

**THE ELECTORAL COMMISSION OF ZAMBIA
(AMENDMENT) BILL, 2019**

MEMORANDUM

The object of this Bill is to amend the Electoral Commission of Zambia Act, 2016, so as to—

- (a) revise the functions of the Commission;
- (b) revise the qualifications of the members of the Commission;
- (c) revise the procedure for the removal of a member of the Commission; and
- (d) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

N.A.B. 5, 2019
13th February, 2019

A BILL

ENTITLED

**An Act to amend the Electoral Commission of Zambia
Act, 2016.**

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ENACTED by the Parliament of Zambia

Enactment

1. This Act may be cited as the Electoral Commission of Zambia (Amendment) Act, 2019, and shall be read as one with the Electoral Commission of Zambia Act, 2016, in this Act referred to as the principal Act.

Short title
Act No. 25
of 2016

2. Section 4 of the principal Act is amended by the deletion of subsection (2) and the substitution thereof of the following:

Amendment
of section 4

(2) Without prejudice to the generality of subsection (1), the functions of the Commission are to—

- 10 (a) apply the principles in the electoral system and process under the Electoral Process Act, 2016;
- (b) conduct the registration of voters for the purposes of an election;
- 15 (c) prepare, publicise and maintain a register of voters;
- (d) determine the names and boundaries of constituencies and wards;
- (e) resolve disputes that are of an administrative nature, which may arise from the organisation, administration or conduct of an election;
- 20 (f) conduct education and information programmes to promote public awareness of electoral matters;
- (g) provide information and advice to State organs on electoral matters;

Act No. 35
of 2016

Amendment
of section 5

- (h) conduct and promote research into electoral matters and other matters that relate to its functions; and
- (i) establish and maintain liaison and cooperation with political parties.

3. Section 5 of the principal Act is amended by the deletion of subsections (2), (3), (4), (5), (6) and (7) and the substitution thereof of the following:

- (2) A person is qualified for appointment as a member if that person—
- (a) has a grade twelve school certificate or its equivalent; 10
 - (b) holds a degree or an equivalent qualification, which is accredited or recognised and validated by the Zambia Qualification Authority;
 - (c) does not hold a political office; and
 - (d) has proven relevant knowledge and experience in— 15
 - (i) election administration and management;
 - (ii) finance;
 - (iii) governance;
 - (iv) public administration; or
 - (v) law. 20

(3) A member shall hold office for a term of seven years, and may be re-appointed for a further and final term of seven years.

(4) A member may resign on giving one month's notice, in writing, to the President.

- (5) The office of a member becomes vacant if the member— 25
- (a) dies;
 - (b) resigns;
 - (c) is absent without reasonable excuse, from three consecutive meetings of the Commission of which the member has had notice without the approval of the Commission; 30
 - (d) is adjudged bankrupt;
 - (e) 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; or
 - (f) is legally disqualified from performing the functions of that office. 35

(6) A member shall, on the expiration of the period for which that member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed four months.

5 (7) Whenever the office of a member becomes 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 the office for the unexpired term of that office.

(8) The President may remove a member from office for
10 incompetence or gross misconduct.

(9) The President may initiate the removal of a member from office on—

(a) the President's own motion; or

(b) receipt of a complaint by a complainant—

- 15 (i) acting in the complainants's own interest;
(ii) that is an association acting in the interest of its members;
(iii) who is a person acting on behalf of a complainant;
(iv) who is a person acting on behalf, and in the interest
20 of a group or class of persons; or
(v) who is making a complaint anonymously.

(10) A complaint made under subsection (9) shall be in a prescribed manner and form.

(11) Subsection (10) shall not apply to a complaint made by a
25 person specified in subsection (9) (b) (v).

(12) If the President considers that the question of removing a member under this Act ought to be investigated, the President shall refer the matter to the Chief Justice and suspend the member in writing, pending the outcome of the investigation.

30 (13) A member suspended under subsection (12) shall, on receipt of the notice of suspension, cease to perform the functions of the office of that member.

(14) The Chief Justice shall, on receipt of the matter referred to under subsection (12) appoint a tribunal which shall consist of a
35 chairperson and at least two other members who hold or have held the office of a judge of a superior court.

(15) A Tribunal constituted under subsection (14) shall hear and determine the question of removal of the member on the grounds specified under subsection (8) within thirty days of the date of appointment of the Tribunal.

(16) The Tribunal shall, where the tribunal decides on the matter 5 advise the Chief Justice whether the member ought to be removed from office for incompetence or gross misconduct.

(17) Where the Tribunal reports that the particulars of a complaint against a member—

(a) are not substantiated, the President shall lift the suspension 10 of the member and the member shall, on receipt of that decision, resume the functions of the office of that member; or

(b) are substantiated, the President shall remove that member 15 from office.

(18) The proceedings under subsection (14) shall be held in camera and the member shall be entitled to appear, be heard and be represented by a legal practitioner or an authorised representative.

Amendment of section 6

4. Section 6 of the principal Act is amended by the deletion— 20

(a) in subsection (2), of the words “every three months” and the substitution therefore of the words “a month”;

(b) in subsection (4), of the word “five” and the substitution therefore of the word “three”; and

(c) of subsection (7). 25

Amendment of section 14

5. Section 14 of the principal Act is amended by the deletion of subsection (4) and the substitution therefore of the following:

(4) The Commission may invest in a manner that it considers appropriate funds of the Commission that it does not immediately require for the performace of its functions. 30

Amendment of section 16

6. Section 16 of the principal Act is amended by the—

(a) insertion of the following new subsection immediately after subsection (2):

(3) The Commission may appoint an external auditor to conduct a specified audit; and 35

(b) re-numbering of subsection (3) as subsection (4).