

THE NATIONAL FORENSIC ACT, 2020

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SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 2 of 2020

Date of Assent: 23rd October, 2020

An Act to regulate the practice of forensic science and forensic pathology and provide for the licensing of forensic service providers; establish the National Forensic Authority and provide for its functions; establish the Board of the Authority and provide for its functions; establish the Office of the State Forensic Pathologist; establish the National Forensic Science and Biometrics Department; and provide for matters connected with, or incidental to, the foregoing.

[26th October, 2020

ENACTED by the Parliament of Zambia.

Enactment

PART I
PRELIMINARY

1 This Act may be cited as the National Forensic Act, 2020, 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

“anatomical pathologist” means a medical doctor qualified to examine tissue specimens taken from the human body for purposes of making a diagnosis;

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

Act No. 3 of
2012

“Authority” means the National Forensic Authority established under section 3;

“biometric” means the measurement and statistical analysis of a human being’s unique physical and behavioural characteristics;

Cap. 1

- “ Board ” means the National Forensic Board constituted under section 5;
- “ Chairperson ” means the person appointed as Chairperson of the Board under section 5;
- “ crime scene sample ” means physical evidence which is retrieved from a crime scene or any other place where the evidence of a crime may be found, and includes physical evidence collected from the body of a person;
- “ Department ” means the National Forensic Science and Biometrics Department established under section 27;
- “ Emoluments Commission ” has the meaning assigned to the words in the Constitution;
- “ Executive Director ” means the person appointed as Executive Director of the Authority under section 7;
- “ forensic ” means the practice of forensic pathology and forensic science;
- “ forensic analyst ” means a forensic expert who practices forensic science and has a postgraduate qualification in any field of forensic science;
- “ forensic analysis ” means the application of analytical tools and techniques in the discovery of evidence or examination of materials relevant to the investigation of a crime or other legal proceedings;
- “ forensic information ” means any information used in a forensic investigation, including a deoxyribonucleic acid (DNA) profile, fingerprint, impression evidence, serological results, or other related pieces of evidential information obtained by forensic analysis;
- “ forensic investigation ” means the gathering and analysis of crime related evidence and information by an authorised officer;
- “ forensic pathologist ” means a medical doctor who—
- (a) holds a qualification in anatomical pathology or its equivalent; and
 - (b) has at least one year’s experience in forensic pathology, post anatomical pathology qualification;

-
- “ forensic pathology ” means the application of medical scientific methods in the investigation of violent, suspicious, sudden, unexpected, unattended deaths and deaths in custody;
- “ forensic sample ” means a sample collected from a crime scene and used in an investigation;
- “ forensic science ” means the application of specialised scientific methods in legal matters;
- “ forensic service ” means the provision of forensic science services;
- “ forensic service provider ” means a laboratory or facility that provides a forensic service;
- “ inspector ” means a person appointed as an inspector under section 10;
- “ legally disqualified ” means having no legal capacity as provided in section 4 of the Mental Health Act; Act No. 6 of 2019
- “ licence ” means a licence issued by the Authority under section 15;
- “ licensee ” means a holder of a licence issued under this Act;
- “ mass disaster ” means an event, natural or man-made, sudden or progressive, resulting in casualties numbering more than ten individuals, the remains of which are identified and subjected to an investigation under the Inquests Act; Cap. 36
- “ medical doctor ” means a medical doctor registered under the Health Professions Act; Act No. 24 of 2009
- “ medicolegal death ” means death that falls within the jurisdiction of a coroner under the Inquests Act; Cap. 36
- “ member ” means a member of the Board;
- “ provisional licence ” means a provisional licence issued by the Authority under section 14;
- “ relative ” has the meaning assigned to the word in the Anti-Corruption Act; Act No. 3 of 2012
- “ State Forensic Analyst ” means a person appointed as a State Forensic Analyst under section 29;
- “ State Forensic Pathologist ” means a person appointed as a State Forensic Pathologist under section 24;

Cap. 1	“State institution” has the meaning assigned to the words in the Constitution;
Cap. 36	“tissue” has the meaning assigned to the word in the Inquests Act;
Act No.4 of 2017	“Zambia Bureau of Standards” means the Zambia Bureau of Standards established by the Standards Act; and “Zambia Compulsory Standards Agency” means the Zambia Compulsory Standards Agency established by the Compulsory Standards Act.
Act No.3 of 2017	

PART II

NATIONAL FORENSIC AUTHORITY

Establishment of National Forensic Authority	3. There is established the National Forensic Authority which is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do acts and things that a body corporate may, by law, do or perform.
Functions of Authority	4. (1) The function of the Authority is to regulate forensic services. (2) Despite the generality of subsection (1), the functions of the Authority are to— (a) regulate forensic service providers; (b) promote integrity of forensic services; (c) monitor and make proposals on the conduct and performance of forensic analysis; (d) monitor compliance with forensic ethical and privacy matters; (e) propose minimum quality standards to be implemented and maintained in performing forensic analysis; (f) promote public accountability and transparency with respect to performing forensic analysis; (g) promote public awareness and understanding of forensic science; (h) facilitate the carrying out of forensic research; (i) develop and approve protocols of testing and examination methods; and (j) advise the Minister on matters relating to forensic science and forensic pathology.

(3) The Schedule applies to the Authority.

5. (1) There is constituted the Board of the Authority which consists of the following part time members appointed by the Minister:

Board of
Authority

- (a) a representative of the ministry responsible for forensic science;
- (b) a representative of the Attorney-General;
- (c) a representative of the Director of Public Prosecutions;
- (d) a representative of the Inspector General of Police;
- (e) a representative of the Commissioner of the Drug Enforcement Commission;
- (f) a representative of the Human Rights Commissioner;
- (g) a Forensic Pathologist;
- (h) a Forensic Analyst; and
- (i) a person with relevant knowledge and experience in matters relating to forensics.

(2) The Minister shall appoint the Chairperson from among the members and the Vice-Chairperson shall be elected by the members from among themselves.

(3) A person shall not be appointed as a member if that person—

- (a) is not a citizen;
- (b) is an undischarged bankrupt;
- (c) is legally disqualified from performing the duties of a member;
- (d) has been convicted of an offence involving fraud or dishonesty; or
- (e) has been convicted of an offence under any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine.

(4) The Schedule applies to the Board.

- Functions of Board
- 6.** (1) Subject to this Act, the Board shall provide strategic direction to the Authority.
- (2) Despite the generality of subsection (1), the functions of the Board are to—
- (a) formulate the policies of the Authority;
- (b) approve the annual workplan and activity reports of the Authority; and
- (c) approve the annual budget estimates and financial statements of the Authority.
- Executive Director, Secretary and other staff
- 7.** (1) The Board shall appoint an Executive Director of the Authority who shall be the chief executive officer of the Authority and responsible, under the direction of the Board, for the day-to-day administration of the Authority.
- (2) The Executive Director shall attend meetings of the Board and may address those meetings but shall not vote on any matter before the Board.
- (3) The Board shall appoint a Secretary of the Authority and other staff that the Board considers necessary for the performance of the functions of the Authority.
- (4) The Emoluments Commission shall, on the recommendation of the Board determine the emoluments of the Executive Director, Secretary and other staff of the Authority.
- (5) The Authority shall determine the conditions of service, other than the emoluments, of the Executive Director, Secretary and other staff of the Authority.
- Delegation of functions
- 8.** The Board may, subject to any conditions imposed, and guidelines issued by the Board, delegate any of its functions to the Executive Director.
- Oath on appointment
Cap. 6
- 9.** A member, the Executive Director, the Secretary and other staff of the Authority shall, on appointment, take an oath in accordance with the Official Oaths Act.

PART III
INSPECTORATE

- Inspectors
- 10.** (1) The Authority may appoint, on the terms and conditions that the board may determine, a suitably qualified person to be an inspector for the purpose of ensuring compliance with this Act.

(2) The Authority shall provide an inspector with an identification card and a certificate of appointment in the prescribed form which shall be *prima facie* evidence of the inspector's appointment.

(3) An inspector shall, in performing any function under this Act—

(a) be in possession of the identification card or a certificate of appointment referred to in subsection (2); and

(b) show an identification card or a certificate of appointment to a person who requests to see the identification card or the certificate of appointment.

11. (1) An inspector may, in performing any function under this Act—

Powers of
inspectors

(a) examine a document or an article found on the premises that has a bearing on the inspection;

(b) enter and search any premises; and

(c) require information to be given about a document or an article by—

(i) the owner of the premises;

(ii) the person in control of the premises;

(iii) a person who has control of the document or article; or

(iv) any other person who may have the information.

(2) Where a forensic service provider has discontinued a forensic service or has been closed down and does not have a laboratory or facility, an inspector may require a person who has custody of a document or an article related to past forensic services to produce the document or article at a reasonable place and time.

(3) An inspector shall furnish the Authority with a written report and any other information relating to an inspection, as the Authority may require.

(4) A person commits an offence if that person—

(a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;

- (b) refuses to give an inspector reasonable assistance that the inspector may require for the purpose of exercising the inspector's powers;
- (c) gives an inspector false or misleading information in answer to an inquiry made by the inspector; or
- (d) impersonates or falsely represents oneself to be an inspector.
- (5) A person convicted of an offence under subsection (4) is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

PART IV

LICENCES

Single
licensing
system
Act No. 3
of 2014

12. (1) The Authority shall operate a single licensing system for activities in the forensic science sector in accordance with the Business Regulatory Act.

Act No. 3 of
2014

(2) Where a licence is obtained in accordance with the procedures specified under the Business Regulatory Act, the Authority shall endorse on the licence—

- (a) the name of the licence;
- (b) the name of the licensee;
- (c) the nature and scope of the activity authorised under the licence;
- (d) the conditions attached to the licence; and
- (e) any other relevant information that the Authority may endorse.

Prohibition
from
providing
forensic
service
without
licence

13. (1) A person shall not provide forensic services without a licence issued under this Act.

(2) A person who contravenes subsection (1) 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.

Provisional
licence

14. (1) A person who intends to provide a forensic service shall apply to the Authority for a provisional licence in the prescribed manner and form.

(2) The Authority shall, within thirty days of receipt of the application for a provisional licence, grant or reject the application.

(3) The Authority shall, where it rejects an application for a provisional licence, notify the applicant, within five days of the decision to reject the application, stating reasons for the rejection.

15. (1) A holder of a provisional licence may, one year after the issuance of the provisional licence, apply to the Authority for a licence in the prescribed manner and form. Licence

(2) The Authority shall, on receipt of the application referred to in subsection (1), grant or reject the application.

(3) The Authority shall, where it rejects the application for a licence, notify the holder of the provisional licence stating the reasons thereof.

16. A licence issued under this Act shall not be transferred, assigned or encumbered in any manner without the prior approval of the Authority. Transfer of licence

17. A licensee shall display a copy of a licence issued under this Act in a conspicuous place at the place of practice. Display of licence

18. (1) A licensee may, at any time during the validity of the licence, if there are any changes to the licensee's business operations, apply to the Authority for variation of the terms and conditions of the licence. Variation of conditions of licences

(2) The Authority may approve the amendment of a licence to accommodate any variations requested by the licensee, and endorse and indicate the date of any variation approved on the licence.

19. (1) Where a licensee decides to discontinue the provision of forensic services, the licensee shall notify the Authority in writing, and surrender the licence to the Authority. Surrender of licence

(2) The Authority shall, where a licence is surrendered under subsection (1), cancel the licence subject to conditions that the Authority may impose with respect to the winding up of the licensed activity.

Suspension
or
cancellation
of licence

20. (1) The Authority may suspend or cancel a licence where the licensee—

(a) obtained the licence through fraud, misrepresentation or concealment of a material fact;

(b) assigns, cedes or otherwise transfers the licence without the prior approval of the Authority;

(c) fails to comply with a term or condition of the licence; or

(d) operates the licensed activity in contravention of this Act or any other relevant written law.

(2) The Authority shall, before suspending or cancelling a licence in accordance with subsection (1), notify the licensee of the Authority's intention to suspend or cancel the licence, giving the reasons for its decision and requesting the licensee to show cause, within a reasonable period as may be specified in the notice, why the licence should not be suspended or cancelled.

(3) The Authority shall not suspend or cancel a licence under this section if the licensee takes remedial measures to the satisfaction of the Authority within the period referred to in subsection (2).

(4) Where a licence is cancelled in accordance with this section, the licensee shall surrender the licence to the Authority and the Authority shall cancel the licence, subject to conditions that the Authority may impose with respect to the licensed activity.

(5) The Authority shall, where it suspends or cancels a licence under this section, publicise the fact of suspension or cancellation in the *Gazette*.

Renewal of
licence

21. A licensee may, within ninety days prior to the expiration of the period of validity of the licence, apply to the Authority for renewal of the licence in the prescribed manner and form, on payment of a prescribed fee.

Register of
licences

22. (1) The Authority shall cause to be kept and maintained a register of licences issued under this Act in the prescribed manner and form.

(2) The register shall be open for inspection by members of the public during normal office hours on payment of a fee that the Authority may determine.

(3) The Authority may, on an application by a person, issue to that person a certified extract from the register, or a copy of a licence on payment of a prescribed fee.

23. The Authority shall publish annually a register of licences in the *Gazette* or a daily newspaper of general circulation in the Republic.

Publication
of licensed
forensic
service
providers

PART V

OFFICE OF THE STATE FORENSIC PATHOLOGIST

24. (1) There is established in the ministry responsible for home affairs the Office of the State Forensic Pathologist which shall provide and support provision of forensic pathology and related services and, as far as practicable, supervise and co-ordinate these services in the investigation of death.

Establishment
of Office of
State
Forensic
Pathologist

(2) The Civil Service Commission shall appoint as a public officer a State Forensic Pathologist who is responsible for the day-to-day administration of the Office of the State Forensic Pathologist.

(3) A person qualifies for appointment as a State Forensic Pathologist if that person—

(a) is an anatomical pathologist or equivalent;

(b) has a post anatomical pathology qualification in forensic pathology; and

(c) has at least 3 years experience in forensic pathology.

(4) The Minister may, in writing, give the State Forensic Pathologist directions that the Minister considers necessary in the public interest and the State Forensic Pathologist shall give effect to those directions to the extent that they are not inconsistent with this Act.

(5) Subject to subsection (4), the State Forensic Pathologist shall not be subject to the direction or control of a person or an authority in the performance of the functions of office.

(6) The State Forensic Pathologist shall not, while holding the office of State Forensic Pathologist, hold another public office.

25. (1) The Civil Service Commission shall appoint as public officers the Deputy State Forensic Pathologist and other officers as may be necessary for the performance of the functions of the Office of the State Forensic Pathologist under this Act.

Appointment
of Deputy
State
Forensic
Pathologist
and other
staff

(2) A person qualifies for appointment as a Deputy State Forensic Pathologist if that person has —

- (a) knowledge and experience in anatomical pathology or its equivalent; and
- (b) at least one year's experience in forensic pathology, post-anatomical pathology qualification.

(3) Where the Office of the State Forensic Pathologist is vacant or the State Forensic Pathologist is absent from duty or unable for any other reason to perform the functions of the Office of the State Forensic Pathologist, the Deputy State Forensic Pathologist shall act as the State Forensic Pathologist.

(4) Where both the State Forensic Pathologist and the Deputy State Forensic Pathologist are absent from duty or unable for any other reason to perform the functions of their office, another forensic pathologist shall act as the State Forensic Pathologist.

Functions of
Office of
State
Forensic
Pathologist

Cap. 36

26. (1) The functions of the Office of the State Forensic Pathologist are to—

- (a) provide facilities and staff for the conduct of post-mortem examinations in relation to deaths investigated under the Inquests Act;
- (b) maintain a list of forensic pathologists, anatomical pathologists and medical doctors who can conduct post mortem examinations in death investigations;
- (c) supervise post-mortem examinations conducted by the listed forensic pathologists, anatomical pathologists and medical doctors;
- (d) maintain and dispose of samples for chemical, toxicological or genetic analysis, microbiological and histological examination, and any other necessary investigations;
- (e) identify by radiological or odontological examination or other means, the remains of a deceased person;
- (f) conduct other appropriate investigations or examinations in relation to the cause of death of any person;
- (g) properly document and record findings and results of investigations and examinations;
- (h) prepare a report of post-mortem examination findings;
- (i) provide post-mortem examination reports to coroners and the Zambia Police Service;

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- (j) conduct training in medicolegal death investigation to anatomical pathologists and doctors listed to conduct a post-mortem examination;
- (k) conduct research in medicolegal death investigations;
- (l) promote public awareness on medicolegal death investigation;
- (m) ensure the provision of forensic pathology services to the Zambia Police Service and other Government agencies and private persons;
- (n) ensure the provision of forensic pathology services in mass disasters including—
- (i) retrieving and reconstructing bodies and fragmented bodies;
 - (ii) establishing personal identity;
 - (iii) conducting post-mortem examinations on some or all existing bodies;
 - (iv) establishing the cause of death to assist in reconstructing the cause of the disaster; and
 - (v) seeking evidence of the cause of the disaster from autopsy examination, such as bomb or detonator fragments that may be embedded in the bodies; and
- (o) facilitate the removal of tissue and disposal, in accordance with the Human Tissue Act from a deceased person in whom a coroner has jurisdiction to investigate the death. Cap. 306
- (2) The Office of the State Forensic Pathologist shall, in relation to its functions—
- (a) enter into agreements for provision of services by the Office of the State Forensic Pathologist; and
 - (b) determine fees payable for those services.
- (3) The Office of the State Forensic Pathologist shall in exercise of the functions specified in subsection (1)—
- (a) collect, use and disclose personal information and health information; and
 - (b) advise a coroner and law enforcement officer on whether a death requires further investigation.

(4) The Office of the State Forensic Pathologist has power in exercise of the function specified in subsection (3) to—

- (a) consult the family and other persons, including a health service provider, to assess the family's need for health and support services;
- (b) refer the family to health and support services; or
- (c) to hold onto the body of the deceased until all the necessary investigations are conducted.

(5) The Office of the State Forensic Pathologist in relation to a post-mortem and other examinations shall designate and supervise listed forensic pathologists, anatomical pathologists and medical doctors conducting a post-mortem examination.

(6) The Office of the State Forensic Pathologist shall be devolved to the provinces and progressively to the districts.

PART VI

NATIONAL FORENSIC SCIENCE AND BIOMETRICS DEPARTMENT

Establishment
of National
Forensic
Science and
Biometrics
Department
Functions of
Department

27. There is established in the ministry responsible for home affairs the Department of National Forensic Science and Biometrics which is responsible for the provision of forensic science and biometric services to a State institution.

28. The functions of the Department are to—

- (a) analyse forensic samples for a State institution;
- (b) provide forensic science and biometric services to law enforcement agencies;
- (c) offer training in the collection, packaging, transportation, preservation, and the chain of custody of forensic evidence to law enforcement agencies, medical personnel and any other person that collects forensic evidence for examination;
- (d) develop and validate biometric systems for forensic investigations;
- (e) manage crime scenes in collaboration with the responsible law enforcement agency;
- (f) conduct research in the field of forensic science; and
- (h) promote public awareness on forensic science investigations.

29. (1) The Civil Service Commission shall appoint as a public officer a State Forensic Analyst who is responsible for the administration of the Department, subject to the general or special directions of the Minister and Permanent Secretary that are consistent with this Act.

State
Forensic
Analyst,
Deputy State
Forensic
Analyst and
other officers

(2) The State Forensic Analyst is the principal Analyst of the Department.

(3) The Civil Service Commission shall appoint as public officers the Deputy State Forensic Analyst and other officers that may be necessary for the provision of forensic science and biometric services to State institutions.

(4) The Deputy State Forensic Analyst shall perform functions that are delegated to the Deputy State Forensic Analyst by the State Forensic Analyst.

PART VII

GENERAL PROVISIONS

30. (1) A person aggrieved with a decision of the Authority may appeal to the Minister within thirty days of the date of the decision.

Appeals

(2) A person aggrieved with a decision of the Minister may appeal to the High Court.

31. (1) A person commits an offence if that person—

Offences

- (a) knowingly submits a false report of an analysis of forensic samples;
- (b) wilfully gives false or misleading information under this Act;
- (c) fails to disclose or knowingly conceals from a client material facts required for the purposes of this Act;
- (d) holds out as a forensic service provider for the purposes of this Act;
- (e) engages or employs, for the purpose of providing a forensic service, a person who is not qualified to practice forensic science; or
- (f) with intent to receive a gift or any other benefit or to injure another person, holds or delays an action brought before that person for the purposes of this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding nine hundred thousand penalty units or to imprisonment for a term not exceeding nine years, or to both.

(3) A person commits an offence if that person, with regard to any bodily sample, crime scene sample or forensic information derived therefrom—

(a) uses or allows the use of those samples or forensic information for any purpose other than those referred to in this Act;

(b) tampers or manipulates the process of analysis of the samples or forensic information; or

(c) falsely claims that those samples or forensic information derived are taken from a specific person other than the person from whom the samples or forensic information are obtained.

(4) A person convicted of an offence under subsection (3), is liable to a fine not exceeding one million five hundred thousand penalty units or to imprisonment for a term not exceeding fifteen years, or to both.

Offence by a principal officer or shareholder of body corporate or unincorporate body

32. Where an offence is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager or shareholder of the body corporate or unincorporate body, that director, manager or shareholder commits an offence and is liable, on conviction, to a penalty or term of imprisonment specified for that offence.

Authority to issue guidelines

33. (1) The Authority may issue guidelines that the Authority considers necessary for the better carrying out of the provisions of this Act.

(2) Despite the generality of subsection (1), the guidelines issued under this section may provide for—

(a) the manner in which a forensic service is offered; or

(b) protocol of analysis of forensic case work.

(3) The Authority shall publish the guidelines issued under this Act in the *Gazette*, and the guidelines shall not take effect until they are published.

(4) The guidelines issued by the Authority under this Act shall bind all persons regulated under this Act.

34. (1) The Minister may, in consultation with the Authority, by statutory instrument, make regulations for the better carrying out of the provisions of this Act. Regulations

(2) Despite the generality of subsection (1), regulations under subsection (1) may provide for—

- (a) fees or charges payable in respect of any matter arising under, provided for or authorised by this Act;
- (b) the forms and fees payable and the procedure for applications to be made under this Act;
- (c) the information and documents to be submitted in support of an application to be made under this Act;
- (d) the form of the certificate issued to a person by a laboratory after a forensic analysis has been conducted;
- (e) the manner of collecting, storing and disposing of forensic samples;
- (f) the manner of safely preserving and ensuring timely transfer of collected samples to a forensic science laboratory; or
- (g) the manner of lodging complaints to the Authority.

SCHEDULE

(Sections 4 (3) and 5 (4))

PART I

ADMINISTRATION OF AUTHORITY AND BOARD

Seal of
Authority

1. (1) The seal of the Authority shall be a device determined by the Authority and kept by the Executive Director.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Executive Director, Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed without seal on behalf of the Authority by the Executive Director or any other person generally or specifically authorised by the Authority in that behalf.

(4) A document purporting to be under the seal of the Authority or issued on behalf of the Authority may be received in evidence and be considered to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Proceedings
of Board

2. (1) Subject to this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every three months at a place and time that the Board may determine.

(3) The Chairperson may call for a meeting of the Board on giving notice of not less than fourteen days, and if not less than one-third of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of the notice, a special meeting may be called on giving a shorter notice.

(4) Seven members shall constitute a quorum at a meeting of the Board.

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

(a) the Chairperson;

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

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

(6) A decision of the Board on any question shall be by a majority of members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) The Board may invite any person, whose presence is in its opinion desirable to attend and to participate in the deliberation of the meeting of the Board, but that person shall not have a vote.

(8) A member who is for any reason unable to attend a meeting of the Board may, in writing, nominate another person from the same institution or organisation as the member to attend the meeting in that member's stead and that person shall be considered to be a member for the purpose of that meeting.

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

3. (1) The Board may, for the purpose of performing the Board's functions under this Act constitute a committee and delegate to the committee functions of the Authority as the Board considers necessary.

Committees

(2) The Board may appoint, as members of a committee, persons who are or are not members of the Board except, that at least one member of the Board shall be a member of the committee.

(3) Subject to any specific or general direction of the Board and the other provisions of this paragraph, a committee may regulate its own procedure at meetings.

(4) A person serving as a member of a committee shall hold office for a period that the Board may determine.

4. (1) A member shall hold office for a term of three years and may be reappointed for a further term of three years on terms and conditions that may be specified in the instrument of appointment.

Tenure of
office for
members and
vacancy

(2) On the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.

- (3) The office of a member becomes vacant if the member—
- (a) dies;
 - (b) is adjudged bankrupt;
 - (c) is absent, without reasonable cause, from three consecutive meetings of the board, of which the member has had notice;
 - (d) resigns;
 - (e) is legally disqualified from performing the duties of a member;
 - (f) is convicted of an offence under this Act or any written law and has been sentenced to imprisonment for a period exceeding six months without the option of a fine; or
 - (g) ceases to be an employee of the institution that nominated that member.

(4) The Minister shall, where a vacancy occurs in the membership of the Board, before the expiry of the term of office, appoint another person to replace the member, but that person shall only hold office for the remainder of the former members' term of office.

Immunity **5.** An action or other proceeding shall not lie or be continued against a member of the Board or committee of the Board, for or in respect of an act or thing done or omitted to be done in good faith in the exercise or performance, powers, functions or duties conferred under this Act.

Allowances **6.** A member or committee of the Board shall be paid allowances that the Emoluments Commission may, on recommendation of the Minister, determine.

Disclosure of interest **7. (1)** If a person is present at a meeting of the Board or a committee of the Board at which a matter, in which that person or that persons' associate or relative is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in the consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made in accordance with this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

8. (1) A person shall not, without the consent in writing given by or on behalf of the Board or as otherwise permitted by any written law, publish or disclose to an unauthorised person, otherwise than in the course of that person's duties, the contents of a document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of, that person's duties under this Act.

Prohibition of publication or disclosure of information to unauthorised person

(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.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates that information to any other 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.

PART II

FINANCIAL PROVISIONS

9. (1) The funds of the Authority consist of monies—
- (a) appropriated to the Authority by Parliament for the purpose of the Authority;
 - (b) paid to the Authority by way of fees, grants or donations;
 - or
 - (c) that otherwise vest in, or accrue to, the Authority.
- (2) The Authority may, subject to the approval of the Minister—
- (a) accept moneys by way of grants or donations from any source within or outside the Republic; or
 - (b) raise by way of loans or otherwise, monies that the Authority, may require.
- (3) There shall be paid from the funds of the Authority—
- (a) monies necessary for the performance of its functions under this Act;
 - (b) the salaries, allowances and loans of officers and employees of the Authority;

Funds of Authority

(c) reasonable traveling, transport and subsistence allowances for members of the Board when engaged on the business of the Authority, at rates as the Emoluments Commission may determine; and

(d) any other expenses incurred by the Board in the performance of its functions.

Financial
year

10. The financial year of the Authority shall be a period of twelve months ending on 31st December in each year.

Accounts
and audits

11. (1) The Authority shall cause to be kept proper books of accounts and other records relating to its accounts.

(2) The accounts of the Authority shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

(3) The Auditor-General's fees shall be paid by the Authority.

Annual
reports

12. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Authority shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income; and

(c) other information that the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1) lay the report before the National Assembly.
