

THE COMPENSATION FUND BILL, 2016

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the administration and management of the Compensation Fund established under Article 209 of the Constitution;
- (b) establish the Compensation Fund Committee and provide for its composition and functions;
- (c) provide for the accounting and audit of the Fund; and
- (d) provide for matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

N.A.B. 29, 2016
2nd May, 2016

THE COMPENSATION FUND BILL, 2016

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A BILL

ENTITLED

An Act to provide for the administration and management of the Compensation Fund established under the Constitution; establish the Compensation Fund Committee and provide for its composition and functions; provide for the accounting and audit of the Fund; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Compensation Fund Act,
5 2016. Short title
2. In this Act, unless the context otherwise requires— Interpretation
- “associate” means—
- (a) a person who is a nominee or an employee of a member;
 - 10 (b) a conjugal partner or former spouse of a member;
 - (c) a firm of which a member, or the member’s nominee, is a partner or a person in charge or in control of its business or affairs;
 - 15 (d) a company in which a member or the member’s nominee, is a director or is in charge or in control of its business or affairs, or in which a member,

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alone or together with the member's nominee, holds a controlling interest or shares amounting to more than thirty percent of the total share capital; or

(e) the trustee of a trust, where— 5

(i) the trust has been created by a member; or

(ii) the total value of the assets contributed by a member before or after the creation of the trust, amounts at any time, to not less than twenty percent of the total value of 10 the assets of the trust;

“claimant” means a person legally entitled to make a claim in respect of the Fund;

“Committee” means the Compensation Fund Committee established under section five; 15

“Chief State Advocate” means the person in charge of civil litigation in the Ministry responsible for justice;

“compensation” means the damages or award by a court or other competent body legally authorised to award compensation to a person as a result of a default of the 20 State;

“Controlling officer” has the meaning assigned to it in the Public Finance Act, 2004;

Act No. 15 of
2004

“Emoluments Commission” means the Emoluments Commission established under the Constitution; 25

Cap. 1

“Fund” means the Compensation Fund established under Article 209 of the Constitution;

Cap. 1

“legal obligation” includes an obligation arising under a contract, quasi contract or under a trust, including a constructive trust; 30

“member” means a member of the Committee;

“Permanent Secretary” means the Permanent Secretary in charge of legal matters in the Ministry responsible for justice;

“Principal State Advocate” means the person appointed as 35 such for the Department in charge of civil litigation in the Ministry responsible for justice;

“relative” means—

(a) a member's son, daughter, brother, sister, nephew, niece, parent, uncle, aunt, grandparent or cousin; and

5 (b) a member's spouse or the spouse of any of the persons mentioned in paragraph (a); and

"representative" means a legal representative of a claimant or a person lawfully responsible for making a claim against the Fund or on behalf of a claimant.

10 3. The payment of compensation shall be made in accordance with the following guiding principles:

Principles for payment of compensation

(a) transparency;

(b) accountability; and

(c) equity.

PART II

15 THE COMPENSATION FUND COMMITTEE

4. (1) There is established the Compensation Fund Committee that shall administer and manage the Fund.

Compensation Fund Committee

(2) The Committee consists of the following part-time members appointed by the Minister:

20 (a) the Permanent Secretary, as Chairperson;

(b) the Chief State Advocate, as Vice-Chairperson;

(c) the Head of Accounting in the Ministry responsible for justice;

(d) a representative of the Accountant-General;

25 (e) a representative of the Ministry responsible for finance;

(f) a representative of the Zambia Institute of Auditors; and

(g) a representative of the Law Association of Zambia.

(3) The Principal State Advocate shall be the Secretary to the Committee.

30 5. (1) Subject to the other provisions of this Act, a member of the Committee, other than the members referred to in paragraphs (a) to (c) of subsection (2) of section four, shall hold office for a term of three years from the date of appointment and may be re-appointed for a further term of three years.

Tenure of office and vacancy

35 (2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.