

THE PARLIAMENTARY SERVICE ACT, 2016

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GOVERNMENT OF ZAMBIA

ACT

No. 12 of 2016

Date of Assent: 6th June, 2016

An act to provide for the functions of the Parliamentary Service; provide for the membership, functions, operations and financial management of the Parliamentary Service Commission; to provide for the transfer of staff and continuation of their service under the Parliamentary Service; and to provide for matters connected with, or incidental to, the foregoing.

[7th June, 2016

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISION

1. This Act may be cited as the Parliamentary Service Act, 2016, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“Commission” means the Parliamentary Service Commission established in accordance with the Constitution;

Cap. 1

“Clerk” means the Clerk of the National Assembly appointed in accordance with the Constitution and this Act;

Cap. 1

“Emoluments Commission” means the Emoluments Commission established under Article 232 of the Constitution;

Cap. 1

“Leader of Government Business” has the meaning assigned to it in the Constitution;

“Leader of the Opposition” has the meaning assigned to it in the Constitution;

Cap. 1

“National Assembly” includes a committee, sub committee or other group or body of members or officers of the National Assembly appointed by or with the authority of the National Assembly for purposes of carrying out a function or representing the National Assembly;

“Officer” means a member of staff of the Parliamentary Service, and includes a person acting in an office of the Parliamentary Service;

Cap. 1 “Parliamentary Service” means the Parliamentary Service established under Article 217 of the Constitution;

“Secretary” means the Clerk of the National Assembly;

Cap. 1 “Secretary to the Treasury” means the Secretary to the Treasury appointed in accordance with Article 183 of the Constitution;

Cap. 1 “Speaker” means a person elected Speaker under the Constitution; and

“Vice-Chairperson” means the person elected as Vice-Chairperson of the Commission under section *five*.

PART II

PARLIAMENTARY SERVICE

Seal of
Parliamentary
Service

3. (1) The seal of the Parliamentary Service shall be such device as may be determined by the Clerk and shall be kept by the Clerk.

(2) The affixing of the seal shall be authenticated by the Clerk or one other person authorised in that behalf by the Clerk.

(3) Any 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 Parliamentary Service by the Clerk or any other person generally or specifically authorised by the Clerk in that behalf.

(4) Any document purporting to be a document under the seal of the Parliamentary Service or issued on behalf of the Parliamentary Service shall be received in evidence and shall be executed or issued, as the case may be, without any further proof, unless the contrary is proved.

- 4.** The functions of the Parliamentary Service are to—
- (a) provide support services to the National Assembly to ensure the full and effective exercise of its powers and functions; and
 - (b) provide such other services as the Clerk may specify.
- 5.** (1) The Clerk shall be the chief executive officer of the Parliamentary Service and secretary to the Commission.
- (2) The Clerk shall be responsible to the Commission for the management of the Parliamentary Service.
- (3) The Commission may delegate to the Clerk such functions as are necessary to carry out the management of the Parliamentary Service and to direct and supervise officers and agents of the Parliamentary Service, subject to such directions as may be given by the Commission.
- (4) The Clerk may, in consultation with the Commission, delegate the functions under this section to an officer of the Parliamentary Service.
- 6.** A person qualifies to be appointed Clerk of the National Assembly if that person—
- (a) has a minimum of ten years experience in public administration;
 - (b) has a minimum of a bachelor's degree in law obtained from a higher education institution established, declared or registered under a written law;
 - (c) is not mentally or physically incapable of performing the duties of Clerk;
 - (d) is not an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Zambia;
 - (e) has not, in the preceding five year period before the appointment as Clerk, served a sentence for a criminal offence exceeding a period of six months; and
 - (f) has not, in the preceding five year period before the appointment as Clerk, contested an election to a political office.
- 7.** (1) There shall be such other officers in the department of the Clerk as may be appointed by the Commission.
- (2) The Clerk and the officers and staff of the Commission shall, on appointment, take an oath in accordance with the Official Oaths Act.

Functions of
Parliamentary
Service

Clerk of
National
Assembly

Qualifica-
tions of
Clerk

Appoint-
ment of
officers

Cap. 5

PART III

THE PARLIAMENTARY SERVICE COMMISSION

Seal of
Parliamentary Service
Commission
Cap. 1

8. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or one other person authorised in that behalf by the Commission.

(3) Any 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 Commission by the Secretary or any other person generally or specifically authorised by the Commission in that behalf.

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

Functions of
Commission

9. The Commission shall, in addition to the functions specified in the Constitution—

(a) provide the necessary services and facilities to ensure efficient and effective functioning of the National Assembly;

(b) prepare the annual estimates of expenditure for the Parliamentary Service and the National Assembly;

(c) determine and establish a pension scheme to which officers of the Parliamentary Service may contribute;

(d) undertake, in cooperation with other relevant organisations, where appropriate, programmes to promote the ideals of parliamentary democracy;

(e) do all acts and things as may be necessary for the well being of the officers of the Parliamentary Service; and

(g) exercise such other functions as may be provided by, or under, this Act or any other written law.

Power to
appoint

10. The power to appoint persons to hold or to act in any office in the Parliamentary Service, including the Office of the Clerk, and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office, shall vest in the Commission.

11. (1) The Commission consists of the following part time members:

Composition
of
Commission

- (a) the Speaker, as Chairperson;
- (b) the Leader of Government Business in the National Assembly;
- (c) the Minister responsible for finance;
- (d) the Leader of the Opposition in the National Assembly; and
- (e) five members appointed by the Speaker as follows:
 - (i) three members of Parliament nominated by the political party in Government, at least one of whom is of the opposite gender; and
 - (ii) two members of Parliament of the opposite gender nominated by the opposition political parties holding seats in the National Assembly.

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

(3) A member of the Commission shall, subject to the other provisions of this Act, hold office for a term of five years.

(4) Where the office of a member becomes vacant before expiry of the term of office, the member appointed to fill the vacancy shall hold office only for the unexpired part of the term.

(5) A member of the Commission shall vacate office—

- (a) upon ceasing to be a Member of Parliament; or
- (b) in the case of a member appointed under subsection (1)(e):
 - (i) on the revocation of that person's appointment by the Speaker for inability to discharge the functions of a member of the Commission, whether arising from infirmity of body or mind, or for misbehaviour or
 - (ii) upon resignation, by notice in writing, to the Speaker.

12. (1) Subject to the other provisions of this Act, the Commission may regulate its own procedure.

Proceedings
of Commis-
sion

(2) The Commission shall meet for the transaction of its business at least twice in each quarter of the year at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than seven days, call a meeting of the Commission and shall call a special meeting to be held within seven days of receipt of a written request to the Chairperson by at least three members.

(4) The Chairperson may, if the urgency of any particular matter does not permit the giving of the notice required under subsection (3), call a special meeting of the Commission on giving shorter notice.

(5) The quorum at a meeting of the Commission is five members.

(6) There shall preside at any meeting of a Commission—

(a) the Chairperson;

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

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

(7) A decision of the Commission shall be made by the majority of the members present and voting at the meeting and in the event of an equality of votes, the Chairperson shall have a casting vote, in addition to a deliberative vote.

(8) A decision of the Commission may be made without a meeting by circulating an agenda, the proposed decision and any other relevant documents among the members and the members endorsing the proposed decision, in writing, except that any member is entitled to require that the decision be deferred until the subject matter is considered at a meeting of the Commission.

(9) A member may dissent from a decision of a Commission and have the member's declaration of interest or dissent and reasons set out in the record of the meeting at which the decision is made.

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

(11) The validity of any proceedings, act or decision of the Commission shall not be affected by a vacancy in the membership of the Commission or by a defect in the appointment of any member or by reason that a person not entitled to do so, took part in the proceedings.

(12) The Commission shall cause minutes to be kept of the proceedings of every meeting of the Commission and a committee established by the Commission.

13. (1) The Commission may, for the purpose of performing its functions under this Act, constitute committees and may delegate to a committee part of its functions as the Commission considers appropriate.

Committees
of Commission

(2) The Commission may appoint as members of a committee constituted under subsection (1), persons who are or are not members of the Commission and such persons shall hold office for such period as the Commission determines.

(3) A committee of the Commission may regulate its own procedure.

14. The Clerk of the National Assembly is the Secretary to the Commission.

Secretary of
Commission

15. There shall be paid to officers of the Parliamentary Service and members of the Commission or a committee of the Commission such emoluments as the Emoluments Commission may determine on the recommendation of the Commission.

Emoluments

16. (1) A person who is present at a meeting of a Commission or a committee of a Commission at which any matter is the subject of consideration, and in which matter the person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Commission 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.

17. (1) A person shall not, without the consent in writing given by, or on behalf of, the Commission, publish or disclose to an unauthorised person, otherwise than in the course of duty of that person, the contents of any document, communication or information which relates to or which has come to the knowledge of that person in the course of that person's duty under this Act.

Prohibition
of publica-
tion 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 period not exceeding two years, 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 period not exceeding two years, or to both.

Immunity of members

18. An action or other proceeding shall not lie or be instituted against a member of the Commission or a committee of the Commission, for or in respect of an act or thing done or omitted to be done in good faith in the exercise or performance, or performance, of any of the functions or duties conferred under this Act.

Oath on appointment
Cap. 5

19. A member of the Commission shall, on appointment, take an oath in accordance with the Official Oaths Act.

PART IV

FINANCIAL PROVISIONS

Funds of Parliamentary Service and Commission

20. (1) The funds of the Parliamentary Service and the Commission consist of such monies as may—

- (a) be appropriated to the Parliamentary Service and the Commission by Parliament;
- (b) be paid to the Parliamentary Service and the Commission by way of grants or donations; or
- (c) vest in or accrue to the Parliamentary Service and the Commission.

(2) The Parliamentary Service and the Commission may, subject to the approval of the President—

- (a) accept monies by way of grants or donations from any source within or outside Zambia; and
- (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Parliamentary Service and the Commission—

- (a) the emoluments of the members and staff of the Parliamentary Service and the Commission;
- (b) such travelling and other allowances for the members and the members of any committee when engaged on the business of the Parliamentary Service and the Commission, at such rates as the Emoluments Commission may approve on the recommendation of the Commission; and

(c) any other expenses incurred by the Parliamentary Service and the Commission in the performance of its functions under this Act.

21. The financial year of the Parliamentary Service and the Commission shall be a period of twelve months ending on 31st December in each year. Financial year

22. (1) The Parliamentary Service and the Commission shall cause to be kept proper books of accounts and other records relating to its accounts. Accounts and audit

(2) The accounts of the Parliamentary Service and the Commission 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 Commission.

23. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Parliamentary Service and the Commission shall submit to the President 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 Parliamentary Service and the Commission and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

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

(3) The Minister responsible for finance shall cause to be prepared an annual statement of the income and expenditure of the Parliamentary Service and the Commission to be laid before the National Assembly.

PART V

GENERAL PROVISIONS

24. (1) A member of staff of the National Assembly, who prior to the commencement of this Act was employed as a member of staff of the National Assembly shall, upon the commencement of this Act, be deemed to have been transferred to the Parliamentary Service. Existing staff

(2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the Department before the appointed date.

Regulations **25.** The Commission may make regulations for the better carrying out of the provisions of this Act.

Repeal of
Cap. 257
Act No. 25
of 1991 **26.** The National Assembly Staff Act, 1991, is repealed.
