

THE ELECTORAL PROCESS (AMENDMENT) BILL, 2019

MEMORANDUM

The object of this Bill is to amend the Electoral Process Act, 2016, so as to—

- (a) reduce the campaign period from three months to sixty days;
- (b) revise the rules to be prescribed in relation to the registration of voters;
- (c) provide for the duty of the Commission to publish the election time table in a newspaper of nationwide circulation in addition to the publication in the *Gazette*;
- (d) prescribe the conduct of persons during the counting, tallying, tabulation of votes and transmission of results;
- (e) revise the manner of accreditation of observers and monitors;
- (f) provide for sanctions to be imposed by the Commission for breach of the Code;
- (g) provide for regulation of conduct of political party agents; and
- (h) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

A BILL

ENTITLED

An Act to amend the Electoral Process Act, 2016.

ENACTED by the Parliament of Zambia

Enactment

1. This Act may be cited as the Electoral Process (Amendment) Act, 2019, and shall be read as one with the Electoral Process Act, 2016, in this Act referred to as the principal Act.

Short title
Act No. 35
of 2016

5 2. Section 2 of the principal Act is amended—

Amendment
of section 2

(a) in the definition of “campaign period” by the deletion of the words “three months” and the substitution therefor of the words “sixty days”; and

10 (b) by the insertion of the following definition in the appropriate place, in alphabetical order:

“legally disqualified” means a disqualification by a court or quasi-judicial body established by law.

3. The principal Act is amended by the repeal of section 7 and the substitution therefor of the following:

Repeal and
replacement
of section 7

15 7. (1) The Commission shall conduct a continuous registration of voters.

Continuous
voter
registration

(2) The Commission may register a citizen outside the Republic as prescribed.

20 4. The principal Act is amended by the repeal of section 9 and the substitution therefor of the following:

Repeal and
replacement
of section 9

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| Disqualification from registration as voter | 9. The Commission shall not register a person as a voter if that person — (a) is not a citizen; (b) is not in possession of a national registration card; and (c) is legally disqualified. | 5 |
| Amendment of section 28 | 5. Section 28 (1) (b) of the principal Act is amended by the insertion of the words Aand in a daily newspaper of general circulation in Zambia, after the word “ <i>Gazette</i> ”. | |
| Amendment of section 35 | 6. Section 35 (2) (a) of the principal Act is amended by the deletion of the words “or resident permit holder”. | 10 |
| Amendment of section 36 | 7. Section 36 (2) of the principal Act is amended by the insertion of the words “if the electoral proceeding is properly conducted,” immediately after the words “shall not”. | |
| Repeal of section 47 | 8. The principal Act is amended by the repeal of section 47. | 15 |
| Insertion of section 73A | 9. The principal Act is amended by the insertion of the following new section immediately after section 73: 73B. The Commission shall, by statutory instrument, prescribe the manner and form of counting, tallying, tabulating and transmitting of election results by an election or polling agent. | 20 |
| Repeal and replacement of section 74 | 10. The principal Act is amended by the repeal of section 74 and the substitution therefor of the following: 74. The Commission may use electronic means to — (a) register voters; (b) transmit results from a polling station; and (c) facilitate voting of a citizen outside the Republic. | 25 |
| Repeal and replacement of section 77 | 11. The principal Act is amended by the repeal of section 77 and the substitution therefor of the following: 77. (1) An institution may apply to the Commission, in the prescribed manner, for accreditation to observe or monitor an election. | 30 |

(2) The Commission may require any information it may consider necessary in support of an application under subsection (1).

5 (3) The Commission shall, where it decides to accredit an applicant—

(a) issue the applicant with a certificate of accreditation in the applicant's name, stating the period and other conditions of accreditation; and

10 (b) enter the applicant's name in the register of persons accredited as observers and monitors.

(4) The Commission may accredit an applicant, without the payment of a fee, to observe or monitor an election after considering the application and any other information provided by the applicant, and whether

15 (a) the accreditation of the applicant shall promote conditions conducive to a free and fair election; and

(b) the institution appointed by the applicant shall

20 (i) observe the election impartially and independently of any registered party or candidate contesting that election;

(ii) be competent and professional in observing the election; and

25 (iii) subscribe to a code governing observers and monitors issued by the Commission under this Act.

(5) The Commission shall, where it decides not to accredit the applicant, inform the applicant accordingly, in writing, and give the reasons for its decisions.

30 (6) Where an institution accredited as an observer or monitor fails to comply, to a material extent, with the conditions of the accreditation, the Commission may cancel that accreditation and, in writing, notify the person concerned of the cancellation and state the reasons for that cancellation.

35 (7) A person may inspect the register and copies of the certificates of persons accredited as observers and monitors.

(8) The register and copies of the certificate shall be kept at the Commission's head office.

40 (9) The Chief Elections Officer shall provide a certified copy of, or extract from, the register or a certificate to any person on payment of the prescribed fee.