

Zambia

Parliamentary and Ministerial Code of Conduct Act, 1994 Chapter 16

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Zambia

Parliamentary and Ministerial Code of Conduct Act, 1994

Chapter 16

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[Act No. 35 of 1994]

An Act to establish a code of conduct for Ministers and Deputy Ministers for the purposes of Article 52 of the Constitution; to establish a code of conduct for Members of the National Assembly for the purposes of Article 71 of the Constitution; and to provide for matters connected with or incidental to the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Parliamentary and Ministerial Code of Conduct Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**Constitution**" means the Constitution of the Republic of Zambia;

[Cap. 1]

"**Member**" means any Member of the National Assembly (including a person holding Ministerial office);

"**Ministerial office**" means any office of Vice-President, Minister or Deputy Minister;

"**tribunal**" means a tribunal appointed under section thirteen.

Part II – Code of conduct applicable to all members

3. Relationship between this Part and the Constitution

- (1) The provisions of this Part shall constitute part of the code of conduct for Members for the purposes of the Constitution, a breach of which results in the vacation of the seat of the Member concerned.
- (2) The provisions of this Part, in their application to Ministers and Deputy Ministers, shall constitute part of the code of conduct for Ministers for the purposes of the Constitution.

4. Member not to acquire dishonestly or improperly any pecuniary advantage

A Member shall be considered to have breached the code of conduct if he knowingly acquires any significant pecuniary advantage, or assists in the acquisition of pecuniary advantage by another person, by —

- (a) improperly using or benefitting from information which is obtained in the course of his official duties and which is not generally available to the public;
- (b) disclosing any official information to unauthorised persons;

- (c) exerting any improper influence in the appointment, promotion, or disciplining or removal of a public officer;
- (d) directly or indirectly converting Government property for personal or any other unauthorized use; or
- (e) soliciting or accepting transfers of economic benefit, other than—
 - (i) benefits of nominal value, including customary hospitality and token gifts;
 - (ii) gifts from close family members; or
 - (iii) transfers pursuant to an enforceable property right of the Member or pursuant to a contract for which full value is given.

5. Member to disclose pecuniary interest to National Assembly

A Member shall not speak in the National Assembly, or in a committee thereof, on a matter in which he has a direct pecuniary interest unless he has disclosed the nature of that interest to the Assembly or Committee.

6. Declarations of interest in Government contracts

- (1) Where a Member has an interest in a contract that is made, or is proposed to be made, by the Government, and has not made a sufficient declaration under subsection (4) in relation to the contract, the Member shall as soon as practicable make a declaration of his interest in relation to the contract, specifying the nature and extent of his interest.
- (2) Where—
 - (a) immediately before the commencement of this Act, a Member has an interest in a contract that has been made by the Government; and
 - (b) the contract is not completely performed by all parties within thirty days after the commencement of this Act;the Member shall, within thirty days after the commencement of this Act, declare the interest in accordance with this section.
- (3) A declaration for the purposes of this section shall be made to the Chief Justice in writing.
- (4) A declaration by a Member that—
 - (a) states that he has an interest in a specified body corporate or firm;
 - (b) specifies the nature and extent of the interest;
 - (c) where the interest is a shareholding or partnership, specifies the proportion of the ownership of the company or firm represented by the shareholding or partnership; and
 - (d) states that he is to be regarded as interested in any contract which may, after the date of the notice, be made with the Government by that body corporate or firm;shall be a sufficient declaration of interest in relation to any contract so made unless, at the time the question of confirming or entering into any contract is first taken into consideration by the Government, the extent of his interest in the body corporate or firm is greater than is stated in the declaration.
- (5) For the purposes of this section, a Member has an interest in a contract if—
 - (a) he will derive any material benefit, whether direct or indirect, from the contract; or
 - (b) one party to the contract is a firm or body corporate and he has a material interest, whether direct or indirect, in the firm or body corporate.

- (6) For the purposes of paragraph (b) of subsection (5), a Member shall not be considered to have a material interest in a body corporate by reason only that—
 - (a) he holds debentures of the body corporate; or
 - (b) he holds shares in the body corporate with a total market value of less than the annual emoluments from office of the Member concerned.
- (7) A Member shall be considered to have breached the code of conduct if—
 - (a) he fails, without reasonable cause, to make a declaration required by this section; or
 - (b) he knowingly makes a declaration that is false or misleading in a material particular.

7. Failure to make declaration, or making of false declaration, under section 10

A Member who is subject to section ten shall be considered to have breached the code of conduct if—

- (a) he fails, without reasonable cause, to make a declaration required by this section; or
- (b) he knowingly makes a declaration that is false or misleading in a material particular.

Part III – Supplementary provisions not applicable to all members

8. Relationship between this Part and the Constitution

The provisions of this Part in their application to Ministers and Deputy Ministers shall constitute part of the code of conduct for Ministers for the purposes of the Constitution.

9. Collective responsibility of Ministers

A person holding Ministerial office shall not do anything that is inconsistent with the principle of the collective responsibility of Ministers for the policy of the Government and the conduct of its affairs, and in particular shall not—

- (a) publicly contradict or disassociate himself from any policy adopted by Cabinet;
 - (b) issue public statements criticising another person holding Ministerial office; or
 - (c) make unauthorised disclosures of Cabinet discussions, decisions or documents,
- (2) Subject to subsection (3), a person holding Ministerial office shall ensure that meetings of Cabinet (in the case of a Minister or the Vice-President) and the National Assembly take precedence over other duties.
 - (3) A person holding Ministerial office may derogate from subsection (2) in an urgent case if he has obtained the consent of the President, in the case of a Cabinet meeting, or of the Speaker, the Leader of the House or the Chief Whip, in the case of a meeting of the National Assembly.

10. Annual declaration of assets, liabilities and income

- (1) This section applies to a Ministerial office or the office of Speaker or Deputy Speaker, and in this section a person holding such an office is called "an Officer".
- (2) An Officer shall—
 - (a) within thirty days after his appointment; and
 - (b) within thirty days after each anniversary of his appointment to the office concerned;submit to the Chief Justice an annual declaration of assets, liabilities and income in accordance with this section.

- (3) An annual declaration shall fairly state—
 - (a) the value of the assets (other than personal and household effects) and liabilities of the Officer as at the declaration date; and
 - (b) the total income of the Officer, together with his income from each source, for the twelve months preceding the declaration date.
- (4) For the purposes of this section—
 - (a) an Officer appointed to an office before the commencement of this Act shall be deemed to have been appointed on the commencement of this Act; and
 - (b) where an Officer is appointed to another office to which this section applies without ceasing to be an Officer, a reference to his appointment to an office shall be read as a reference to his first appointments to an office to which this section applies.
- (5) In this section, "declaration date" means the date of the Officer's appointment or the anniversary thereof, as the case may be.
- (6) Where an Officer was appointed to his office before the commencement of this Act, his first declaration shall state—
 - (a) the value of the assets (other than personal and household effects) and liabilities of the Officer as at—
 - (i) the date of his appointment to office or 31st October, 1991, whichever is later; and
 - (ii) the declaration date; and
 - (b) the total income of the Officer, together with his income from each source, for the period since the date referred to in sub-paragraph (a)(i) or the date twelve months before the commencement of this Act, whichever is earlier.

Part IV – Administration and enforcement

11. Registration of declarations of interest and of assets

- (1) On receiving a declaration of interest under section six or a declaration of assets and income under section ten, the Chief Justice shall cause the particulars of the declaration to be entered in a register.
- (2) The register shall be kept in such form as the Chief Justice approves and shall be made available for inspection by members of the public at all reasonable times.

12. Declarations deemed to be statutory declarations

A declaration made for the purposes of section six or ten shall be deemed to be a statutory declaration.

13. Complaints of breaches of Part II

- (1) An allegation that a Member has breached Part II may be made to the Chief Justice by any person, in writing giving particulars of the breaches or breaches alleged, signed by the complainant and giving the complainant's name and address.
- (2) Where a Member considers that a statement made in the press or through the other public media alleges, directly or by implication, that he has breached Part II, he may report the particulars of the breach or breaches alleged, in writing, to the Chief Justice and request that the matter be referred to a tribunal.

- (3) The Chief Justice shall notify the President and the Speaker of the allegation and shall appoint a tribunal in accordance with section fourteen to investigate the allegation.
- (4) The tribunal shall, within forty-five days after its being appointed, submit a report on its findings to the President and to the Speaker and shall furnish a copy to the Member concerned.
- (5) The Speaker shall, not later than seven sitting days after the first sitting of the National Assembly next after receiving the report, cause a copy of the report to be laid before the National Assembly.

14. The tribunal

- (1) A tribunal for the purposes of this Act shall consist of three persons appointed by the Chief Justice from amongst persons who hold or have held the office of Judge of the Supreme Court or of the High Court.
- (2) Where a tribunal has been constituted under subsection (3) of section thirteen, the Chief Justice may commission it to investigate further allegations received by him under that section, whether against the Member concerned or another Member.
- (3) The Chief Justice shall appoint one Member of the tribunal as Chairman.
- (4) If a member of a tribunal becomes unwilling to act or dies, the Chief Justice may appoint another member in his place.
- (5) A tribunal shall conduct its inquiry in public:
Provided that it may exclude representatives of the press or any or all other persons if it considers it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.
- (6) A tribunal may engage the services of such technical advisors or other experts as it considers necessary for the proper conduct of the inquiry.
- (7) A tribunal may request assistance from other investigative organs, including the Police, the Anti-Corruption Commission and the Commission for Investigations, and those organs shall be empowered to provide information to the tribunal and to conduct investigations on its behalf.
- (8) In its report, the tribunal may make such recommendations as to administrative actions, criminal prosecutions or other further actions to be taken as it thinks fit.
- (9) If the tribunal considers that an allegation was malicious, frivolous or vexatious, or that the particulars accompanying it are insufficient to allow a proper investigation to proceed, it shall say so in its report.
- (10) Sections seven, eleven, thirteen, fourteen, fifteen and seventeen of the Inquiries Act shall apply to a tribunal as if—
 - (a) the tribunal were a commission appointed under the Act;
 - (b) a reference to a commissioner were a reference to a member of the tribunal; and
 - (c) a reference to the President were a reference to the Chief Justice.

[Cap. 41]

15. Payment of fees, remuneration or expenses

Any fees, remuneration or expenses payable in respect of a tribunal under this Act shall be paid out of moneys appropriated by Parliament for that purpose.

16. Complaints of breaches of section 8

- (1) An allegation that a person holding Ministerial office has breached section eight may be made to the President by any person in writing signed by the complainant and giving the complainant's name and address.
- (2) The President shall give a copy of the allegation to the Minister concerned.

Part V – Miscellaneous**17. Offence of false allegation**

A person who makes an allegation under section thirteen or sixteen knowing it to be false, shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding one year.

18. This Act does not prevent Member or Minister from resigning

Nothing in this Act shall have the effect of limiting the right of a Minister to resign as Minister, or of a Member to resign as a Member.

19. This Act does not derogate from other Acts

Nothing in this Acts shall have the effect of limiting or derogating from the Corrupt Practices Act or any other written law.

[Cap. 91]

20. Regulations

- (1) The President may make regulations for or with respect to any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without restricting the generality of subsection (1), the regulations may prescribe—
 - (a) the values of gifts or benefits referred to paragraph (e) of section four;
 - (b) fees for the inspection of the register referred to in section eleven;
 - (c) particulars of the manner in which the register referred to in section eleven shall be made public; and
 - (d) particulars of assets or income which must be disclosed in a declaration under section ten.