

GOVERNMENT OF ZAMBIA

ACT

No. 24 of 1996

Date of Assent: 14th October, 1996

An Act to provide for the composition of the Electoral Commission; and to provide for matters connected with or incidental to the foregoing.

[16th October, 1996]

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Electoral Commission Act, 1996.

Short title

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

Interpretation

"Chairperson" means the person appointed as Chairperson under section *four*;

"Commission" means the Electoral Commission established under the Constitution;

Act No. 1 of 1991

"Director" means the person appointed as Director under section *ten*; and

"member" means a person appointed as member of the Commission under section *four*.

PART II

THE ELECTORAL COMMISSION

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

Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or any other person authorised in that behalf by a resolution of the Commission.

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

THE ELECTORAL COMMISSION ACT, 1996

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II

THE ELECTORAL COMMISSION

3. Seal of Commission
4. Composition of Commission
5. Tenure of office and vacancy
6. Filling of casual vacancy
7. Remuneration and allowances
8. Proceedings of Commission
9. Committees
10. Disclosure of interest
11. Prohibition of disclosure of information

PART III

ADMINISTRATION

12. Director and other staff

PART IV

FINANCIAL AND OTHER PROVISIONS

13. Funds of Commission
14. Financial Year
15. Accounts
16. Annual report
17. Transitional provisions
18. Transfer of staff
19. Rules

Functions and Composition of Commission	<p>4. (1) The Commission as established by Article 76 of the Constitution shall have the functions specified in that Article.</p> <p>(2) The Commission shall consist of the following full-time members:</p> <p>(a) a Chairperson; and</p> <p>(b) not more than four other members.</p> <p>(3) The members shall be appointed by the President, subject to ratification by the National Assembly.</p> <p>(4) The Chairperson shall be a person who has held, or is qualified to hold, high judicial office or, any other suitably qualified person.</p>	<p>(4) A decision of a majority of the members of the Commission shall have a casting vote.</p> <p>(5) The Commission shall, in its opinion, determine the conditions of the meeting of the Commission.</p> <p>(6) The validity of any decision of the Commission shall not be affected by the death of any member or by the expiry of his term of office.</p>
Tenure of office and vacancy	<p>5. (1) A member referred to in subsection (1) of section four shall be appointed for a term not exceeding seven years, subject to renewals and ratification by the National Assembly:</p> <p>Provided that the first members shall be appointed for periods ranging from two to five years in order to facilitate retirement by rotation.</p> <p>(2) A member referred to in subsection (1) may resign upon giving one month's notice, in writing, to the President.</p> <p>(3) The President may remove a member if—</p> <p>(a) the member is insane or otherwise declared to be of unsound mind; or</p> <p>(b) the member is declared bankrupt.</p>	<p>9. (1) The Commission shall perform such functions as may be necessary and desirable for the proper discharge of its functions as it may determine.</p> <p>(2) The Commission shall consist of the following members:—</p> <p>(3) A person shall not be eligible for appointment as a member of the Commission if he is a member of any other office for such period as may be determined by the Commission.</p>
Filling of casual vacancy	<p>6. Whenever the office of a member becomes vacant before the expiry of the term of office, the President may appoint another person to be a member in place of the member who vacates the office for the unexpired term of that office.</p>	<p>(4) Subject to the provisions of this Act, the Commission may, in its discretion, constitute a committee of its members to perform such functions as may be necessary and desirable for the proper discharge of its functions.</p>
Remuneration and allowances	<p>7. A member shall be paid such remuneration or allowances as the Commission may, with the approval of the President, determine.</p>	<p>10. (1) If any person is appointed as a member of the Commission, he shall, in addition to the remuneration or allowances payable to him by the Government, be entitled to such other remuneration or allowances as may be determined by the Commission.</p>
Proceedings of Commission	<p>8. (1) Subject to the other provisions of this Act, the Commission may regulate its own procedure.</p> <p>(2) Three members shall form a quorum at any meeting of the Commission.</p> <p>(3) There shall preside at any meeting of the Commission—</p> <p>(a) the Chairperson; or</p> <p>(b) in the absence of the Chairperson, such member as the members present may elect for the purposes of that meeting.</p>	<p>(2) A disclosure of information recorded in the minutes of any meeting of the Commission shall not be admissible in evidence in any court of law.</p> <p>(3) A person who is guilty of an offence under this Act shall be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding three years or to both.</p>
	<p>11. (1) A person who is guilty of an offence under this Act shall be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding three years or to both.</p>	<p>(4) A person who is guilty of an offence under this Act shall be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding three years or to both.</p>

(4) A decision of the Commission 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 his deliberative vote.

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

(6) The validity of any proceedings, acts or decisions of the Commission shall not be affected by any vacancy in the membership of the Commission 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.

9. (1) the Commission may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it considers fit.

Committees

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

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

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

10. (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such 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 touching such 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) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

11. (1) A person shall not without the consent in writing given by, or on behalf of, the Commission, publish or disclose to any person otherwise than in the course of the person's duties, the

Prohibition of disclosure of information

department dealing with elections, immediately prior to the commencement of this Act, shall continue against the Commission as if instituted under this Act.

Transfer of
staff

18. (1) The employees of the department of Government dealing with elections shall be deemed to be transferred to the Commission from the commencement of this Act and shall be engaged by the Commission on such terms and conditions as the Commission may determine.

(2) Notwithstanding subsection (1) the service of the employees referred to in subsection (1) shall be treated as continued service and the employees shall continue to contribute to the Public Service Pension Fund.

(3) Nothing in this Act affects the rights or liabilities of any person, referred to in subsection (1), acquired or incurred immediately before the commencement of this Act.

Rules

19. The Commission may, by statutory instrument, make rules for—

- (a) the appointment, including the power to confirm appointments of persons, to any office in respect of which it is charged with responsibility under this Act;
- (b) the disciplinary control of persons holding or acting in any office in respect of which it is charged with responsibility under this Act;
- (c) the termination of appointments and the removal of persons from any office, in respect of which it is charged with responsibility under this Act;
- (d) the practice and procedure of the Commission in the exercise of its functions under this Act; and
- (e) the delegation of its functions or powers.