

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 28 OF 2022

**The Information and Communication
Technologies Act, 2009**
(Act No. 15 of 2009)

**The Information and Communication Technologies
(Administration of Authority) Regulations, 2022**

IN EXERCISE of the powers contained in section 91 of the Information and Communication Technologies Act, 2009, the following Regulations are made:

1. These Regulations may be cited as the Information and Communication Technologies (Administration of Authority) Regulations, 2022.

Title

2. The Act is amended by the revocation of the First Schedule and the substitution therefor of the Schedule set out in the Appendix.

Revocation
and
replacement
of First
Schedule

APPENDIX
(Regulation 2)

FIRST SCHEDULE
(Section 4)

ADMINISTRATION OF AUTHORITY

PART I

THE BOARD OF THE AUTHORITY

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| <p>Interpretation</p> <p>Act No. 3 of 2012</p> <p>Cap. 1</p> <p>Act No. 6 of 2019</p> <p>Cap. 1</p> <p>Act No. 3 of 2012</p> <p>Constitution of Board</p> | <p>1. In this Part, unless the context otherwise requires —</p> <p>“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;</p> <p>“Emoluments Commission” means the Emoluments Commission established under the Constitution;</p> <p>“legally disqualified” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019;</p> <p>“member” means a member of the Board appointed under paragraph 2;</p> <p>“Member of Parliament” has the meaning assigned to the words in the Constitution; and</p> <p>“relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012;.</p> <p>2. (1) There is constituted a Board of the Authority which consists of the following part-time members appointed by the Minister:</p> <p style="padding-left: 20px;">(a) a representative of the ministry responsible for—</p> <p style="padding-left: 40px;">(i) communications technology;</p> <p style="padding-left: 40px;">(ii) home affairs;</p> <p style="padding-left: 20px;">(b) a representative of an agency responsible for national security;</p> <p style="padding-left: 20px;">(c) a representative of the Attorney- General; and</p> <p style="padding-left: 20px;">(d) five other persons with relevant knowledge and experience in matters relating to this Act.</p> <p style="padding-left: 20px;">(2) The Minister shall appoint the Chairperson from among the members referred to under subparagraph (1).</p> <p style="padding-left: 20px;">(3) The members shall elect the Vice Chairperson from among themselves.</p> <p style="padding-left: 20px;">(4) The ministries and organisations referred to in subparagraph(1) shall nominate their representatives for appointment by the Minister.</p> |
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- (5) A person shall not be appointed as a member if that person
- (a) is a Member of Parliament;
 - (b) is an office bearer or employee of a political party;
 - (c) has a direct financial interest in the sector;
 - (d) is a relative or associate of a member referred to in subparagraph (1) (b) and (c);
 - (e) is an undischarged bankrupt;
 - (f) is legally disqualified from performing the functions of a member; or
 - (g) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months, without the option of a fine.

3. (1) Subject to the Act, the Board shall perform the functions of the Authority and provide strategic policy direction to the Authority. Functions of Board

(2) Despite subparagraph (1), the functions of the Board are to—

- (a) promote effective corporate governance of the Authority;
- (b) formulate the policies and strategies of the Authority;
- (c) approve documents of a policy nature of the Authority; and
- (d) approve the annual budget estimates and financial statements of the Authority.

4. (1) The seal of the Authority shall be a device that may be determined by the Board and shall be kept by the Secretary. Seal of Authority

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

(3) A 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 Authority by the Director-General or any other person generally or specifically authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be so executed or issued, without further proof, unless the contrary is proved.

Director-General,
Secretary and
other staff

5. (1) The Board shall appoint a Director-General who shall be—

- (a) the chief executive officer of the Authority; and
- (b) responsible for the day-to-day administration of the Authority.

(2) The Director-General shall attend meetings of the Board and any committee of the Board and may address those meetings but shall have no vote.

(3) The Board may, subject to any conditions imposed and guidelines issued by the Board, delegate any of its functions to the Director-General.

(4) The Board shall appoint the Secretary who shall perform corporate secretarial duties for the Board and other functions as the Authority may determine, under the direction of the Board.

(5) The Board shall appoint other staff of the Authority that the Board considers necessary for the performance of the functions of the Authority.

(6) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director General, Secretary and other staff of the Authority.

(7) The Board shall determine the terms and conditions of service, other than emoluments of the Director-General, Secretary and other staff of the Authority.

Tenure of
office and
vacancy

6. (1) A member 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.

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

- (3) The office of a member becomes vacant if that member
- (a) dies;
 - (b) is adjudged bankrupt under any written law;
 - (c) on the expiry of one month's notice, resigns, in writing, to the Minister;
 - (d) is absent from three consecutive meetings of the Board, of which the member has had notice, without the prior approval of the Board;
 - (e) ceases to be a representative of the ministry or organisation that nominated the member;

(f) is legally disqualified from performing the functions of a member; or

(h) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine.

(4) The Minister shall, where there is a vacancy in the membership of the Board before the expiry of the term of office, appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

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

Proceedings
Board

(2) The Board shall meet for the transaction of business at least once in every three months at a place and time that the Board may determine.

(3) The Chairperson may call a meeting of the Board on giving notice of not less than seven days or where one-third of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called on giving a shorter notice.

(4) Five members shall form a quorum at a meeting of the Board.

(5) There shall preside at a meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice Chairperson;
or

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

(6) A decision of the Board on a 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 that person's deliberative vote.

(7) A member under regulation 2 (a), (b) and (c) may, where a member is for any reason unable to attend a meeting of the Board, nominate another person from the same ministry or organisation, in writing, to attend in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite a person whose presence is in the Board's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.

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

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of any committee of the Board.

Committees

8. (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of the Board's functions to the committee as the Board considers necessary.

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

(3) A member of a committee shall hold office for a term that the Board may determine.

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

Allowances
of members

9. A member of the Board or any committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine.

Disclosure of
interest

10. (1) A person who is present at a meeting of the Board or a committee of the Board at which a matter is the subject of consideration, and in which matter that 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 Board or the committee of the Board otherwise directs, take part in a consideration or discussion of, or vote on, a question relating to that matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
person

11. (1) A person shall not, without the consent in writing given by, or on behalf of, the Authority, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication, or information which relates to, or which has come to that person's knowledge in the course of that person's duties under the Act.

(2) A person shall not, having information which to that person's knowledge has been published or disclosed in contravention of subparagraph (1), unlawfully publish or communicate the information to another person.

(3) A person who contravenes subparagraphs (1) and (2), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

12. An action or other proceeding shall not lie or be instituted against a member, a member of a committee of the Board and a member of staff of the Authority for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of a power or function conferred under this Act. Immunity of members

PART II

FINANCIAL PROVISIONS

13. (1) The funds of the Authority consist of monies that may Funds of Authority
- (a) be appropriated by Parliament;
 - (b) be paid to the Authority by way of fees, loans, grants or donations; and
 - (c) vest in or accrue to the Authority.
- (2) The Authority may —
- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
 - (b) subject to the Public Finance Management Act, 2018, raise by way of loans or otherwise, moneys that the Authority may require for the performance of the Authority's functions; or Act No. 1 of 2018
 - (c) in accordance with the Regulations made under the Act, charge and collect fees for services provided by the Authority.
- (3) There shall be paid from the funds of the Authority—
- (a) salaries, allowances, loans, of members of staff of the Authority;
 - (b) reasonable travelling, transport and subsistence allowances for members or members of a committee of the Board when engaged in the business of the Authority at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and
 - (c) any other expenses incurred by the Authority in the performance of the Authority's functions under this Act.
- (4) The Board may, with the approval of the Minister, invest in a manner that the Board considers appropriate funds of the Authority that the Board does not immediately require for the performance of the Board's functions.

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- Financial year 14. The financial year of the Authority shall be a period of twelve months ending on 31st December in each year.
- Accounts 15. (1) The Authority shall cause to be kept proper books of accounts and other records relating to the Authority's accounts.
(2) The accounts of the Authority shall be audited by the Auditor-General or by auditors appointed by the Auditor General.
(3) The auditor's fees shall be paid by the Authority.
- Annual report 16. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Authority shall submit to the Minister a report concerning the Authority's activities during the financial year.
(2) The report referred to under subparagraph (1), shall include information on the financial affairs of the Authority and there shall be appended to the report—
(a) an audited balance sheet;
(b) an audited statement of financial position;
(c) an audited statement of income and expenditure; and
(d) other information that the Minister may require.
(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

F. MUTATI,
*Minister of Technology
and Science*

LUSAKA
28th March, 2022
[MOTS.72/7/14]