

**THE CONSTITUENCY DEVELOPMENT FUND
BILL, 2018**

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the management, disbursement, utilisation and accountability of the Constituency Development Fund established under the Constitution;
- (b) establish Constituency Development Fund Committees in constituencies and provide for their composition and functions; and
- (c) provide for matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

**THE CONSTITUENCY DEVELOPMENT FUND
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SCHEDULE

A BILL

ENTITLED

An Act to provide for the management, disbursement, utilisation and accountability of the Constituency Development Fund established under the Constitution; establish Constituency Development Fund Committees in constituencies and provide for their composition and functions; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Constituency Development Fund Act, 2018, and shall come into operation on the date appointed by the Minister by statutory instrument.

Short title and commencement

2 In this Act, unless the context otherwise requires—

Interpretation

“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;

Act No. 3 of 2012

10 “Committee” means the Constituency Development Fund Committee established under section 5;

“community” means a geographically defined group of persons or sector of the public with a specific ascertainable common interest;

15 “constituency” has the meaning assigned to the word in the Constitution;

Cap. 1

“constituency account” means an account maintained for every constituency in accordance with section 9;

6 No. of 2018] *Constituency Development Fund*

Cap. 1	“council” has the meaning assigned to the word in the Constitution;	
Cap. 1	“councillor” has the meaning assigned to the word in the Constitution;	
Cap. 1	“Fund” means the Constituency Development Fund established under Article 162 of the Constitution;	5
Cap. 1	“local authority” has the meaning assigned to the words in the Constitution;	
	“project” means a constituency development project and includes a project initiated by a person or a community for the benefit of the community;	10
Act No. 3 of 2012	“relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012;	
Cap. 1	“ward” has the meaning assigned to the word in the Constitution; and	15
Act No. of 2018	“Ward Development Committee” means the Ward Development Committee established under the Local Government Act, 2018.	

PART II

THE CONSTITUENCY DEVELOPMENT FUND COMMITTEE 20

Principles of management, disbursement and utilisation of Fund	3. The management, disbursement from and utilisation of the Fund shall be done in accordance with the following principles: (a) transparency; (b) accountability; and (c) equity.	25
Role of Minister relating to Fund	4. (1) The Minister is responsible for— (a) the implementation of this Act; (b) ensuring prudent management of the Fund; (c) receipt, review and approval of project lists from Committees; (d) ensuring the compilation of proper records, returns and reports from the constituencies; and (e) receiving and review annual reports and returns from councils.	30
Constituency Development Fund Committee	5. (1) There is established a Constituency Development Fund Committee in each constituency. (2) A Committee consists of the following part-time members appointed by the Minister:	35

N.A.B. 9, 2018

- (a) two community representatives nominated by the Member of Parliament from the constituency;
- (b) three councillors in the constituency, elected by the councillors in the constituency;
- 5 (c) one representative of a chief where a constituency has one chief, or two representatives of chiefs where the constituency has two or more chiefs, nominated by those chiefs from within the constituency;
- (d) a representative of the director responsible for planning at the local authority in which the constituency is located;
- 10 (e) a representative of the director responsible for works or engineering services at the local authority in which the constituency is located;
- (f) a representative of a civil society organisation operating in the constituency nominated by the Member of Parliament from the constituency;
- 15 (g) a representative of a religious organisation in the constituency nominated by the Member of Parliament from the constituency; and
- 20 (h) the Member of Parliament from the constituency.

(3) The members of a Committee shall elect the Chairperson and the Vice-Chairperson from amongst themselves, except that a member under subsection (2) (b), (d), (e) and (h), does not qualify to be elected as a Chairperson.

25 (4) The Directorates of Planning, and Finance in the local authority in a district shall provide the necessary secretarial and accounting services to a Committee to perform its functions under this Act.

(5) The provisions of the Schedule apply to a Committee.

30 **6.** The functions of a Committee are to—

Functions of Committee

- (a) ensure the compilation of proper records, returns and reports from the constituency;
- (b) receive and discuss annual reports and returns from the constituency;
- 35 (c) receive a project list from the ward development committee within the constituency or proposals for joint projects with other constituencies;
- (d) deliberate on project proposals from the wards; and
- (e) develop and submit a project list to the local authority for onward transmission to the Minister.

PART III

CONSTITUENCY DEVELOPMENT FUND

- Constituency Development Fund
7. The Fund consists of—
- (a) monies appropriated by Parliament for the purposes of the Fund; and 5
- (b) monies received by way of grants, fees, council contributions or donations for purposes of the Fund specifically intended for funding projects.
- Constituency account
8. (1) A council shall, subject to the approval of the Ministry responsible for finance, open and operate a special bank account 10 in the name of each constituency for the purposes of the Fund at a commercial bank that the council may determine, in which the money received for the purposes of the Fund shall be deposited and kept.
- (2) Subject to subsection (3), a council shall retain unutilised 15 funds in the constituency account and investments shall not be permitted elsewhere, except for funds meant for a project that is cancelled or discontinued.
- (3) A council shall at the end of the financial year cause the unutilised funds referred to in subsection (2) to be returned to the 20 Fund.
- Disbursement from Fund and constituency account
9. (1) There shall be paid from the Fund monies for approved projects in a constituency.
- (2) A disbursement from the Fund shall be made to the constituency account maintained and managed by the council as 25 the spending agency.
- (3) A council shall disburse funds from the constituency account based on projects approved by the Minister.
- (4) The council shall disburse funds to the constituency account within the first quarter of each financial year or soon thereafter as 30 soon as returns are received from the constituency showing an equivalent amount expended from the constituency account.
- (5) The council shall submit a record of the amounts received by a constituency and a record of expenditure of the amounts so received to the Minister within thirty days after the close of the 35 financial year together with a copy of the relevant bank statements.
- Accountability and transparency
10. (1) The principal officer is responsible for the finances of the council in which a constituency is located shall maintain separate books of accounts for the constituency account.

(2) The principal officer under subsection (1) shall compile and maintain or cause to be compiled or maintained a record showing receipts and disbursements on a monthly basis in respect of every project under this Act.

5 (3) The principal officer shall submit the record referred to in subsection (2) to the Provincial Local Government Officer, and copies to the Permanent Secretary responsible for local government and Member of Parliament for that constituency.

10 **11.** (1) All receipts, savings and accruals to the Fund and the constituency account, and the balance of the Fund and the constituency account at the end of each financial year shall be retained for the purposes for which the Fund and the constituency account is established. Funds to be retained

15 (2) All funds allocated to a constituency shall be cumulative and shall be carried forward from one financial year to the next, including funds retained in the account.

12. The Fund shall not be used for any purposes other than disbursements to constituency accounts to meet costs of approved projects and administrative expenses. Prohibition of use of Fund for non-Fund purposes

20 **13.** (1) The Minister shall ensure that prudent controls are established for the Fund relating to— Accounts and audit

(a) fiscal controls and accounting procedures governing the fund; and

(b) reporting procedures for matters relating to the Fund.

25 (2) The Minister shall cause to be kept proper books of account and other records relating to the accounts of the Fund.

(3) The Fund shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

(4) The auditor's fees shall be paid by the Ministry.

30 **14.** (1) The Minister shall, not later than ninety days after the first sitting of the National Assembly lay a report before the National Assembly. Annual report

(2) The report referred to in subsection (1) shall include information on the value for money of the project and the financial affairs of the Fund and there shall be appended to the report—

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income;

(c) a statement regarding the purpose and impact of the project and value for money; and

(d) other information that the Minister may require.

(3) The Minister responsible for finance, on recommendation by the Minister, shall not make a disbursement into a constituency account for the financial year following the financial year in respect of which a report referred to in subsection (1) remains unsubmitted, until that report is submitted.

PART IV

CONSTITUENCY DEVELOPMENT PROJECT PROPOSALS 10

Submission of proposed projects by Committee

15. (1) Subject to section 7(e), a Committee shall submit to the Minister a proposed project list and the estimated costs of the proposed projects before the end of the month of March in each year in the prescribed manner and form to ensure timely release of funds. 15

(2) The Minister shall ensure that the projects on the proposed project list comply with the provisions of this Act.

(3) The Minister shall, on approval, publish in the *Gazette*, the project list, except that the requirement to publish shall not affect the implementation of an approved project. 20

(4) A project that is approved by the Minister shall be funded and the implementation of the approved project shall be completed within the agreed contractual period.

Submission of project proposals to Minister by Committee

16. (1) A Committee shall, prior to the submission of a proposed project list to the Minister invite a ward development committee to submit proposals during the first quarter of every year preceding the year in which a project is proposed to be implemented by way of an advertisement, open meeting and fixing of a poster in a conspicuous places. 25

(2) A ward shall come up with a project list to be submitted to the ward development committee. 30

(3) A ward development committee shall identify and prepare a proposed project list for submission to a Committee before receipt of funds.

(4) A Committee shall within fourteen days of receipt of a proposal, approve or reject the proposed project. 35

Project list

17. (1) The number of projects that may be included in a project list shall be as prescribed.

(2) An uncompleted project from a previous financial year shall remain on the project list, for purposes of the total number of projects.

(3) Project activities of a similar nature in different parts of a constituency may be considered as one project for purposes of subsection (1).

(4) Constituencies may share costs for joint projects provided that the decision for such joint projects shall first be approved by the Committee of each of the participating constituencies and shall be reflected on the project lists for each of the participating constituencies.

(5) Where constituencies have a joint project, the respective constituencies shall jointly coordinate that project.

18. (1) A project under this Act shall be community based for the benefit of a broad crosssection of the community of a particular area.

Projects to be community based

(2) The funding under this Act shall be for a complete project or a defined phase, unit or element of a project.

(3) A project funded under this Act shall be developmental and may include costs related to studies, planning and design or other technical input for the project as may be prescribed.

(4) The funds provided under this Act shall not be used for the purpose of supporting political activities or for any other purpose not related to the community development under this Act.

19. (1) A project initiated by a community is eligible for support under this Act where that project is submitted with the other projects in conformity with the requirements of this Act.

Community initiatives to be eligible

(2) A community may, for the purposes of subsection (1), elect a committee to represent the interests of that community during and after the implementation of the project.

20. (1) A Committee shall ensure that appropriate consultations with the relevant Government departments are undertaken to ensure that cost estimates for the projects are reasonable.

Cost estimates to be reasonable

(2) A Committee shall rank the projects in order of priority and whenever, in the opinion of the local government officer responsible for the province, the total cost of the projects listed exceeds the allocation for a particular constituency, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, except that ongoing projects shall take precedence over all other projects.

(3) A Committee shall, where the proposed budget for projects in a constituency is less than the allocation, indicate the difference as an unallocated amount against that particular constituency on that list.

(4) A Minister shall ensure that the total cost of a project does not exceed the allocation for the particular constituency.

(5) If the project list submitted for funding is in contravention of subsection (4), the Minister shall refer the submission back to the Committee for amendment and re-submission.

Implementa-
tion of
projects

21. (1) A project under this Act shall be implemented by the council, and where necessary with the assistance of a relevant department of the Government in the district in which the constituency is located.

(2) Subject to subsection (3), where a project in a constituency involves the purchase of equipment, that equipment shall remain for the exclusive use of that constituency and in the event of disposal of that equipment the amount realised shall be paid into the account of that constituency.

(3) Despite subsection (2), a Committee may authorise the use of equipment for the benefit of another constituency.

(4) The equipment purchased from the Fund shall be kept in the custody and management of the council in that constituency.

(5) A Committee or its agents shall monitor the project implementation on a monthly basis or as often as necessary depending on the nature and stage of the projects.

(6) The evaluation—

(a) of the project shall be carried out by a Committee which may include officers from an appropriate Government department; and

(b) exercise shall be done on completion of the project but before the disbursement of the following year's funds.

Procurement
of services
and works
Act No. 12
of 2008

22. The provisions of the Public Procurement Act, 2008, apply to a project under this Act with respect to works and services.

Provincial
Local
Government
Officer

23. (1) The Provincial Local Government Officer shall oversee projects in the Province and shall keep and maintain records of the disbursements of funds and progress of the projects funded under this Act.

(2) The Provincial Local Government Officer shall monitor the implementation of projects at the provincial level.

24. The council shall compile and maintain a record showing receipts and disbursements on a monthly basis in respect of every project under this Act .

Returns for projects

25. The Minister may issue guidelines on the—

(a) payment of funds for approved projects or specialised works; and

(b) nature of projects to be undertaken

Guidelines for approved projects

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PART V

GENERAL PROVISIONS

26. A Committee shall maintain a record of the proceedings and copies of the minutes shall be availed to the local authority.

Records of meeting

27. The Town Clerk or Council Secretary shall keep and update monthly, an accurate record of disbursements made for projects in each constituency.

Record of disbursements to be kept

28. A person who misappropriates funds or assets from the constituency, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Offences

29. (1) The provisions of this Act shall be complimentary to any other development activities by the Government or any other agency, and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from other development programmes by the Government or any other agency.

Provisions of Act complimentary

(2) For the avoidance of doubt, normal government development allocations shall continue alongside the projects funded under this Act.

30. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without limiting the generality of subsection (1), regulations made in accordance with subsection (1) may—

(a) provide for the identification, prioritisation and classification of projects;

(b) provide for the manner of accessing funds from the constituency account;

- (c) provide for the manner of payments to the contractors;
- (d) set out general conditions and requirements for release of funds;
- (e) provide for the administrative costs to be used for administration purposes; and 5
- (f) provide for the proper administration of the Fund.

SCHEDULE
(Sections 5 (6))

CONSTITUENCY DEVELOPMENT FUND COMMITTEE

- 5 Act, a member of a Committee shall hold office for a term of two and a half years from the date of appointment and may be reappointed for a further term of two and a half years. Tenure of office and vacancy Cap. 1
- (2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.
- (3) The office of a member becomes vacant—
- (a) on the member’s death;
 - (b) if the member is adjudged bankrupt;
 - 15 (c) if the member is absent, without reasonable excuse, from three consecutive meetings of the Committee of which the member had notice, without the prior approval of the Chairperson;
 - 20 (d) on the expiry of one month’s notice of the member’s intention to resign, given by the member, in writing, to the Minister;
 - (e) if the member becomes incapable of performing the functions of a member;
 - 25 (f) if the member is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine; and
 - (g) if the member ceases to hold the office by virtue of which that member was appointed.
- 30 2. The Minister may, where the office of a member becomes vacant before the expiry of the term of office, appoint another member in place of a member who vacates office, but that member shall hold office for the unexpired part of the term. Filling of casual vacancy
- 35 3. (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure. Proceedings of Committee
- (2) A Committee shall meet for the transaction of business at least once in every three months at such places and times as the Chairperson may determine.

(3) A meeting of the Committee may be called by the Chairperson on giving notice of not less than fourteen days, and shall be called by the Chairperson if onethird or more of the members request in writing, except that if the urgency of any particular matter does not permit the giving of such notice, a special 5 meeting may be called on giving a shorter notice.

(4) Six members shall constitute a quorum at a meeting of a Committee.

(5) There shall preside at a meeting of the Committee—

(a) the Chairperson; 10

(b) in the absence of the Chairperson, the Vice-Chairperson; and

(c) in the absence of the Chairperson and the Vice-Chairperson, another member that the members present may elect for the purpose of that meeting. 15

(6) A decision of the Committee on any question shall be by a majority of the members 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 that person's deliberative vote. 20

(7) A Committee may invite a person whose presence is in its opinion desirable to attend and to participate in the deliberations of the meeting of the National Committee, but that person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the 25 Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(9) The Committee shall cause minutes to be kept of the 30 proceedings of its meetings.

Allowances
of members

4. (1) The members of a Committee shall, in carrying out the duties of the Committee, be entitled to sitting allowances as may be determined by the Emoluments Commission.

(2) The sitting allowances referred to in subsection (1), shall 35 be categorised into rural and urban based allowances for the constituencies.

- 5 (1) A person who is present at a meeting of a Committee at which any matter is the subject of consideration and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, declare interest and shall not, unless the or the Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter. Disclosure of interest
- 10 (2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 15 6. (1) A person shall not, without the consent, in writing, given by or on behalf of the Committee, publish or disclose to an unauthorised person, otherwise than in the course of duties of that person, the contents of a document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act. Prohibition of publication or disclosure of information to unauthorised person
- 20 (2) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 25 (3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years or to both.
- 30 (4) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 35 7. An action or other proceeding shall not lie or be instituted against a member of a Committee in respect of an act or thing done or omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act. Immunity

