoral Act, 2006, the following Regulations are hereby made:

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| 1. These Regulations may be cited as the Electoral (Code of Conduct) Regulations, 2006. | Title |
| 2. In these Regulations, unless the context otherwise requires— | Interpretation |
| “ Act ” means the Electoral Act, 2006; | Act No. 12 of 2006 |
| “ campaign material ” means party manifestos, posters, chitenges, T shirts and any other material with party symbols lawfully used in connection with an election; | |
| “ candidate ” means a person nominated as a candidate for an election; | |
| “ Code ” has the meaning assigned to it in the Act; | |
| “ Commission ” means the Electoral Commission of Zambia established under the Constitution; | Cap. 1 |
| “ election officer ” has a meaning assigned to it in the Act; | |
| “ media ” includes print and electronic media; | |
| “ monitor ” includes a party agent, polling agent and any member of the civil society designated as a monitor; | |
| “ observer ” means a person accredited as an observer by the Commission; and | |
| “ public officer ” means a person holding or acting in any public office but does not include officers holding the offices referred to in clauses (2) and (3) of Article <i>one hundred and thirty-nine</i> of the Constitution. | |
| 3. The Commission and political parties shall take all reasonable steps to publicise the Code of Conduct throughout the Republic. | Commission to publicise Code |

- Duty of every person during election campaigns and elections
4. (1) Every person shall during election campaigns and elections promote conditions conducive to the conduct of free and fair elections and be bound by the Code.
- (2) The Commission and any member of the Zambia Police Force shall enforce the Code and shall promote conditions conducive to the observance of the Code.
- Political parties and candidates to subscribe to Code
5. (1) Every candidate for presidential, National Assembly and local government elections shall, when filing nomination papers, subscribe to the Code in Form ECC1 set out in the Schedule.
- (2) Every political party shall, on such date as the Commission may direct, subscribe to the Code in Form ECC1 set out in the Schedule.
- (3) A declaration lodged under subregulation (1) and (2) shall be made and subscribed before a magistrate, notary public, commissioner for oaths, local court justice, head teacher of a basic or high school, principal of a college, elections officer or head of any Government institution, or any other person so designated by the Commission.
- (4) Any conduct by a person or political party in contravention of this regulation shall be an offence.
- Rights of every person
6. (1) Every person shall subject to Regulation 7 have the right to—
- (a) express political opinions;
 - (b) debate the policies and programmes of political parties;
 - (c) canvas freely for membership and support from voters;
 - (d) distribute electoral literature and campaign materials;
 - (e) publish and distribute notices and advertisements;
 - (f) erect banners, placards and posters;
 - (g) campaign freely; and
 - (h) participate freely in political activities; and
 - (i) seek protection of the law from harm as a result of that person's political opinion or affiliation.
- (2) A public officer shall not engage in any political activity referred to in subregulation (1) whilst in the public service.
- Prohibitions
7. (1) A person shall not —
- (a) cause violence or use any language or engage in a course of conduct which leads or is likely to lead to violence or intimidation during election campaigns or elections;
 - (b) carry or display arms or weapons, traditional or otherwise, of any kind at a political meeting or in the course of any

- march, demonstration or other public gathering of a political nature;
- (c) make false, defamatory or inflammatory allegations concerning any person or party in connection with an election;
 - (d) arrange a public meeting, demonstration, rally or march at the same time and venue as another similar political event organized by another political organisation;
 - (e) impede the democratic right of any person or party, through their candidates, campaigners or representatives, to have reasonable access to voters for the purposes of conducting voter education, fund raising, canvassing membership or soliciting support;
 - (f) plagiarize the symbols, colours or acronyms of other parties;
 - (g) remove, disfigure or destroy any political campaign materials of any person;
 - (h) offer any inducement or reward to any person in consideration of such person—
 - (i) joining or not joining any party;
 - (ii) attending or not attending any political event;
 - (iii) voting or not voting; or
 - (iv) accepting, refusing or withdrawing such person's nomination as a candidate in an election; or
 - (v) surrendering that person's voter's card;
 - (i) abuse or attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority, for political purposes, including any offer of a reward or a threat;
 - (j) propagate any opinion or action which is prejudicial to—
 - (i) the sovereignty, integrity or security of the country;
 - (ii) the maintenance of public order; or
 - (iii) the independence of any institution;
 - (k) use Government or parastatal transport or facility for campaign purposes:

Provided that this paragraph shall not apply to use by the President and the Vice President in connection with their respective offices;
 - (l) use Government transport and resources or facility to ferry voters to polling stations;
 - (m) discriminate against any person on grounds of race, ethnicity, class, gender, religion or in any other manner in connection with an election or political activity; and

(n) carry any statue, caricature or anything which tends to ridicule, revile or scandalize any political party or its leader or the Government, at any public political gathering, meeting or procession.

(2) Any person who contravenes subregulation (1) commits an offence and shall be liable upon conviction to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a term not exceeding two years or to both.

Duties of
political
parties

8. (1) Every political party shall —
- (a) establish and maintain effective lines of communication with the Commission, and with other registered parties, at national and local level, including the provision of names, physical and postal addresses and contact telephone and facsimile numbers of party election agents and of other relevant office bearers and representatives;
 - (b) accept and respect decisions of the Commission in respect of election results announced by returning officers and the Commission in accordance with the law;
 - (c) issue directives to their members and supporters to observe the Code and take all other necessary steps to ensure compliance;
 - (d) hold public meetings in compliance with established laws;
 - (e) adhere to the election timetable issued by the Commission in conducting election campaigns in accordance with section *twenty-six* of the Act;
 - (f) take necessary measures to ensure environmental protection and cleanliness in the course of posting or distributing electoral campaign materials;
 - (g) carry out their campaign meetings and rallies peacefully, without tribal, religious, sexual, racial or other forms of discrimination; and
 - (h) refrain from camping at a polling station during campaigns and elections.
- (2) A member or supporter of a political party shall not —
- (a) use language which incites hatred or violence in any form against any person or class of persons or issue a pamphlet, newsletter, poster or other propaganda which contains materials that incite people to violence;
 - (b) deface, remove or destroy campaign materials of another political party or publications of the Commission; and
 - (c) a member or supporter of a Political Party shall not disrupt another political party's rally, meeting, march or demonstration or seek to obstruct another person from attending a political rally of another political party.

(3) Without prejudice to any other written law, any person who contravenes subregulation (2) commits an offence and shall be liable upon conviction to a fine not exceeding two thousand five hundred penalty units or to imprisonment not exceeding one year or to both.

9. A person or a member of the Zambia Police Force shall not coerce or intimidate another person during election campaigns, public debates or elections.

Prohibition
of coercion or
intimidation

10. (1) The Commission shall where reasonable and practicable to do so —

Duties of the
Commission

- (a) meet political party representatives on a regular basis to discuss all matters of concern related to the election campaign and election itself;
- (b) ensure that political parties do not use state resources to campaign for the benefit of any political party or candidate;
- (c) avail political parties with the election timetable and election notices in accordance with the Act;
- (d) censure all acts done by leaders of political parties, candidates, supporters, Government and its organs, which are aimed at jeopardizing elections or done in contravention of this Code;
- (e) declare election results without delay;
- (f) ensure that any campaign rally or meeting which is legally organized by any political party is not disrupted or wantonly prohibited;
- (g) ensure that no election officer is unjustifiably victimized in the course of their election duties;
- (h) ensure that police officers act professionally and impartially during the electoral process;
- (i) ensure that traditional leaders, such as chiefs and headmen, do not exert undue or excessive influence on their subjects to support a particular political party or candidate;
- (j) ensure that equal opportunity is given to all stake holders, particularly political parties to participate in and conduct their political activities in accordance with the law; and
- (k) condemn acts of media organizations and personnel aimed at victimization, punishment or intimidation of media practitioners implementing any of the provisions of this Code.

(2) Members of the Commission may attend political rallies to ensure compliance with this Code.

Duties of
Zambia
Police Force

11. The Zambia Police Force shall —
- (a) enforce law and order at campaign meetings and processions in order to maintain peace and order;
 - (b) ensure that police officers do not abuse their authority or Government resources to campaign for the benefit of any political party or candidate;
 - (c) refrain from disrupting any campaign rally or meeting which is legally convened by any political party; and
 - (d) ensure that police officers do not use their mandate to oppress any political party, candidate or supporter.

Duties of
media

12. (1) All print and electronic media shall —
- (a) provide fair and balanced reporting of the campaigns, policies, meetings, rallies and press conferences of all registered political parties and candidates during the period of campaigning;
 - (b) provide news of the electoral process up to the declaration of results;
 - (c) abide by regional codes of conduct in the coverage of elections, provided that such guidelines are not in conflict with this Code;
 - (d) be bound by the provisions of this Code during elections;
 - (e) in liaison with the Commission, recognize a representative media body authorised to receive complaints and provide advice regarding fair coverage of elections.

- (2) All media organisations shall endeavour to —
- (a) undertake capacity building of media personnel in their respective organizations;
 - (b) report election news in an accurate manner and not make any abusive editorial comment, incite violence or advocate hatred based on race, ethnicity, tribe, gender, political or religious conviction; and
 - (c) identify any editorial comment they wish to make and separate it from the news.

(3) Heads and other senior management staff of public or private media organisations shall not intimidate media practitioners and shall allow them to exercise professional judgement without undue influence.

- (4) All public and private media personnel shall —
- (a) conduct interviews with candidates with fairness both in the style of the interview and in the amount of the time given; and

(b) refrain from broadcasting their own political opinion, commentary or assessment; and where they wish to do so, they shall clearly identify the opinion, commentary or assessment as their own and shall carefully balance it in order to avoid bias.

13. (1) All public television and radio broadcasters shall allocate public air time equally to all political parties for their political broadcasts. Allocation of air time

(2) A political party shall not buy more than thirty minutes air time in any given one language on public television or radio in any one week.

(3) Television and radio broadcasters shall not schedule any party's political broadcast or other political discussion or interview, opinion poll results or broadcast prediction of the result of polling day until the polls have closed.

(4) Broadcasters shall inform the public on the source of a public opinion poll and shall indicate the margin of error.

14. (1) All media shall disclose accurate election results and shall provide updates on the progress of the vote counting process and shall not speculate election results but shall broadcast confirmed election results as they are announced and published by presiding officers. Election results programme

(2) Television and radio stations shall —

(a) maintain full records of all radio and television news bulletins and recordings of all other programmes related to the election, including party political broadcasts and shall institute a close and meticulous monitoring system to ensure balance throughout the campaign and up to the close of poll; and

(b) provide the Commission at any reasonable time with all such records, information and recordings as the Commission may require to fulfil its monitoring role.

(3) The Commission shall require newspapers to make available back copies of newspapers for inspection in the event of a complaint.

(4) Any candidate or political party wishing to make a complaint of unfair treatment or coverage in the course of the election campaign, shall send that complaint in writing to the Commission.

(5) Where any complaint made under sub regulation (4) has the effect of asking any media organisation to correct a mistake, the candidate making the complaint shall send the complaint to that media organisation and a copy of it to the Commission, and the media organisation shall respond to any such complaint.

(6) Where a right of reply, a retraction or the correction of a matter of significance is necessary, it shall be made in a like manner and with equal prominence as the original report or publication.

Monitors
and
observers

15. (1) A person shall not act as an observer or monitor, during election campaigns and elections unless that person is duly accredited by the Commission and has subscribed to the Code in Form ECC 2 set out in the Schedule.

(2) Every declaration lodged under subregulation (1) shall be made and subscribed before a magistrate, local court justice, head of a basic or high school, principal of a college, Commissioner for oaths, election officer or head of any Government institution, or any other person authorised by the Commission.

(3) A local monitor shall be nominated by an organisation and shall undergo training and assessment by that organisation.

(4) Monitors and observers shall be provided with necessary identification by the Commission and their organisations.

(5) Monitors and observers shall discharge their functions in accordance with this Code and any other written law or such lawful directives as may be given by the Commission or any person acting on its behalf.

(6) Monitors and observers shall —

- (a) bring to the attention of the presiding officer or returning officer or member of the Commission any observed electoral malpractice;
- (b) be impartial in the conduct of their duty and shall at no time publicly indicate or express any bias or preference with reference to any party or candidate;
- (c) be in a sufficient number at each polling station and shall ensure that their presence is widely known and recognised by the electorate;
- (d) not interfere with the duties of the election officials in any way, and shall immediately report any violation to the proper authority;
- (e) ensure that any material information or report which they receive or any event, occurrence or statement of which they have been notified or which indicates the commission of an offence or infringement of the Act or these Regulations are brought to the attention of their organisations, the police, the Commission, conflict management committees and other parties concerned;
- (f) not by themselves or through their organisation declare or disclose the result of any election before the declaration by the Commission;

- (g) when so requested, immediately identify themselves to any election officer, or police officer and shall during the conduct of their activities, at all times carry, wear or otherwise prominently display the prescribed identification issued by the Commission;
- (h) not display allegiance to any political party at any time and shall refrain from carrying, wearing and displaying electoral material or any article of clothing, emblem, colours, badges or other items denoting support for or opposition to any political party or candidates or any of the issues in contention in the elections;
- (I) not be involved in corrupt practices or accept any favours, so as to make statements in favour of or against any candidate or political party; and
- (j) refrain from carrying or displaying arms or other dangerous weapons during the conduct of their activities or while wearing their identification.

(6) Monitors and observers and their sponsoring organisations shall, whenever requested by the Commission, attend such briefings, training workshops and other meetings convened in order to coordinate their activities.

(7) After the declaration of results of the elections, monitors and observers shall hand over to the Commission any identification they received from it.

(8) The Commission may revoke the accreditation of any monitor or observer who contravenes the provisions of this Code.

16. (1) Conflict management committees established by the Commission pursuant to section *one hundred and eleven* of the Act shall have power to resolve electoral disputes.

Application
of Code

(2) The conflict management committees shall take cognisance of the provisions of the Code in resolving electoral disputes.

(3) All complaints arising during election campaigns and elections shall be made to any officer of the Commission or to a conflict management committee at the place where the conduct complained against occurred.

(4) Conflict management committees shall mediate in electoral disputes and shall encourage amicable settlement of electoral disputes.

17. Any person who contravenes any provision of these Regulations for which no specific penalty is provided commits an offence and shall be liable upon conviction to a fine not exceeding

General
Penalty

two thousand five hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

Revocation of S.I. No. 179 of 1996

18. The Electoral (Conduct) Regulations, 1996 are hereby revoked.

SCHEDULE

Form ECC1

(Regulation 5)

REPUBLIC OF ZAMBIA

The Electoral (Code of Conduct) Regulations, 2006

Declaration of Compliance by Candidates and Political Parties

I,do solemnly and sincerely declare that:

(1) I am a citizen of:

(2) My National Registration Card Number is.....

(3) *I am the Secretary General of.....a political party registered under the Societies Act, Cap. 119 of the Laws of Zambia, and intending to participate in the elections.

* I am a candidate intending to participate in the elections.

(4) I shall with comply and be bound by the provisions of the Electoral (Code of Conduct) Regulations, 2006.

(5) *I shall ensure that the.....as a political party and its supporters, shall observe the Code of Conduct during campaigns and elections.

(6) I make this solemn declaration conscientiously believing the same to be true

Signed:.....

Name:.....

Residential Address:

Subscribed to and solemnly declared before me at.....this.....day of20

.....

Magistrate/Notary Public/Commissioner for Oaths/ HeadTeacher/ Electoral Officer

*delete whichever is inapplicable.

Form ECC2

REPUBLIC OF ZAMBIA

(Regulation 15)

**The Electoral (Code of Conduct) Regulations, 2006
Declaration of Compliance by Monitors and Observers**

I,do
solemnly and sincerely declare that:

1. I am a citizen of.....
2. My National Registration Card/Passport No. is.....
3. I am a *monitor/*observer duly accredited as such by the Commission to monitor/observe the elections.
4. I shall be impartial in the course of my duties and shall not support or align myself to any political party, either directly or indirectly.
5. I shall comply with the provisions of the Electoral (Code of Conduct) Regulations, 2006.
6. I make this solemn declaration conscientiously believing the same to be true and correct.

Signed:

Name:.....

Residential Address:

Subscribed to and solemnly declared before me at.....

this..... day of 20

.....
Magistrate/Notary Public/ Commissioner for Oaths/ HeadTeacher/
Electoral Officer

*delete whichever is inapplicable

Made at Lusaka this 4th day of August, 2006.

JUSTICE I. C. MAMBILIMA,
Chairperson

N. N. K. KALALA,
Member

G. M. MULAPESI,
Member

LUSAKA

4th August, 2006

[EC.53/9/3 CONF.]