

**THE ZAMBIA INSTITUTE FOR TOURISM AND
HOSPITALITY STUDIES BILL, 2016**

MEMORANDUM

The objects of this Bill are to—

- (a) establish the Zambia Institute for Tourism and Hospitality Studies and provide for its functions;
- (b) constitute the Council of the Zambia Institute for Tourism and Hospitality Studies and provide for its functions;
- (c) provide for the development of human resource in the tourism sector through academic and professional development, skills training, research and consultancy; and
- (d) provide for matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

N.A.B. 30, 2016
4th May, 2016

**THE ZAMBIA INSTITUTE FOR TOURISM AND
HOSPITALITY STUDIES BILL, 2016**

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A BILL

ENTITLED

An Act to establish the Zambia Institute for Tourism and Hospitality Studies and provide for its functions; constitute the Council of the Zambia Institute for Tourism and Hospitality Studies and provide for its functions; provide for the development of human resource in the tourism sector through academic and professional development, skills training, research and consultancy; 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 Zambia Institute for Tourism and Hospitality Studies Act, 2016.

Short title

- 5 2. In this Act, unless the context otherwise requires—
“associate”, in relation to a person, means—
- (a) a person who is a nominee or an employee of that person;
 - (b) a person who manages the affairs of that person;
 - 10 (c) a former spouse or conjugal partner of that person;
 - (d) a firm of which that person, or that person’s nominee, is a partner or a person in charge or in control of its business or affairs;

Interpretation

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- (e) a company in which that person or that person's nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with that person's nominee, holds a controlling interest or shares amounting to more than thirty percent of the total share capital; or 5
- (f) the trustee of a trust, where—
- (i) the trust has been created by that person; or
- (ii) the total value of the assets contributed by that person before or after the creation of the trust, amounts, at any time, to not less than twenty percent of the total value of the assets of the trust; 10
- “Chairperson” means the person appointed Chairperson of the Council under section *six*; 15
- “committee” means a committee established under section *ten*;
- “Council” means the Council of the Institute established under section *six*;
- “Director” means the person appointed Director of the Institute under section *twelve*; 20
- Cap. 1 “emoluments” has the meaning assigned to it in the Constitution;
- Cap. 1 “Emoluments Commission” means the Emoluments Commission established under the Constitution; 25
- Act No. 4 of 2013 “higher education institution” has the meaning assigned to it in the Higher Education Act, 2013;
- Cap. 186 “Hotel and Tourism Training Institute” means the Hotel and Tourism Training Institute incorporated under the Land (Perpetual Succession) Act; 30
- “Institute” means the Zambia Institute for Tourism and Hospitality Studies established under section *three*;
- “member” means a person appointed as a member of the Council under section *six*;
- “relative” means— 35
- (a) a person's son, daughter, brother, sister, nephew, niece, parent, uncle, aunt, grandparent or cousin; and

(b) a person's spouse or the spouse of any of the persons mentioned in paragraph (a);

"Secretary" means the person appointed as such under section *twelve*;

5 "tourism" has the meaning assigned to it in the Tourism and Hospitality Act, 2015;

Act No. 13
of 2015

"Vice-Chairperson" means the person appointed Vice-Chairperson of the Council under section *six*; and

10 "Zambia Qualifications Authority" means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.

Act No. 13
of 2011

PART II

THE ZAMBIA INSTITUTE FOR TOURISM AND HOSPITALITY STUDIES

15 3. There is established the Zambia Institute for Tourism and Hospitality Studies which shall be 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 the other provisions of this Act, to do all such acts and things as a body corporate may,
20 by law, do or perform.

Establishment
of Zambia
Institute for
Tourism and
Hospitality
Studies

4. (1) The seal of the Institute shall be such device as may be determined by the Council and shall be kept by the Director.

Seal of
Institute

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Director or one other
25 person authorised in that behalf by a resolution of the Council.

(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 Institute by the Director or any other person generally
30 or specifically authorised by the Council in that behalf.

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

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Functions of
Institute

5. (1) The functions of the Institute are to—
- (a) provide tourism and hospitality education, training and capacity development for the tourism sector, tourism sub-sectors and the hospitality sub-sector;
 - (b) facilitate and undertake professional development in the field of tourism and hospitality and related fields or sub-fields or sub-sectors; 5
 - (c) undertake or facilitate tourism research, studies or surveys in order to develop tourism;
 - (d) undertake, commission or provide management development services in the field of tourism and hospitality; 10
 - (e) undertake or commission consultancy and consultancy studies in the field of tourism and hospitality;
 - (f) commission or undertake human resource development in the field of tourism and hospitality or any of the sub-sectors; 15
 - (g) conduct examinations and grant certificates, diplomas, degrees and other awards of the Institute;
 - (h) create, operate and manage libraries for storing knowledge acquired from various sources, including research, consultancies, studies, surveys and other methods; and 20
 - (i) perform any other functions as are necessary or incidental to the performance of its functions under this Act.
- (2) The Institute may, in furtherance of its functions under this Act— 25
- (a) establish, maintain and operate, with the approval of the Minister, campuses, or centres for academic development, education, skills training, capacity building, research and consultancy as are necessary; 30
 - (b) determine fees or charges for services rendered under this Act;
 - (c) regulate and supervise the discipline of students of the Institute;
 - (d) enter into association or collaboration with other institutions, individuals or organisations, within or outside Zambia, as the Institute may consider necessary for the purposes of the Act; and 35

(e) subject to the provisions of this Act, perform such other functions as may be delegated by the Minister, which are consistent with the provisions of this Act.

6. (1) There is established the Council of the Institute which consists of the following part-time members appointed by the Minister: Council of
Institute

- (a) the Chairperson;
- (b) one representative each of the Ministries responsible for —
 - (i) tourism;
 - 10 (ii) finance; and
 - (iii) higher education
- (c) a representative of the Attorney-General;
- (d) a representative of a public university, nominated by the Minister responsible for higher education; and
- 15 (e) three persons from the private sector who shall be appointed as follows:
 - (i) one person with experience and knowledge in curriculum development from the Zambia Qualifications Authority or tourism and
 - 20 hospitality education; and
 - (ii) two persons, nominated by registered national tourism associations, with experience and knowledge in tourism, arts and culture.

(2) The members of the Council shall elect the Vice-Chairperson from amongst themselves.

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

- (a) is not a citizen of Zambia;
- (b) is an undischarged bankrupt;
- 30 (c) has a mental or physical disability that makes the person incapable of performing the functions of a member; or
- (d) 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.

Tenure of
office and
vacancy

7. (1) A member shall hold office for a period of three years and may be re-appointed for one further period of three years.
- (2) A member, other than an *ex-officio* member, may resign upon giving one month's notice, in writing, to the Minister.
- (3) The office of a member becomes vacant if the member—
- (a) dies;
 - (b) resigns;
 - (c) is absent, without reasonable excuse, from three consecutive meetings of the Council of which the member has had notice, without the approval of the Council;
 - (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;
 - (f) is removed by the Minister for good cause on the following grounds:
 - (i) the member acts dishonourably, improperly, fraudulently, dishonestly or disorderly; or
 - (ii) the institution which the member represents withdraws its support of the member as its representative and informs the Minister accordingly; or
 - (g) has a mental or physical disability which makes the member incapable of performing the functions of a member.
- (4) A member shall, on the expiration of the period for which the member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed four months.
- (5) The Minister shall, whenever the office of a member becomes vacant before the expiry of the term of office, appoint another person in place of that member, but that person shall hold office as a member only for the unexpired part of the term of the Council.
- (6) The Minister shall, when appointing members of the Council, in accordance with subsection (1), as far as practicable ensure that there is fifty percent members of each gender.

Functions of
Council

8. (1) The Council shall have oversight and control of the Institute.

(2) Without prejudice to the generality of subsection (1), the Council shall—

- (a) provide strategic direction to the Institute;
- (b) approve the annual budget estimates of the Institute;
- 5 (c) promote partnerships to further the aims and objectives of the Institute;
- (d) promote gender equity and the welfare of vulnerable groups in the enrollment of students;
- 10 (e) promote exchange programmes in the tourism and hospitality industry;
- (f) promote the highest standards of academic, professional and skills development;
- 15 (g) manage, control and administer the assets of the Institute in a manner that promotes the purposes for which the Institute is established; and
- (h) perform any other functions as may be delegated by the Minister, which are consistent with the provisions of the Act.

9. (1) Subject to the other provisions of this Act, the Council
20 may regulate its own procedure.

Proceedings
of Council

(2) The Council shall meet for the transaction of business at least once in every three months at such places and times as the Council may determine.

25 (3) A meeting of the Council may be called by the Chairperson upon giving notice of not less than fourteen days, and shall be called by the Chairperson if 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 upon giving a shorter notice.

30 (4) Five members shall constitute a quorum at a meeting of the Council.

(5) There shall preside at any meeting of the Council—

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

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

(6) A decision of the Council 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.

(7) Where a member is for any reason unable to attend a meeting of the Council, the member may, in writing, nominate another person from the same organisation to attend such meeting in that member's stead and that person shall be considered to be a member for the purpose of that meeting.

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

(9) The validity of any proceedings, acts or decisions of the Council shall not be affected by any vacancy in the membership of the Council 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) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and every meeting of any committee of the Council.

Committees
of Council

10. (1) The Council may, for the purposes of performing its functions, establish such committees as it considers necessary and delegate to any of those committees any of its functions or the functions of the Institute.

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

(3) A person serving as a member of a committee shall hold office for such period as the Council may determine.

(4) Subject to a specific or general direction of the Council, a committee may regulate its own procedure.

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11. A member of the Council or any committee of the Council shall be paid such allowances as the Emoluments Commission may determine. Allowances

12. (1) The Council shall appoint a Director for the Institute on such terms and conditions as the Council may determine. Director and other staff

(2) The Director shall be the chief executive officer of the Institute and shall be responsible, under the direction of the Council, for the day-to-day administration of the Institute.

(3) A person qualifies for appointment as Director if that person—
10 (a) has obtained, as a minimum academic qualification, postgraduate degree from recognised a higher education institution in—

- (i) tourism;
- (ii) hospitality;
- 15 (iii) business;
- (iv) education; or
- (v) any other related field; and

(b) has at least five years experience in tourism, hospitality, business, education or a related field.

20 (4) The Director shall attend meetings of the Council and may address those meetings but shall have no vote on any matter.

(5) The Council may appoint, on such terms and conditions as it may determine, the Secretary and other staff as it considers necessary for the performance of the functions of the Institute and
25 Council.

13. (1) A person who is present at a meeting of the Council or any committee of the Council at which a 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
30 capacity shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Council 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

(2) A disclosure of interest made under subsection (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, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Immunity

14. An action or other proceeding shall not lie or be instituted against a member of the Council, a member of a committee of the Council or a member of staff of the Institute for, or 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. 10

PART III

FINANCIAL PROVISIONS

Funds of
Institute

15. (1) The funds of the Institute shall consist of such monies as may— 15

- (a) be appropriated to the Institute by Parliament;
- (b) be paid to the Institute by way of fees, grants or donations; or
- (c) otherwise vest in or accrue to the Institute. 20

- (2) The Institute may, subject to the approval of the Minister—
- (a) accept monies by way of grants or donations from any source within or outside Zambia;
 - (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions; and 25
 - (c) charge and collect fees in respect of programmes, seminars, publications, consultancy services and other services provided by the Institute.

- (3) There shall be paid from the funds of the Institute —
- (a) the emoluments of members of staff of the Institute as determined by the Emoluments Commission; 30
 - (b) such reasonable travelling and other allowances for the members of the Council or any committee of the Council when engaged in the business of the Institute, at such rates as the Emoluments Commission may determine; 35 and

(c) any other expenses incurred by the Institute in the performance of its functions under this Act.

(4) The Council may, with the approval of the Minister, invest in such manner as it considers appropriate such funds of the Institute that it does not immediately require for the discharge of its functions.

16. The financial year of the Institute shall be a period of twelve months ending on 31st December, in each year.

Financial
year

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

Accounts and
audit

10 (2) The accounts of the Institute 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 Institute.

15 18. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Institute shall submit to the Minister a report concerning its activities during the financial year.

Annual
report

(2) The report, referred to in subsection (1), shall include information on the financial affairs of the Institute and there shall be appended to the report

(a) an audited statement of financial position;

20 (b) an audited statement of comprehensive income; and

(c) such other information as the Minister may require.

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

PART IV GENERAL PROVISIONS

30 19. (1) A person shall not, without the consent, in writing, given by or on behalf of the Institute, 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
persons

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two year or to both.

(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, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

General
offences

20. (1) A person shall not —

- (a) knowingly mislead the Council or a member of staff of the Institute by giving any false information or statement;
- (b) obstruct, assault, insult, hinder, delay or impersonate a member or staff of the Institute in the lawful exercise of the powers conferred on the member or staff of the Institute under this Act;
- (c) refuse or fail, without reasonable cause, to give the Council on request, a document or information required for purposes of this Act;
- (d) unlawfully influence a decision of the Council or coerce the Council to make a decision in favour of the person; or
- (e) fail to comply with a lawful order or directive of the Council under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both.

Regulations

21. The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

Savings and
transitional
provisions

22. The savings and transitional provisions are as set out in the Schedule.

SCHEDULE
(Section 22)

SAVINGS AND TRANSITIONAL PROVISIONS

- 5 1. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Institute by virtue of this Act and without further assurance, all assets, rights, liabilities and obligations which immediately before that date were the assets, rights, liabilities and obligations of the Hotel and Tourism Training Institute. Vesting of assets and liabilities
- 10 (2) Subject to subsection (1), every deed, bond or agreement, other than agreement for personnel services, to which the Hotel and Tourism Training Institute was a party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this subsection, have effect as if—
- 15 (a) the Institute had been party to it;
- 20 (b) for any reference to the Hotel and Tourism Training Institute there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Institute; or
- 25 (c) for any reference to a member of staff of the Hotel and Tourism Training Institute, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such member of staff of the Institute as it shall designate.
- 30 (3) Where under this Act, any assets, rights, liabilities and obligations of the Hotel and Tourism Training Institute are deemed to be transferred to the Institute in respect of which transfer a written law provides for registration, the Institute shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

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(4) The registration authority, referred to in subsection (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferer concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds 5 relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal proceedings

2. (1) Any legal proceedings or application of the Hotel and Tourism Training Institute pending immediately before the commencement of this Act by or against the Hotel and Tourism 10 Training Institute may be continued by or against the Institute.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Hotel and Tourism Training Institute, may be instituted by or against the Institute. 15

Staff of Hotel and Tourism Training Institute

3. (1) A person who, before the commencement of this Act, was an employee of the Hotel and Tourism Training Institute shall be transferred to the service of the Institute as an employee of the Institute as if employed under this Act.

(2) The service of the persons referred to in subsection (1) 20 shall be treated as continued service.