

**THE CONSTITUENCY DEVELOPMENT FUND
BILL, 2023**

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the decentralisation of the management, disbursement, utilisation and accountability of the Constituency Development Fund;
- (b) continue the existence of the Constituency Development Fund Committee and re-define its functions;
- (c) revise the composition of the Constituency Development Fund Committee;
- (d) establish the Provincial Constituency Development Fund Committee;
- (e) repeal and replace the Constituency Development Fund Act, 2018; and
- (f) provide for matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney-General

THE CONSTITUENCY DEVELOPMENT FUND BILL, 2023

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A BILL

ENTITLED

An Act to provide for the decentralisation of the management, disbursement, utilisation and accountability of the Constituency Development Fund; continue the existence of the Constituency Development Fund Committee and re-define its functions; revise the composition of the Constituency Development Fund Committee; establish the Provincial Constituency Development Fund Committee; repeal and replace the Constituency Development Fund Act, 2018; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Constituency Development Fund Act, 2023, 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
- “Committee” means the Constituency Development Fund Committee continued under section 4;
- “community” means a geographically defined group of persons or sector of the public with a specific ascertainable common interest;

N.A.B. 21, 2023

Cap. 1	“constituency” has the meaning assigned to the word in the Constitution;	
	“constituency bank accounts” means bank accounts maintained for each constituency in accordance with section 16;	5
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;	10
Cap. 1	“gross misconduct” has the meaning assigned to the words in the Constitution;	
Act No.3 of 2015	“integrated development plan” has the meaning assigned to the words in the Urban and Regional Planning Act, 2015;	15
Cap. 1	“local authority” has the meaning assigned to the words in the Constitution;	
Act No. 2 of 2019	“principal officer” has the meaning assigned to the words in the Local Government Act, 2019;	20
	“project” means a constituency development project and includes —	
	(a) a project initiated by a person or a community for the benefit of the community as specified in the guidelines issued under section 33; and	25
	(b) any other project as determined by the Minister;	
	“project list” means a list that contains project proposals from a ward;	
	“Provincial Committee” means the Provincial Constituency Development Fund Committee established under section 12;	30
Cap. 1	“Provincial Minister” has the meaning assigned to the words in the Constitution;	
Act No. 3 of 2012	“relative” has the meaning assigned to the word in the Anti Corruption Act, 2012;	35
Act No.11 of 2018	“repealed Act” means the Constituency Development Fund Act, 2018;	

- “Unit” has the meaning assigned to the word in the Disaster Management Act, 2010; Act No.13 of 2010
- “ward” has the meaning assigned to the word in the Constitution; Cap. 1
- 5 “Ward Development Committee” means the Ward Development Committee established under the Local Government Act, 2019; Act No. 2 of 2019
- 10 “Zambia Agency for Persons with Disabilities” means the Zambia Agency for Persons with Disabilities established under the Persons with Disabilities Act, 2012; and Act No. 6 of 2012
- “Zambia Congress of Non-Governmental Organisations” means the Zambia Congress of Non-Governmental Organisations established under the Non-Governmental Organisations’ Act, 2009. Act No. 16 of 2009
- 15 3. The management of, disbursement from, and utilisation of the Fund shall be made in accordance with the following principles:
- (a) transparency;
- (b) accountability;
- 20 (c) efficiency; and
- (d) effectiveness.
- Principles of management, disbursement and utilisation of Fund

PART II

THE CONSTITUENCY DEVELOPMENT FUND COMMITTEE AND
PROVINCIAL CONSTITUENCY DEVELOPMENT FUND COMMITTEE

- 25 4. (1) The Constituency Development Fund Committee established in each constituency under the repealed Act is continued as if established under this Act. Continuation of Constituency Development Fund Committee
- (2) The Committee in each constituency consists of the following part time members appointed by the Provincial Minister
- 30 of the area in which a constituency is located:
- (a) one representative of the community elected from among the members representing a community in the Ward Development Committee in a constituency or, where the constituency has two or more Ward Development Committees, two representatives of the community elected from among the members representing a community in the Ward Development Committees in a constituency;
- 35

- (b) three councillors in a constituency, two of whom are elected by the councillors in the constituency and one nominated by the Member of Parliament from the constituency;
- (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; 5
- (d) a director responsible for planning at the local authority in which the constituency is located; 10
- (e) a director responsible for works or engineering services at the local authority in which the constituency is located;
- (f) a director or any person responsible for finance at the local authority in which the constituency is located; 15
- (g) a representative of a civil society organisation operating and located in a constituency nominated by the Zambia Congress of Non-Governmental Organisations;
- (h) a representative of a religious organisation operating and located in a constituency nominated by the Member of Parliament from the constituency; 20
- (i) a Member of Parliament from the constituency;
- (j) a District Commissioner in a constituency;
- (k) a representative of the Zambia Agency for Persons with Disabilities; 25
- (l) a representative of the youths from a youth organisation operating and located in a constituency nominated in consultation with the Ministry responsible for youth;
- (m) a representative of women nominated from a women organisation operating and located in a constituency in consultation with the Ministry responsible for community development; and 30
- (n) a person with proven knowledge and experience in matters relating to development and community service nominated by the Member of Parliament in a constituency. 35

5 (3) The members of the Committee shall elect the Chairperson and the Vice Chairperson from among themselves, except that a member referred to in subsection (2) (b), (d), (e), (f), (i) and (j) shall not qualify for appointment as a Chairperson or Vice Chairperson.

(4) The Directorate of planning and finance in the local authority in a district shall provide the necessary secretarial and accounting services, respectively, to a Committee in the performance of its functions under this Act.

10 5. The functions of the Committee are to—

Functions of Committee

(a) receive a proposed —

(i) project list from the Ward Development Committee within the constituency; and

(ii) joint project with other constituencies;

15 (b) review the project list received under paragraph (a) from the Ward Development Committee and recommend to a Provincial Committee a proposed project list; and

20 (c) receive and consider annual reports and returns from the constituency.

25 6. (1) Subject to the Constitution and this Act, a member of a Committee shall, except for the members referred to under section 4 (2) (d), (e), (f), (i) and (j), hold office for a term of two and a half years from the date of appointment and may be re-appointed 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.

30 (3) The office of a member becomes vacant—

(a) on the member's death;

(b) if the member is adjudged bankrupt;

35 (c) if the member is absent, without reasonable excuse and without the prior approval of the Chairperson, from three consecutive meetings of the Committee of which the member had notice;

(d) on the expiry of one month's notice of the member's intention to resign, given by the member, in writing, to the Provincial Minister;

	(e) if the member becomes legally disqualified from performing the functions of a member;	
	(f) if the member is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;	5
	(g) if the member is removed by the Provincial Minister on the grounds of gross misconduct; and	
	(h) if the member ceases to hold the office by virtue of which that member was appointed.	10
	(4) The Provincial Minister shall, 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.	15
Proceedings of Committee	7. (1) Subject to the other provisions of this Act, a Committee may regulate its own procedure.	
	(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.	20
	(3) A meeting of the Committee may be called by the Chairperson on giving notice of not less than fourteen days or where one third or more of the members so request, in writing, except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called on giving a shorter notice.	25
	(4) Two-thirds of the members of a Committee shall constitute a quorum at a meeting of a Committee.	
	(5) There shall preside at a meeting of the Committee—	
	(a) the Chairperson;	30
	(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.	35
	(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.	40

(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 Committee, but that person shall have no vote.

5 (8) The validity of any proceedings, acts or decisions of the 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.

10 (9) Where a member is for any reason unable to attend any meeting of the Committee, the member may, in writing, nominate another person from the same institution or organisation to attend such meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

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

(11) The Committee may for purposes of performing its functions constitute sub-committees and delegate to such sub-committees any of its function.

20 **8.** (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.

Allowances of members

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

9. (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
30 practicable after the commencement of the meeting, declare the interest and shall not, unless the Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

Declaration of interest

(2) A disclosure of interest made under subsection (1) shall
35 be recorded in the minutes of the meeting at which the disclosure 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
40 not exceeding two years or both.

Prohibition of publication or disclosure of information to unauthorised person	<p>10. (1) A person shall not, without the consent, in writing, given by or on behalf of the Committee, publish or disclose to a 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. 5</p> <p>(2) 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. 10</p> <p>(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (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. 15</p>
Immunity	<p>11. An action or other proceeding shall not lie or be instituted against a member of a Committee or sub-committee of the 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. 20</p>
Establishment and functions of Provincial Constituency Development Fund Committee	<p>12. (1) There is established a Provincial Constituency Development Fund Committee in each province. 25</p> <p>(2) The functions of the Provincial Committee are to—</p> <p style="padding-left: 40px;">(a) receive and review project lists from a Committee and approve or reject the project proposals as specified in the guidelines;</p> <p style="padding-left: 40px;">(b) submit a report of projects to the Permanent Secretary in the ministry responsible for local government; and 30</p> <p style="padding-left: 40px;">(c) receive and consolidate returns on the status of approved projects from local authorities for submission to the Permanent Secretary in the ministry responsible for local government. 35</p> <p>(3) The Minister shall, by statutory instrument, prescribe the following:</p> <p style="padding-left: 40px;">(a) the composition of the Provincial Committee;</p> <p style="padding-left: 40px;">(b) the tenure of office and vacancy for a member of the Provincial Committee; 40</p>

- (c) the proceedings of the Provincial Committee; and
- (d) any other matter that is necessary for the efficient operations of the functions of the Provincial Committee that the Minister may determine.

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PART III

CONSTITUENCY DEVELOPMENT FUND

13. (1) The Fund consists of— Fund

- (a) monies appropriated by Parliament for the purposes of the Fund;
- 10 (b) monies received by way of grants, fees, or council contributions;
- (c) monies received by way of donations from any source, with the approval of the Minister;
- (d) monies as may vest in, or accrue to, the Fund; and
- 15 (e) monies as may, by or under any law, be payable to the Fund.

(2) Subject to section 14, the funding under this Act shall be for a project or a defined phase, unit or element of a project.

14. (1) There shall be paid from the Fund monies for an Purpose of Fund
20 approved project in a constituency.

(2) The monies of the Fund shall be used for —

- (a) constituency projects approved by a Provincial Committee; and
- 25 (b) the payment of administrative expenses of the Fund not exceeding an amount prescribed by the Minister.

(3) A project funded under this Act shall be—

- (a) developmental and may include costs related to planning and design or other technical input for purposes as may be prescribed; and
- 30 (b) community based for the benefit of a broad cross section of the community of a particular area.

(4) The Fund shall not be used for —

- (a) any purposes other than disbursements to constituency bank accounts to meet costs of approved projects;
- 35 (b) supporting political activities; or
- (c) for any other purpose not related to a project.

Administration of Fund	15. The Fund shall be managed and administered by the ministry responsible for local government for the purposes specified under this Act.	
Constituency bank accounts	16. (1) A local authority shall open and operate a constituency bank account in the name of each constituency at a commercial bank that the local authority may determine, in which the monies received for the purposes of the fund shall be deposited and kept.	5
	(2) The following constituency bank accounts shall be opened for the purposes of subsection (1):	10
	(a) the general constituency development fund account;	
	(b) constituency development fund loan revolving account; and	
	(c) any other constituency bank account that the Minister may determine.	15
Disbursement from Fund and constituency account	17. (1) A disbursement from the Fund shall be made to the constituency bank account maintained and managed by the local authority as the spending agency.	
	(2) A local authority shall disburse funds from the constituency bank account for projects approved by a Provincial Committee.	20
	(3) A local authority shall submit a record of the amounts received by a constituency and a record of expenditure, together with a copy of the relevant bank statement, to the Permanent Secretary within the ministry responsible for local government within ten days after the end of each month, and copies to the Provincial Committee.	25
Accountability and transparency	18. (1) The principal officer is responsible for the finances of the local authority in which a constituency is located and shall maintain separate books of accounts for the constituency bank account.	30
	(2) The principal officer 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.	35
	(3) The principal officer shall submit the record referred to in subsection (2) to the Permanent Secretary within the ministry responsible for local government, and copies to a Provincial Committee.	

19. A local authority shall retain unutilised funds in a constituency bank account at the end of each financial year and those funds shall be utilised for the purposes for which the Fund and the constituency bank accounts are established. Funds to be retained
- 5 20. (1) The ministry responsible for local government 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
- 10 (b) reporting procedures for matters relating to the Fund.
- (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.
- 15 (4) The auditor’s fees shall be paid from the Fund by the ministry responsible for local government.
21. (1) The Minister shall, within three months after the end of each financial year, prepare and submit to the Auditor-General the financial report of the Fund in respect of the preceding Annual report
- 20 financial year.
- (2) The Auditor-General shall, within two months of receipt of the financial report, examine the financial report and express an opinion on the report.
- (3) The Minister shall, within one month after the receipt of Annual report
- 25 the Auditor-General’s opinion, lay the financial report, with the Auditor-General’s opinion, before the National Assembly.
- (4) The financial report shall include information on —
- (a) statement of receipt and payments;
- (b) statement of comparison of budget and actual amounts received for the Fund; and
- 30 (c) other information that the Minister may determine.
22. The variation of funds of a project shall be performed in accordance with the Public Finance Management Act, 2018. Variation of funds Act No. 1 of 2018

PART IV

CONSTITUENCY DEVELOPMENT PROJECTS

Invitation for project proposals	23. (1) A local authority shall, in consultation with a Committee, invite project proposals for submission to the Ward Development Committee from a community within the period specified in the guidelines issued under section 33.	5
	(2) A local authority shall, invite project proposals by way of public awareness, meetings, fixing of posters in public places, public address systems and through local authority websites, social media platforms and other electronic media.	10
	(3) A Ward Development Committee shall, on receipt of the project proposals from a community in accordance with subsection (1) prepare and submit a proposed project list to the Committee within a period specified in the guidelines issued under this Act.	15
	(4) The Ward Development Committee shall, in preparing and submitting a proposed project list under subsection (3), ensure that the proposed project list is in line with the integrated development plan and any other planning document in the area where the constituency is located.	20
Review of proposed project list by Committee	24. (1) A Committee shall, on receipt of a proposed project list from a Ward Development Committee under section 23, review the proposed project list and estimated costs of the proposed projects.	25
	(2) A committee shall, in consultation with relevant government departments, ensure that the cost estimates for the proposed projects are reasonable in accordance with the guidelines issued under this Act.	25
	(3) A Committee shall, in considering the proposed project list submitted by a Ward Development Committee, rank the proposed projects in order of priority and whenever the total cost of the projects listed exceeds the allocation for a particular constituency, the order in which the proposed projects are listed shall be taken as an order of priority for purposes of allocation of funds, except that ongoing projects may take precedence over other projects.	35
	(4) 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 the proposed project list.	40

- 5 **25.** (1) A Committee shall, after a review of the proposed project list under section 24, recommend the approval of the proposed project list to a Provincial Committee within the period specified in the guidelines, in a prescribed manner and form to ensure timely release of funds. Submission of proposed project list to Provincial Committee
- (2) A Provincial Committee shall, within fourteen days of the receipt of a proposed project list under subsection (1), approve or reject the proposed project list.
- 10 (3) A proposed project list shall be deemed to have been granted where the Provincial Committee fails to inform the Committee of its decision within the period specified under subsection (2).
- 15 (4) A Provincial Committee shall, where the Provincial Committee rejects a proposed project list under subsection (2), inform the Committee of the rejection, stating the reasons for the rejection, and refer the proposed project list back to the Committee for re-consideration and re-submission within fourteen days of the receipt of the Provincial Committee’s decision.
- 20 (5) A Provincial Committee shall ensure that the total cost of the projects on a project list does not exceed the allocation for a particular constituency.
- (6) Subsections (2) and (3) shall apply to the consideration of a proposed project list that is referred back to the Committee under subsection (4).
- 25 (7) A Provincial Committee shall cause to be published the approved project list in the *Gazette* and any other electronic media platform, except that the requirement to publish shall not affect the implementation of an approved project in accordance with the criteria set out in the guidelines.
- 30 (8) A project approved by a Provincial Committee shall be completed within the period set out in a contract entered into for the execution of the works.
- 35 **26.** (1) An incomplete project from a previous financial year shall remain on the project list for purposes of the total number of projects. Joint and incomplete project
- (2) Constituencies may share costs for joint projects, except that the decision for the 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
- 40 constituencies.

	(3) Where constituencies have a joint project, the respective constituencies shall jointly coordinate that project.	
Implementation of projects	27. (1) A project under this Act shall be implemented by a local authority in a constituency, and where necessary, with the assistance of a relevant department of the Government in the district in which the constituency is located.	5
	(2) Subject to subsections (3) and (4), where a project in a constituency involves the purchase of equipment, that equipment shall be registered in the name of a local authority in a constituency and remain for the 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.	10
	(3) Equipment purchased in a constituency from the monies of a Fund shall be kept in the custody and management of a local authority in that constituency.	15
	(4) A local authority in a constituency may, in consultation with a Committee in a constituency, authorise the use of equipment for the benefit of another constituency subject to the agreement of all the relevant parties.	
	(5) A Committee or its agents shall monitor the project implementation on a quarterly basis or as often as necessary depending on the nature and stage of the projects.	20
	(6) The evaluation of a project shall be undertaken during the implementation of the project at intervals that the Minister may determine, and on completion of the project.	25
Procurement of services and works Act No. 8 of 2020	28. The provisions of the Public Procurement Act, 2020, shall apply to a project under this Act with respect to works and services.	
Implementation of disaster related projects	29. (1) Despite sections 23 to 28, where there is a disaster or emergency arising from natural occurrences, a community shall, through the Ward Development Committee, notify the Committee.	30
	(2) The Committee shall, on receipt of the notice referred to under subsection (1), inform the local authority to facilitate a meeting of the Committee to address the emergency in collaboration with the appropriate authority in the ministry responsible for local government.	35
	(3) The Minister shall, in consultation with the local authority and the Unit, develop guidelines on the manner and procedure of implementing disaster related projects in a constituency.	40

PART V

GENERAL PROVISIONS

- 5 **30.** (1) A person or Committee aggrieved with a decision of a Provincial Committee may, within fourteen days of receipt of the decision, appeal to the Minister. Appeals
- (2) The Minister shall, within fourteen days of receipt of an appeal under subsection (1), hear and determine the appeal.
- (3) A person aggrieved with a decision of the Minister may appeal to the High Court.
- 10 **31.** 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 penalty as specified in the Public Finance Management Act, 2018. Offences
Act No. 1 of 2018
- 15 **32.** (1) The provisions of this Act shall be complementary 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 complementary
- 20 (2) Subject to subsection (1), normal Government development allocations shall continue alongside the projects funded under this Act.
- 33.** The Minister may issue guidelines on — Guidelines
- 25 (a) the initiation and nature of projects to be undertaken;
- (b) the identification, prioritisation and classification of projects;
- (c) the manner of implementing, monitoring and *evaluating* projects; and
- (d) any other matter that the Minister may determine.
- 30 **34.** The Minister may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act. Regulations
- 35.** (1) The Constituency Development Fund Act, 2018, is repealed. Repeal of Act No. 11 of 2018 and savings and transitional provisions

20 No. of 2023] *Constituency Development Fund*

Act No. 11 of
2018

(2) Despite subsection (1), a person who immediately before the commencement of this Act held office as a member of the Committee shall continue to hold office as a member for a period of three months, after which the Provincial Minister shall appoint the members of the Committee in accordance with this Act. 5

(3) Projects approved and implemented in accordance with the repealed Act shall be considered to have been approved under this Act and shall, on commencement of this Act, be implemented in accordance with this Act.

(4) A proposed project list pending approval under the repealed Act shall, on commencement of this Act, be approved in accordance with this Act. 10
