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NATIONAL ASSEMBLY OF ZAMBIA
PARLIAMENTARY PROCEDURE

9

ABSTRACT SERIES

THE ROLE OF A MEMBER OF PARLIAMENT AND VACATION OF OFFICE ON DEFECTION

PREFACE

This Abstract is part of the *Zambian Parliamentary Procedure Abstract Series* and describes the role of a Member of Parliament. It outlines the responsibilities of a Member to his/her political party, constituency and the House. It also explains the vacation of office of a Member of Parliament on defection. It is based on the provisions of the Constitution of Zambia.

It is hoped that, while this Abstract is not exhaustive, it will serve as an easy reference guide.

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INTRODUCTION

A Member of Parliament (MP) is a representative or spokesperson of the people in Parliament. In other words, a Member of Parliament is the bridge between Government and the people as he/she enlightens the people of his/her constituency on policies of Government that are discussed in Parliament. Above all, a Member of Parliament is a legislator.

Regarding qualifications for a Member of Parliament, the Constitution of Zambia (Amendment) Act No.2 of 2016 provides that a person is eligible to be elected as a Member of Parliament, if that person:

- is a citizen;
- is at least twenty-one (21) years old;
- is a registered voter;
- has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent; and
- declares person's assets and liabilities, as prescribed.

A Member of Parliament is either elected by the people through a parliamentary election or nominated by the President of the Republic of Zambia. A person seeking to be elected as a Member of Parliament may use a political party ticket or may stand as an independent candidate. Once elected to the House under a particular mode, a Member of Parliament is expected to maintain either membership of that political party or remain as an independent until the dissolution of the National Assembly. If before the dissolution of the National Assembly, there is a change in status under which one was elected, i.e. joining another party or resigning from the party or an independent joining a political party, the concerned Member has to vacate his/her seat in the House.

RESPONSIBILITIES OF MEMBERS OF PARLIAMENT (MPS)

A Member of Parliament has multifarious responsibilities, which include the following:

1. Party Responsibilities

In a multi-party parliamentary democracy, individuals become members of political parties because they believe that their party policies are broadly correct, though they may disagree in a few areas. Candidates are voted to Parliament with the endorsement of their parties. Consequently, a Member of Parliament has the responsibility to articulate his/her party's policies both in the constituency and in the House.

2. Constituency Responsibilities

As an elected representative of a constituency in Parliament, a Member of Parliament maintains close contact with the area he or she represents. As a link between his/her people and the Government, a Member of Parliament has the responsibility to:

- a) participate in, and assist the local councils in planning developmental projects in the district, which can be funded either by the council itself or the central Government or Non-Governmental Organisations (NGOs) and donor agencies. Under this responsibility, MPs help in explaining to councilors, Government policies that are discussed in Parliament;
- b) study the needs and anxieties of his/her constituents, irrespective of their political affiliation, so that they too, can be included in development programmes. He/she, therefore, needs to know his/her constituency geographically and have the ability to articulate the needs and problems of his/her constituents effectively in Parliament;
- c) be a link between the constituents and the Legislature. As a result, a Member has a duty to ensure that enabling laws are put in place to support the livelihood and businesses of the people. He/she also has to keep his/her constituents well and fully informed of the resolutions of Parliament i.e. laws passed and their impact on the constituency; and
- d) encourage and lead his/her constituents in the social and economic development of their localities. This demands regular meetings, resource mobilisation for development and other contacts throughout the constituency.

3. Parliamentary Responsibilities

The responsibilities of a Member of Parliament in the House are complex and varied.

In as much as a Member owes his/her allegiance to his constituency, he/she owes it also to Parliament. Parliament occupies a special place in Zambia because it is the safeguard of liberty, independence, prosperity and democracy. It is through Parliament that the people of Zambia air their grievances and differences, and where a consensus of action is arrived at for uplifting their standard of living.

In this regard, the main responsibilities of a Member of Parliament in the House can best be summed up in line with the functions of Parliament to which they are elected. The functions of Parliament and, therefore, those of Members

of Parliament are provided for by the Constitution of Zambia (Amendment) Act No.2 of 2016. Article 62 (2) states that:

“The legislative authority of the Republic is vested in and exercised by Parliament.”

Further, Article 63 (1) states that:

“Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.”

Furthermore, Article 63 (2) states that:

“The National Assembly shall oversee the performance of executive functions by:

- (a) ensuring equity in the distribution of national resources amongst the people of Zambia;*
- (b) appropriating funds for expenditure by State organs, State institutions, provincial administration, local authorities and other bodies;*
- (c) scrutinising public expenditure, including defence, constitutional and special expenditure;*
- (d) approving public debt before it is contracted; and*
- (e) approving international agreements and treaties before these are acceded to or ratified.”*

In order for Members of Parliament to diligently carry out the aforementioned functions, certain powers, privileges and immunities are accorded to them. By definition, parliamentary privilege is the sum of the peculiar rights enjoyed by the House as a constituent part of Parliament and by Members of the House individually, without which they cannot discharge their functions, efficiently and effectively, and which exceed those possessed by other bodies or individuals. These privileges are provided for in, and guaranteed by the Constitution of Zambia and other laws. For example, Article 76 (1) of the Constitution of Zambia (Amendment) Act No.2 of 2016 provides that:

“A Member of Parliament has freedom of speech and debate in the National Assembly and that freedom shall not be ousted or questioned in a court or tribunal.”

Further, Article 76 (2) states that *“A Member of Parliament shall have the powers, privileges and immunities, as prescribed.”*

In addition, the National Assembly (Powers and Privileges) Act Cap 12 of the Laws of Zambia provides for Members' powers and privileges. These include the following:

1. there shall be freedom of speech and debate in the Assembly. Such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Assembly;
2. no civil or criminal proceedings may be instituted against any Member for words spoken before, or written in a report to, the Assembly or to a committee thereof or by reason of any matter or thing brought by him therein by petition, Bill, resolution, motion or otherwise;
3. for the duration of a meeting, Members shall enjoy freedom from arrest for any civil debt except a debt the contraction of which constitutes a criminal offence; and
4. the Assembly or any authorised committee may order any person to attend before the Assembly or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

VACATION OF OFFICE OF A MEMBER

Article 71 of the Constitution of Zambia (Amendment) Act No.2 of 2016, provides for the vacation of the Office as Member of Parliament as follows:

- (1) *"A Member of Parliament shall, except the Speaker and the First Deputy Speaker, vacate the seat in the National Assembly upon a dissolution of Parliament."*
- (2) *"The office of Member of Parliament becomes vacant if the member:*
 - (a) *resigns by notice, in writing, to the Speaker;*
 - (b) *becomes disqualified for election in accordance with Article 70;*
 - (c) *acts contrary to a prescribed code of conduct;*
 - (d) *resigns from the political party which sponsored the member for election to the National Assembly;*
 - (e) *is expelled from the political party which sponsored the member for election to the National Assembly;*
 - (f) *ceases to be a citizen;*
 - (g) *having been elected to the National Assembly, as an independent candidate, joins a political party;*
 - (h) *is disqualified as a result of a decision of the Constitutional Court; or*
 - (i) *dies."*

- (3) *“The office of a nominated Member of Parliament becomes vacant if the member:*
- (a) resigns by notice, in writing, to the Speaker;*
 - (b) is disqualified under Article 70;*
 - (c) acts contrary to a prescribed code of conduct;*
 - (d) ceases to be a citizen;*
 - (e) dies; or*
 - (f) has the member’s nomination revoked by the President.”*

CONCLUSION

The roles performed by Members of Parliament are summarised as representative, legislative and oversight of the government administration. As representatives of the people, MPs have a direct role in helping initiate development projects in their constituencies by helping government to define development priorities and supporting them in their implementation; assisting local groups and communities in securing funding for their own projects; collaborating with NGOs in local schemes; and where applicable, making recommendations to government ministries for the allocation of budgets in their constituencies. In order for them to perform their functions without any hindrance, MPs have been accorded certain powers, immunities and privileges.
