



NATIONAL ASSEMBLY OF ZAMBIA

PARLIAMENTARY PROCEDURE

23

ABSTRACT SERIES

Office of Public Protector (Ombudsman)

NATIONAL ASSEMBLY
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PREFACE

This Abstract briefly describes the institution known as the Parliamentary Ombudsman in general and refers to the Zambian Ombudsman or the Office of the Investigator-General in particular. It is hoped that while this Abstract is not exhaustive, it will give some basic understanding of the role of the office of the Investigator General and serve as a guide for easy reference.

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INTRODUCTION

The Public Protector is the Ombudsman Institution of Zambia entrusted with the mandate to promote and safeguard the interests and the rights of an individual in his or her quest to receive a “public service” that is just and fair. The institution also serves to promote practices of good governance within public institutions in the delivery of public services to the general public.

Ombudsman is a Scandinavian word meaning officer or Commissioner. In its special sense, it means a Commissioner who has the duty of investigating and reporting to Parliament on citizens' complaints against the Government. He/she is appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly. While the Ombudsman has close links with the Executive, the Office is designed as an extension of Parliament, hence the title of Parliamentary Commissioner.

LEGAL AUTHORITY/BASIS

The Ombudsman's office in Zambia is established by the Constitution. In particular, Article 243 (1) of the Constitution of Zambia (Amendment) Act No. 2 of 2016, which states that:

“ There shall be a Public Protector who shall be appointed by the President, on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.”

PROFESSIONAL QUALIFICATION AND BACKGROUND

General qualities such as high integrity, common sense and professional experience are generally regarded as desirable qualifications. The incumbent must be from a high office in public administration. The qualifications for the Public Protector are the same as those for a Judge of the High Court.

Further, the Public Protector has the same powers as those of the High Court. Article 244(5) of the Constitution states that:

“The Public Protector has the same powers as those of the High Court in:

- (a) enforcing the attendance of witnesses and examining them on oath;*
- (b) examining witnesses outside Zambia;*
- (c) compelling the production of documents;*
- (d) enforcing decisions issued by the Public Protector; and*
- (e) citing a person or an authority for contempt for failure to carry out a decision.”*

TERM OF OFFICE

Parliamentary Ombudsmen are normally appointed for a limited period, but, in Zambia, once appointed, the Ombudsman has security of tenure guaranteed under Article 247 of the Constitution of Zambia (Amendment) Act No. 2 of 2016. For example, Article 247(1) of the Constitution states that:

" (1) Subject to this Article, the Public Protector shall retire from office on attaining the age of sixty years.

(2) The Public Protector may retire, with full benefits, on attaining the age of fifty-five years.

(3) The Public Protector may be removed from office on the same grounds and procedure as apply to a judge.

(4) The Public Protector may resign from office by three months' notice, in writing, to the President."

PUBLIC PROTECTOR'S REPORTS

The Public Protector reports directly to Parliament. This is provided for under Section 34(1) of the Public Protector Act No. 15 of 2016, which states that:

"As soon as practicable, but not later than ninety days from the end of the financial year, the Office of the Public Protector shall submit to the Speaker a report concerning its activities during that financial year."

This in essence makes the Public Protector accountable to Parliament, which in a way enhances the operations of the office or its performance.

PROCEDURE FOR MAKING A COMPLAINT

Great similarities exist between the working procedures of various national Parliamentary Ombudsman on the receipt of a complaint. The general practice is to carry out a preliminary investigation in order to decide whether the matter should be investigated in more detail. Any complaint or allegation made either orally or in writing has to be addressed to or channelled through the Secretary of the Office of the Public Protector. The complaint has to be made within a period of one year from the date on which facts were made known to the complainant.

Complaints from the public also cover legal representation from organisations or legal persons. However, the Office of the Public Protector has no power to question or review any decision of any court; a judicial officer in the exercise of his functions; judicial matters which are sub-judice; or matters relating to the exercise of the prerogative of mercy.

CONCLUSION

The Office of the Parliamentary Ombudsman is an important office under democratic

governance. It provides an alternative mechanism through which citizens can have their grievances heard against the Executive
