

10. (1) Where the Committee is satisfied that a claim for compensation under these Regulations is a proper claim, it shall, subject to these Regulations, make a determination allowing the claim. Power of Committee in respect of claims

(2) If the Committee is not satisfied as to the propriety of a claim for compensation, it shall make a determination disallowing the claim or, if it is satisfied as to the propriety of part of such a claim, it shall make a determination allowing the claim as to that part.

(3) The Committee after disallowing (whether wholly or partly) any claim for compensation from the fund shall serve notice of such disallowance in the prescribed form on the claimant or his legal representative.

(4) In any proceedings brought to establish a claim, evidence of any admission or confession by, or other evidence which would be admissible against, the licensee or other person by whom it is alleged a default was committed shall be admissible to prove the commission of the default, notwithstanding that the licensee or other person is not the defendant in or a party to those proceedings, and all defences which would have been available to that licensee or person shall be available to the Committee.

11. (1) A person aggrieved by a decision of the Committee under regulation *ten* may appeal to the High Court. Appeals

(2) No appeal shall be commenced after the expiration of three months after service of notice of disallowance under clause (3) of regulation *ten*.

(3) The Court shall have and may exercise, subject to the same limitations, the same powers as the Committee in determining the claim in respect of which an appeal has been brought.

12. The Committee or, where appeal proceedings are brought, the Court, if satisfied that the default on which the claim is founded was actually committed, may allow the claim and act accordingly, notwithstanding that the person who committed the default has not been convicted or prosecuted therefor or that the evidence on which the Committee or Court (as the case may be) acts would not be sufficient to establish the guilt of that person upon a criminal trial in respect of the default. Prosecution or conviction not a condition precedent to payment of compensation

13. The determination of the Committee under regulation *ten* or the decision on appeal of the Court under regulation *eleven* shall be sufficient authority to the Commission to pay the claimant the amount allowed. Authority to pay claimant

The Laws of Zambia

- 14.** The Committee may at any time and from time to time require any person to produce and deliver any securities, documents or statements of evidence necessary-
- (a) in order to substantiate any claim made against the fund; or
 - (b) for the purpose of enabling criminal proceedings to be brought against any person in respect of a default, being a default which is or involves the commission of a criminal offence.
- (2) Where any claimant required to produce any securities, documents, or statements of evidence under clause (1) fails to produce them, the Committee may refuse to allow the claimant's claim until such time as he produces them.
- 15.** On payment out of the fund of any moneys in respect of any claim under these Regulations, the Commission shall be subrogated to the extent of such payment to all the rights and remedies of the claimant in relation to the loss suffered by him from the default.
- 16.** No moneys or other property belonging to the Commission, other than the fund, shall be available for the payment of any claim under these Regulations whether the claim is allowed by the Committee or, on appeal, by order of the court.
- 17.** Where the amount at credit in the fund is insufficient to pay the whole amount of all claims against it which have been allowed, the amount at credit in the fund shall, subject to clause (2), be apportioned between the claimants in such manner as the Committee thinks equitable, and any such claim so far as it then remains unpaid shall be charged against future receipts of the fund and paid out of the fund when moneys are available therein.
- 18.** (1) Where the aggregate of all claims which have been allowed in relation to default by or in connection with a licensee exceeds the total amount which may pursuant to clause (2) of regulation seven be paid under these Regulations in respect of that licensee, then the said total amount shall be apportioned between the claimants in such manner as the Committee thinks equitable.
- (2) Upon payment out of the fund of the said total amount in accordance with such apportionment, all other claims against the fund which may thereafter arise or be made in respect of the same default shall be absolutely discharged.
- 19.** (1) The Committee may in its discretion enter into any contract with any person or body of persons, corporate or unincorporate, carrying on fidelity insurance business in Zambia whereby the fund will be insured or indemnified to the extent and in the manner provided by such contract against liability in respect of claims under these Regulations.
- (2) Any such contract may be entered into in relation to licensees generally, or in relation to any particular licensee named therein, or in relation to licensees generally with the exclusion of any particular licensee named therein.

Power of the Committee to require production of securities, etc.

Subrogation of Commission to rights, etc., of claimant upon payment from fund

Payment of claims only from compensation fund

Provision where compensation fund insufficient to meet claims

Provision where claims exceed total amount payable

Power of Committee to enter into contracts of insurance

The Laws of Zambia

(3) No action shall lie against the Committee or against any member or officer of the Committee for injury alleged to have been suffered by any licensee by reason of the publication in good faith of a statement that any contract entered into under this regulation does or does not apply with respect to the licensee.

20. No claimant against the fund shall have any right of action against any person or body of persons with whom a contract of insurance or indemnity is made under these Regulations in respect of such contract, or have the right to claim in respect of any moneys paid by the insurer in accordance with any such contract.

Application of
insurance moneys

Endnotes

1 (Popup - Popup)

Date of commencement 17th December, 1993.