

Zambia

## Zambia Institute of Secretaries Act, 2022

Act 19 of 2022

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# Zambia

## Zambia Institute of Secretaries Act, 2022

Act 19 of 2022

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Commenced on 9 December 2022

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**An Act to continue the existence of the Professional Secretaries Association of Zambia and re-name it as Zambia Institute of Secretaries and re-define its functions; provide for the registration of professional secretaries; regulate professional secretaries' conduct; constitute the Council of the Institute and provide for its functions; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia.

### Part I – Preliminary provisions

#### 1. Short title

This Act may be cited as the Zambia Institute of Secretaries Bill, 2022.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**associate**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

"**Chairperson**" means a person appointed as Chairperson of the Disciplinary Committee under [section 42](#);

"**chairperson**" means a person appointed as chairperson of a Professional Conduct Committee under [section 37](#);

"**certificate of registration**" means the certificate of registration issued under [section 15](#);

"**code of ethics**" means the code of professional ethics adopted and published by the Institute for the purposes of this Act;

"**constitution**" means the constitution of the Institute adopted in accordance with [section 5](#);

"**Council**" means the Council of the Institute constituted under [section 8](#);

"**council member**" means a person elected or nominated as a council member under [section 8](#);

"**Disciplinary Committee**" means the Disciplinary Committee constituted under [section 42](#);

"**Higher Education Authority**" means the Higher Education Authority established under the Higher Education Act, 2013;

*[Act No. 4 of 2013]*

"**Institute**" means the Zambia Institute of Secretaries established under [section 3](#);

"**Law Association of Zambia**" means the Law Association of Zambia established under the Law Association of Zambia Act;

*[Cap. 31]*

"**legal practitioner**" has the meaning assigned to the words "practitioner" in the Legal Practitioners Act;

[*Cap. 30*]

"**legally disqualified**" means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019;

[*Act No. 6 of 2019*]

"**practising certificate**" means a practicing certificate issued under [section 23](#);

"**President**" means the person elected as President of the Institute in accordance with [section 6](#);

"**Professional Conduct Committee**" means a Professional Conduct Committee constituted under [section 37](#);

"**professional misconduct**" means the conduct referred to under [section 35](#);

"**professional secretary**" means a person who has obtained a qualification in shorthand and typewriting and possesses a secretarial certificate, diploma in secretarial studies or degree in secretarial studies and includes typist, stenographer, legal secretary, personal secretary, senior personal secretary, executive assistant secretary, administrative assistant and principal executive assistant;

"**register**" means the register of professional secretaries registered under this Act;

"**Registrar**" means the person appointed as Registrar under [section 10](#);

"**relative**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[*Act No. 3 of 2012*]

"**secretarial bureau**" means an office, organisation or institution that provides a secretarial service;

"**Technical Education, Vocational and Entrepreneurship Training Authority**" means the Technical Education, Vocational and Entrepreneurship Training Authority established under the Technical Education, Vocational and Entrepreneurship Training Act, 1998;

[*Act No. 13 of 1998*]

"**Vice-Chairperson**" means the person appointed as Vice-Chairperson of the Disciplinary Committee under [section 42](#);

"**vice-chairperson**" means the person appointed as vice-chairperson of a Professional Conduct Committee under [section 37](#);

"**Vice-President**" means the person elected as Vice-President of the Institute under [section 6](#); and

"**Zambia Qualifications Authority**" means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.

[*Act No. 3 of 2011*]

## Part II – The Zambia Institute of Secretaries

### 3. Continuation and renaming of Professional Secretaries Association of Zambia

- (1) The Professional Secretaries Association of Zambia registered under the Societies Act, shall continue to exist as if established under this Act and is renamed as the Zambia Institute of Secretaries.
- (2) The Institute is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provisions of this Act, to do the acts and things that a body corporate may, by law, do or perform.

- (3) The First Schedule applies to the Institute.

*[Cap. 119]*

#### **4. Functions of Institute**

The functions of the Institute are to—

- (a) register and regulate professional secretaries;
- (b) issue practising certificates to members;
- (c) register students pursuing secretarial courses;
- (d) represent, co-ordinate and develop the secretarial profession and promote the profession's interests;
- (e) set and enforce professional standards of the secretarial profession;
- (f) provide continuous professional development programmes to the members;
- (g) promote the integrity and enhance the status of the secretarial profession;
- (h) develop, promote and enforce internationally comparable practice standards in the Republic with respect to the secretarial profession;
- (i) participate in the activities of bodies whose main purpose is the development and setting of practice standards for the secretarial profession;
- (j) encourage and finance research into any matter affecting professional secretaries; and
- (k) collaborate with higher education institutions, Government departments and other institutions to improve the quality of secretarial services.

#### **5. Constitution of Institute**

- (1) The Institute shall, by a vote of at least two-thirds of the members voting at a general meeting of the Institute, adopt a constitution and may, in a like manner, amend it.
- (2) Subject to the other provisions of this Act, the constitution shall regulate the conduct of the affairs of the Institute.
- (3) Subject to subsection (1), the constitution may provide for the—
  - (a) meetings of the Institute, including the delivery and sufficiency of notices of the meetings, quorum, voting, adjournment and other matters of procedure or conduct of the meetings;
  - (b) election, qualifications and tenure of office of the President, Vice-President and other office bearers of the Institute;
  - (c) composition, functions, powers and procedures of the committees of the Institute;
  - (d) classes of membership and their rights, privileges and obligations; and
  - (e) any other matter as the membership may determine.

#### **6. President and Vice-President of Institute**

The Institute shall elect the President and Vice-President of the Institute in accordance with the provisions of the constitution.

#### **7. Meeting of Institute**

- (1) Subject to this Act, the Institute may regulate its own procedure.

- (2) The meetings of the Institute shall be conducted in accordance with the provisions of the constitution.
- (3) The validity of any proceedings, act or decision of the Institute shall not be affected by any person's absence from a meeting of the Institute or by reason that a person not entitled to do so took part in the proceedings of the Institute.

### Part III – The Council of the Institute

#### 8. Council of Institute

- (1) There is constituted the Council of the Institute which shall perform the functions of the Institute.
- (2) The Council shall consist of the following part-time members elected in accordance with the provisions of the constitution:
  - (a) the President of the Institute as Chairperson;
  - (b) the first Vice-President for Southern Region as first Vice-Chairperson;
  - (c) the second Vice-President for Northern Region as second Vice-Chairperson;
  - (d) the Secretary;
  - (e) the Treasurer;
  - (f) the Publicity secretary;
  - (g) three other professional members; and
  - (h) the Registrar as an *ex-officio*.
- (3) A person shall not be elected as a Council member if that person is—
  - (a) found guilty of professional misconduct under this Act;
  - (b) convicted of an offence under this Act;
  - (c) an undischarged bankrupt;
  - (d) legally disqualified;
  - (e) convicted of an offence involving fraud or dishonesty; or
  - (f) an employee of the Institute.
- (4) The First Schedule applies to the Council.

#### 9. Functions of Council

- (1) The functions of the Council are to perform the executive functions of the Institute.
- (2) Despite the generality of subsection (1), the functions of the Council are to—
  - (a) promote an understanding of professional ethics among members;
  - (b) ensure that the rules and guidelines for professional ethics developed by the Institute are responsive to the expectations of the members of the public and institutions served by a professional secretary;
  - (c) participate in the development of internal practice standard setting;
  - (d) make recommendations relating to the secretarial profession at a general meeting of the Institute;

- (e) formulate and approve policies, programmes and strategic plans of the Institute;
  - (f) approve the annual work plans, activities and reports of the Institute;
  - (g) approve annual budgets estimates and financial statements of the Institute;
  - (h) monitor and evaluate the performance of the Institute against budgets and plans;
  - (i) advise the Minister on matters relating to secretarial practice;
  - (j) set, establish and monitor standards for members;
  - (k) develop and publish code of ethics, and the disciplinary code of conduct; and
  - (l) issue certificate of registration and practising certificate.
- (3) The Council may, by direction in writing and on conditions that the Council considers necessary, delegate to the Registrar any of its functions under this Act.

#### **10. Registrar and other staff**

- (1) The Council shall appoint a Registrar on the terms and conditions that the Council may determine.
- (2) The Registrar shall be—
  - (a) the chief executive officer of the Institute; and
  - (b) responsible for the day-to-day administration of the Institute.
- (3) The Council shall appoint other staff of the Institute that the Council considers the performance of the functions of the Institute.
- (4) The Registrar shall attend meetings of the Council or a Committee of the Council and may address those meetings but shall not vote.
- (5) The Council shall determine the conditions of service and emoluments of the Registrar and other staff of the Institute.

### **Part IV – Registration of professional secretaries**

#### **11. Classes of membership**

There shall be classes of membership with rights, privileges and obligations that may be prescribed in the constitution.

#### **12. Prohibition of practising without registration**

- (1) A person shall not be employed or practice as a professional secretary unless that person is registered as a professional secretary under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

#### **13. Application for registration as member**

- (1) A person who intends to be employed or to practice as a professional secretary in the Republic shall apply to the Institute for registration in the prescribed manner and form on payment of the prescribed fee.
- (2) The Institute may determine different fees for different classes of professional secretaries.

- (3) The Institute may, within thirty days of receipt of an application under subsection (1), grant or reject the application.
- (4) The Institute shall, where it rejects an application under subsection (3), inform the applicant within fourteen days of its decision and give reasons for the decision.

#### **14. Determination of application for registration as professional secretary**

The Institute shall, in considering an application made under [section 13](#), be satisfied that the applicant—

- (a) is registered as a member in accordance with the provisions of the constitution;
- (b) possesses knowledge, training and experience that may be prescribed;
- (c) holds a qualification recognised and validated by the Zambia Qualifications Authority;
- (d) is a citizen or resident in the Republic;
- (e) is of good character and good professional standing; and
- (f) meets other requirements that the Minister may, on the recommendation of the Institute, prescribe by statutory instrument.

#### **15. Certificate of registration**

- (1) The Institute shall issue a professional secretary with a certificate of registration showing the professional secretary's class of membership.
- (2) A certificate of registration shall remain the property of the Institute and shall have an unlimited period of validity, unless suspended or cancelled under this Act.

#### **16. Disqualification from registration**

A person shall not qualify for registration as a professional secretary under this Act, if that person—

- (a) is convicted of an offence involving fraud or dishonesty under this Act or any other written law in the preceding five years prior to the registration;
- (b) is legally disqualified;
- (c) is adjudged bankrupt; or
- (d) is found guilty of professional misconduct by the Disciplinary Committee and the Disciplinary Committee orders the cancellation of the certificate of registration of that professional secretary.

#### **17. Title for registered professional secretary**

A registered professional secretary shall use the title or designation as prescribed in the constitution.

#### **18. Change in details**

A professional secretary registered under this Act shall notify the Registrar of any change in the particulars relating to the registration within fourteen days of the change.

#### **19. Suspension and cancellation of registration**

- (1) Subject to this Act, the Institute may suspend or cancel the registration of a registered professional secretary where—
  - (a) the Institute has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of a material fact;

- (b) the professional secretary is found guilty of professional misconduct under this Act or the code of ethics and the Disciplinary Committee orders the suspension or cancellation of the professional secretary's certificate of registration;
  - (c) the professional secretary is convicted of an offence under any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine; or
  - (d) since the registration, circumstances have arisen disqualifying a professional secretary from registration.
- (2) The Institute shall, before suspending or cancelling the registration under subsection (1), give a professional secretary an opportunity to be heard.
  - (3) The Institute may, before cancelling the registration of a professional secretary, suspend the professional secretary for a specified period and on terms and conditions that the Council may determine.
  - (4) Where the Institute cancels the registration of a professional secretary under this section, the name of the professional secretary shall be removed from the register and shall not be restored, except on conditions that may be prescribed, on payment of the prescribed fee.

## 20. Reregistration

Where a certificate of registration is cancelled under [section 19](#), the holder of the certificate of registration may, subject to the terms and conditions that the Institute may determine, apply for reregistration.

## 21. Prohibition of practising as professional secretary without practising certificate

- (1) A person shall not practice as a professional secretary without a valid practising certificate issued to that person by the Institute under this Act.
- (2) A person shall not offer employment to a person who does not hold a practising certificate issued under this Act.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

## 22. Holding out as professional secretary

- (1) A person shall not, unless that person is registered as a professional secretary under this Act and holds a practising certificate—
  - (a) be employed as, offer services as, be engaged as an agent of, or hold out to be, a professional secretary;
  - (b) adopt, use or exhibit the titles or designations prescribed in the constitution; or
  - (c) do anything likely to mislead persons to infer that the person is a registered professional secretary.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

## 23. Practising certificate

- (1) A registered professional secretary shall apply to the Institute for a practising certificate in the prescribed manner and form on payment of the prescribed fee.

- (2) The Institute shall, where the applicant meets the requirements of this Act, within fourteen days of the receipt of an application under subsection (1), issue the applicant with a practising certificate in the prescribed form.
- (3) The Minister may, by statutory instrument, on the recommendation of the Institute, make Regulations to provide for—
  - (a) the terms and conditions for the issuance of a practising certificate;
  - (b) the type of continuous professional development and training and any other information required for the issuance of a practising certificate; and
  - (c) any other matter necessary for purposes of this Act.

#### **24. Display of practising certificate**

A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practice.

#### **25. Renewal of practising certificate**

- (1) A practising certificate shall be renewed annually in the prescribed manner and form, on payment of the prescribed fee.
- (2) A practising certificate that is not renewed in accordance with subsection (1) is void.

#### **26. Suspension and cancellation of practising certificate**

- (1) Subject to this Act, the Institute may suspend or cancel a practising certificate if the holder—
  - (a) is legally disqualified;
  - (b) is adjudged bankrupt;
  - (c) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact;
  - (d) commits an offence under this Act or contravenes the code of ethics;
  - (e) is found guilty of professional misconduct and the Disciplinary Committee orders the cancellation of the practising certificate; or
  - (f) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.
- (2) The Institute shall, before cancelling a practising certificate of a professional secretary under this section, give the professional secretary an opportunity to be heard.
- (3) The Institute may, before cancelling a practising certificate of a professional secretary, suspend the professional secretary for a specified period and on terms and conditions that the Council may determine.
- (4) Where a practising certificate is cancelled under this section, the practising certificate shall be void and shall be surrendered to the Institute.

#### **27. Prohibition of transfer of certificate of registration or practising certificate**

A certificate of registration or practising certificate issued under this Act shall not be transferred to a third party.

## 28. Duplicate certificate of registration or practising certificate

- (1) A professional secretary whose certificate of registration or practising certificate is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form on payment of the prescribed fee.
- (2) The Registrar may, within seven days of receipt of an application under subsection (1), issue a duplicate certificate of registration or practising certificate to the applicant.

## 29. Registration of secretarial bureau

- (1) A person who registers a secretarial bureau under the Registration of Business Names Act, 2011, the Companies Act, 2017, or any other written law, shall register the secretarial bureau with the Institute in the prescribed manner and form on payment of the prescribed fee.

*[Act No. 16 of 2011; Act No. 10 of 2017]*

- (2) The Institute shall register a secretarial bureau by entering in the register, the name of the secretarial bureau as registered under the Registration of Business Names Act, 2011, the Companies Act, 2017, or any other written law, together with the name of each partner or director of the secretarial bureau and any other information as may be prescribed.

*[Act No. 16 of 2011; Act No. 10 of 2017]*

## 30. Register

- (1) The Institute shall keep and maintain a register in which the Registrar shall enter the details and particulars relating to—
  - (a) members;
  - (b) registered professional secretaries;
  - (c) the holders of practising certificates and persons whose practising certificates have been cancelled;
  - (d) students studying secretarial course;
  - (e) the applications rejected and the reasons for the rejection; and
  - (f) any other information that the Institute may determine.
- (2) The register shall be kept in the custody of the Registrar at the offices of the Institute and shall be open for inspection by members of the public during normal office hours on payment of a fee that the Council may determine.
- (3) The Registrar may, on an application by a person, issue to that person a certified extract from the register of a copy of a certificate of registration or practising certificate on payment of a fee that the Institute may determine.

## 31. Maintenance of non-practising professional secretary on register

The Institute may, where a holder of a practising certificate does not intend to practice for a specified period of time, maintain the name of the holder of the practising certificate on the register, in a non-practising category, for that period of time.

## 32. Publication of copies of register

- (1) The Registrar shall, on the direction of the Council, cause copies of the register and any alterations of, or additions to, the register to be printed and published in a manner and form that the Council may direct.

- (2) Subject to this Act, a copy of the last published and printed register is *prima facie* evidence of what is contained in that register and the absence of the name of a professional secretary from that copy is *prima facie* evidence that the professional secretary is not registered.

### **33. Offences regarding registered professional secretary**

- (1) A person shall not—
- (a) make or cause to be made an unauthorised entry, alteration or erasure in the register or a certified copy of an entry in the register, a certificate of registration or practising certificate issued under this Act;
  - (b) impersonate or use the title of a professional secretary while not registered as a professional secretary under this Act;
  - (c) procure, or attempt to procure, registration under this Act, by fraud, false representation or the concealment of a material fact; or
  - (d) forge a certificate of registration, practising certificate or other document issued under this Act.
- (2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

## **Part V – Disciplinary matters**

### **34. Code of ethics**

The Institute shall develop and publish a code of ethics for professional secretaries which shall bind all professional secretaries regulated under this Act.

### **35. Professional misconduct**

A professional secretary commits professional misconduct if that professional secretary—

- (a) contravenes a provision of this Act;
- (b) unlawfully discloses or uses to the advantage of the professional secretary any information acquired in the practice of the professional secretary;
- (c) engages in conduct that is dishonest, fraudulent or deceitful; or
- (d) breaches the code of ethics or encourages another professional secretary to breach or disregard the principles of the code of ethics.

### **36. Initiation of disciplinary action**

- (1) A person may lodge a complaint with the Institute against a professional secretary where that person alleges that the professional secretary has contravened the code of ethics or any provision of this Act.
- (2) The Institute may initiate disciplinary action under this section where the Institute has reasonable grounds to believe that a professional secretary has contravened the code of ethics or any provision of this Act.
- (3) A complaint or allegation shall be made to the Registrar in the prescribed manner and form.

### 37. Professional Conduct Committee

- (1) The Council shall constitute a Professional Conduct Committee for each province and progressively each district consisting of the following part-time members:
  - (a) not more than five members who are registered as professional secretaries; and
  - (b) a legal practitioner nominated by the Law Association of Zambia.
- (2) The members shall elect the chairperson and vice-chairperson among the persons in subsection (1)(a).
- (3) A person shall not be appointed as a member of the Professional Conduct Committee if that person is—
  - (a) found guilty of professional misconduct;
  - (b) an undischarged bankrupt;
  - (c) legally disqualified from performing the functions of a member; or
  - (d) convicted of an offence under any other law and sentenced to imprisonment for a period exceeding six months without the option of a fine.
- (4) A member of the Professional Conduct Committee shall hold office for a term of three years and may be appointed for a further and final term of three years.
- (5) A member of the Professional Conduct Committee shall, on 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.
- (6) The office of a member of the Professional Conduct Committee becomes vacant if that member—
  - (a) dies;
  - (b) is adjudged bankrupt under any written law;
  - (c) is absent from three consecutive meetings of the Professional Conduct Committee of which the member has notice, without the prior approval of the Professional Conduct Committee;
  - (d) resigns, by notice in writing, to the Council;
  - (e) is legally disqualified from performing the functions of a member;
  - (f) is found guilty of professional misconduct;
  - (g) is de-registered under this Act, in the case of a member referred to under subsection (1)(a); or
  - (h) is convicted of an offence under any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.
- (7) The Council shall, where there is a vacancy in the membership of the Professional Conduct Committee 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.

### 38. Reference of matters to Professional Conduct Committee

Except as otherwise expressly stated, before a matter is referred to the Professional Conduct Committee, the Institute shall in the prescribed manner refer the matter for investigation by the Professional Conduct Committee.

### **39. Functions of Professional Conduct Committee in relation to complaint or information**

- (1) A Professional Conduct Committee shall investigate a matter referred to it by the Institute.
- (2) Where a case is referred to a Professional Conduct Committee, that Committee shall, as prescribed, consider the case and, subject to the provisions of this section, determine either—
  - (a) that no inquiry shall be held in the case by the Disciplinary Committee; or
  - (b) that the matter in question shall, in whole or in part, be referred to the Disciplinary Committee for inquiry.
- (3) Where a Professional Conduct Committee determines that no inquiry shall be held in a case by the Disciplinary Committee, the Registrar shall inform the complainant, if any, and the professional secretary of the decision of the Professional Conduct Committee on terms that the Professional Conduct Committee may direct.
- (4) The Professional Conduct Committee shall, if it considers just, cause to be made further investigations, or obtain advice or assistance from any person, that the Professional Conduct Committee may consider necessary.
- (5) Where a Professional Conduct Committee determines that investigations are necessary, or where at the time when a Professional Conduct Committee is considering the case, no explanation has been received from the professional secretary, the Professional Conduct Committee may, make a provisional determination that the matter in question shall, in whole or in part, be referred to the Disciplinary Committee.
- (6) Where a Professional Conduct Committee makes a provisional determination in accordance with subsection (5) and further investigations are concluded or an explanation is subsequently furnished by the professional secretary, the chairperson may, in consultation with the members of the Professional Conduct Committee and on the opinion of the majority of the members of the Professional Conduct Committee, direct that—
  - (a) an inquiry shall not be held in the case by the Disciplinary Committee; or
  - (b) the matter be referred to the Disciplinary Committee for inquiry.
- (7) Where a direction is given in accordance with subsection (6)(a), the chairperson shall inform the complainant, if any, and the professional secretary of the decision of the Professional Conduct Committee on terms that the Professional Conduct Committee may direct.

### **40. Proceedings of Professional Conduct Committee**

- (1) Subject to this Act, a Professional Conduct Committee may regulate its own procedure.
- (2) Three members of a Professional Conduct Committee shall form a quorum at a meeting or sitting of a Professional Conduct Committee.
- (3) The chairperson, or in the absence of the chairperson, the vice-chairperson, shall preside at a meeting or sitting of a Professional Conduct Committee.
- (4) A question at a sitting or meeting of a Professional Conduct Committee shall be decided by a majority of the members present at a sitting or meeting, and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.
- (5) A party to a hearing of a Professional Conduct Committee may appear in person or be represented by a legal practitioner or, if the party so elects, by any other person.
- (6) A person who is present at a meeting or sitting of a Professional Conduct Committee 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 or sitting, disclose that interest and shall not, unless the Professional Conduct Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

- (7) A disclosure of interest made under this section shall be recorded in the minutes of the meeting or sitting at which it is made.
- (8) A Professional Conduct Committee shall cause to be kept a record of its proceedings.

#### **41. Sanctions for professional misconduct by Professional Conduct Committee**

A Professional Conduct Committee may, where a Professional Conduct Committee finds a professional secretary guilty of professional misconduct—

- (a) counsel, mentor or censure the professional secretary;
- (b) caution the professional secretary;
- (c) impose an administrative penalty, not exceeding fifty thousand penalty units, to be paid to the Institute;
- (d) order the professional secretary to pay to the Institute or to any other party to the hearing any costs of, or incidental to, the proceedings;
- (f) order that the professional secretary be re-trained; or  
*[Please note: numbering as in original.]*
- (g) suspend the professional secretary.

#### **42. Disciplinary Committee**

- (1) The Council shall constitute a Disciplinary Committee consisting of the following part-time members:
  - (a) a Chairperson appointed by the Council;
  - (b) a Vice-Chairperson appointed by the Council; and
  - (c) five registered members who are not members of the Council, elected at a general meeting of the Institute.
- (2) The Registrar shall be the Secretary to the Disciplinary Committee but shall not vote on any matter before the Disciplinary Committee.
- (3) A person qualifies to be appointed as Chairperson of the Disciplinary Committee if that person is a legal practitioner qualified to hold, or who has held, high judicial office.
- (4) A person qualifies to be appointed as Vice-Chairperson of the Disciplinary Committee if that person is a practising member of the Zambia Institute of Human Resource Management.
- (5) A person shall not be appointed as a member of the Disciplinary Committee if that person—
  - (a) has committed or is found guilty of professional misconduct under this Act in the preceding five years prior to the appointment;
  - (b) has not been on the register for at least five years preceding the election, in the case of the member referred to under subsection (1)(c);
  - (c) is an undischarged bankrupt;
  - (d) is convicted of an offence under any written law and sentenced to imprisonment for a period exceeding six months without the option of a fine; or
  - (e) is legally disqualified from performing the functions of office of a member.

- (6) A member of the Disciplinary Committee shall hold office for a term of three years and may be re-appointed or elected for a further and final term of three years.
- (7) A member shall, on expiration of the term for which the member is elected, continue to hold office until another member is re-appointed or elected, but in no case shall an extension of the period exceed three months.
- (8) The office of a member becomes vacant if that member—
  - (a) dies;
  - (b) is adjudged bankrupt;
  - (c) is absent from three consecutive meetings of the Disciplinary Committee of which the member has notice, without the prior approval of the Disciplinary Committee;
  - (d) resigns, by notice in writing, to the Council;
  - (e) is legally disqualified from performing the functions of a member of the Disciplinary Committee;
  - (f) is found guilty of professional misconduct;
  - (g) is de-registered under this Act, in the case of a member referred to under subsection (1)(c); or
  - (h) is convicted of an offence under any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.
- (9) The Council shall, where there is a vacancy in the membership of the Disciplinary Committee before the expiry of the term of office, appoint or elect another person to replace the member who vacates office, but that person shall hold office for the remainder of the term.

#### **43. Functions of Disciplinary Committee**

- (1) The functions of the Disciplinary Committee are to hear and determine—
  - (a) any complaint referred to the Disciplinary Committee against a professional secretary under [section 39](#); or
  - (b) a disciplinary action initiated against a professional secretary under [section 36\(2\)](#).
- (2) The Disciplinary Committee may publicise as the Disciplinary Committee considers appropriate, the name of a professional secretary who is found guilty of, and punished for, professional misconduct.

#### **44. Proceedings of Disciplinary Committee**

- (1) Five members of the Disciplinary Committee shall form a quorum at a meeting or sitting of the Disciplinary Committee.
- (2) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, shall preside at a meeting or sitting of the Disciplinary Committee.
- (3) A question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.
- (4) The proceedings of the Disciplinary Committee shall be in camera.
- (5) A party to a hearing of the Disciplinary Committee may appear in person or be represented by a legal practitioner or, if the party so elects, by any other person.

- (6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy of the decision shall be supplied to each party to the proceedings and to every person affected by the decision.
- (7) A person who is present at a meeting of the Disciplinary Committee 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 that interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.
- (8) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.
- (9) The Disciplinary Committee shall cause to be kept a record of its proceedings.

#### 45. Powers of Disciplinary Committee

- (1) The Disciplinary Committee may, for the purposes of a hearing, hear and receive evidence and may—
  - (a) under the hand of the Chairperson or the Vice-Chairperson, summon witnesses and require the production of a book, record, document, electronic record or anything required for the purposes of the proceeding; and
  - (b) through the Chairperson or Vice-Chairperson, administer an oath to a witness.
- (2) A person summoned to attend before the Disciplinary Committee shall not—
  - (a) refuse or fail to attend at the time and place specified in the summons or, having attended, leave without the permission of the Disciplinary Committee;
  - (b) having attended, refuse to be sworn or to affirm;
  - (c) refuse, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or
  - (d) refuse to produce a book, record, document or thing which that person has been required by summons to produce.
- (3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, for that refusal or failure, to a fine not exceeding two hundred thousand penalty units.
- (4) Despite subsection (2), a person shall not be compelled to answer any question or produce a book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.
- (5) A hearing before the Disciplinary Committee shall, for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

*[Cap. 87]*

- (6) A finding of fact which is shown to have been made by a court in the Republic shall, in a hearing before the Disciplinary Committee, be conclusive evidence of the fact so found.
- (7) The Disciplinary Committee shall, where the Disciplinary Committee has reasonable grounds to believe that a professional secretary is legally disqualified, refer the matter for determination in accordance with the Mental Health Act, 2019.

*[Act No. 6 of 2019]*

- (8) The Disciplinary Committee shall, where a determination is made in accordance with the Mental Health Act, 2019, that a professional secretary is legally disqualified, suspend the practising certificate of the professional secretary.

*[Act No. 6 of 2019]*

- (9) The Disciplinary Committee shall, where Disciplinary Committee finds, after due inquiry, that a professional secretary is not guilty of professional misconduct, record a finding that the professional secretary is not guilty of the conduct to which the charge relates and dismiss the charge.
- (10) The Disciplinary Committee may, for the purpose of any proceedings, use assessors or experts as the Disciplinary Committee considers necessary.

#### **46. Sanctions for professional misconduct by Disciplinary Committee**

The Disciplinary Committee may, where the Disciplinary Committee, after due inquiry, finds a professional secretary guilty of professional misconduct—

- (a) order the cancellation of the professional secretary's practising certificate or certificate of registration;
- (b) order the suspension of the certificate of registration or practising certificate for a period not exceeding one year and impose any condition for the suspension;
- (c) censure the professional secretary;
- (d) caution the professional secretary;
- (e) impose an administrative penalty, not exceeding fifty thousand penalty units, to be paid to the Institute;
- (f) order that the professional secretary be re-trained;
- (g) order the professional secretary to pay to the Institute or to a party to the hearing the costs of, or incidental to, the proceedings; or
- (h) order the professional secretary to pay a party to the hearing or other person, as restitution, the amount of loss caused by that professional secretary's negligence.

#### **47. Report by Disciplinary Committee**

The Disciplinary Committee shall, within seven days from the date of the completion of a hearing, submit to the Council a report of the proceedings together with a copy of the record.

#### **48. Rules relating to disciplinary proceedings**

- (1) The Chief Justice may, by statutory instrument, make Rules relating to—
- (a) the manner and form for lodging of complaints under this Part;
  - (b) the mode of summoning persons before the Disciplinary Committee;
  - (c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of a book, record, document or thing;
  - (d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
  - (e) the functions of the assessors to the Disciplinary Committee.

- (2) Rules under this section may provide—
  - (a) that before a matter is referred to the Disciplinary Committee it shall, in a manner that may be provided by the Rules, have been brought before, and investigated by the Institute;
  - (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
  - (c) for securing that a party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

## Part VI – Inspectors

### 49. Inspectors

- (1) The Institute shall appoint suitably qualified persons as inspectors to ensure compliance with this Act.
- (2) The Institute shall provide an inspector with an identification card which shall be *prima facie* evidence of the inspector's appointment as inspector.
- (3) An inspector shall, in performing a function under this Act—
  - (a) be in possession of the identification card referred to in subsection (2); and
  - (b) show the identification card to a person who requests to see the identification card, or is the subject of an investigation under this Act.

### 50. Power of entry, search and inspection

- (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and—
  - (a) search the premises;
  - (b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;
  - (c) take extracts from, or make copies of, any book, document or record that is on the premises and that has a bearing on an inspection or investigation;
  - (d) demand the production of, and inspect, relevant certificates; and
  - (e) make inquiries that may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based, have been complied with.
- (2) A court may issue a warrant on application by an inspector if it appears from written information given by that inspector, on oath or affirmation, that there are reasonable grounds to believe that this Act has been or is likely to be contravened.
- (3) An inspector who removes anything from any premises shall—
  - (a) issue a receipt for anything removed to the owner or the person in control of the premises; and
  - (b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

- (4) A person commits an offence if that person—
  - (a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;
  - (b) refuses to give an inspector reasonable assistance as the inspector may require for the purpose of performing the inspector's functions;
  - (c) impersonates an inspector or presents oneself to be an inspector; or
  - (d) wilfully gives an inspector false or misleading information in answer to an inquiry made by the inspector.
- (5) A person convicted of an offence under subsection (4) is liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.
- (6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

## **Part VII – General provisions**

### **51. False or misleading statement**

- (1) A person shall not knowingly or recklessly make a false or misleading statement, orally or in writing, to the Disciplinary Committee or the Institute with the intention that it be acted on by the Disciplinary Committee or Institute.
- (2) A person who contravenes subsection (1) 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.

### **52. Appeals**

- (1) A person aggrieved with a decision of the Council may, within thirty days of receiving the decision, appeal to the Minister.
- (2) A person aggrieved with a decision of the Minister under subsection (1) may, within thirty days of receiving the decision, appeal to the High Court.
- (3) A person aggrieved with a decision of the Disciplinary Committee may appeal to the High Court.
- (4) A decision of the Disciplinary Committee shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution.
- (5) The proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if that irregularity did not occasion a substantial miscarriage of justice.

### **53. Guidelines by Institute**

- (1) The Institute may, in the exercise of its functions under this Act, issue guidelines as are necessary for the better carrying out of the provisions of this Act.
- (2) The Institute shall publish the guidelines issued under this Act in a daily newspaper of general circulation in the Republic and in the *Gazette* and the guidelines shall take effect on the date of publication.
- (3) The guidelines issued by the Institute under this Act shall bind the persons regulated under this Act.

## 54. Regulations

- (1) The Minister may, on the recommendation of the Council, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.
- (2) Despite the generality of subsection (1), Regulations under subsection (1) may make provision for—
  - (a) the manner and form for applications and the fees payable;
  - (b) the particulars to be entered on a register;
  - (c) the form of the certificate of registration and the conditions of the certificate of registration;
  - (d) the qualifications for registration of a professional secretary;
  - (e) the form of the practising certificate and the conditions of the practising certificate;
  - (f) the code of ethics to which all professional secretaries shall subscribe;
  - (g) the continuous professional development of professional secretaries; and
  - (h) fees which are required to be prescribed

## 55. Savings and transitional provisions

The Second Schedule applies to the savings transitional arrangements relating to the Institute.

### **First Schedule (Sections 3(3) and 8(4))**

#### **The Zambia Institute of Secretaries**

#### **Part I – Administration of the Council**

##### **1. Seal of Council**

- (1) The seal of the Institute shall be a device that may be determined by the Council and shall be kept by the Registrar.
  - (2) The affixing of the seal shall be authenticated by the President or Vice-President and the Registrar or any other person authorised in that behalf by a resolution of the Council.
  - (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 Institute by the Registrar or any other person generally or specifically authorised by the Council in that behalf.
  - (4) A document purporting to be a document under the seal of the Institute or issued on behalf of the Institute 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.
2. (1) A Council member shall, subject to the provisions of this Act, hold office for a term of three years and may be re-elected or nominated for a further and final term of three years.
  - (2) A Council member shall, on the expiration of the term for which the member is elected or nominated, continue to hold office until another member is elected or nominated, but in no case shall any extension of the period exceed three months.
  - (3) The office of a Council member becomes vacant if the member—
    - (a) dies;

- (b) is adjudged bankrupt under any law;
  - (c) is absent from three consecutive meetings of the Council of which the Council member has notice, without the prior approval of the Council;
  - (d) resigns, by notice in writing, to the Council;
  - (e) is legally disqualified from performing the functions of a Council member;
  - (f) is found guilty of professional misconduct;
  - (g) is de-registered under this Act; 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 Council shall, where there is a vacancy in the membership of the Council 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.

### 3. **Proceedings of Council**

- (1) Subject to the other provision of this Act, the Council may regulate its own procedure.
- (2) The Council shall meet at least once in every three months for the transaction of business at a place and time as that the Council may determine.
- (3) The President may call a meeting of the Council on giving notice of not less than fourteen days or where one third of the council 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) Seven Council members shall form a quorum at a meeting of the Council.
- (5) There shall preside at a meeting of the Council
  - (a) the President;
  - (b) in the absence of the President, the Vice-President; or
  - (c) in the absence of both the President and Vice-President, such other Council member as the Council members present shall elect for the purpose of that meeting.
- (6) A decision of the Council on any question shall be by a majority of the Council 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) The Council may invite a person whose presence is, in its opinion, desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.
- (8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of any Council member or by reason that a person not entitled to do so took part in the proceedings.
- (9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and any committee established by the Council.

### 4. **Committees**

- (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as it considers necessary.
- (2) The Council may appoint as members of a committee under subparagraph (1), persons who are or are not Council members except that at least one Council member shall be a member of a committee.

- (3) A member of a committee shall hold office for a period that the Council may determine.
- (4) Subject to any specific or general direction of the Council, a committee may regulate its own procedure.

#### 5. Allowances

A Council member or a member of a committee of the Council shall be paid allowances that the Council may determine.

#### 6. Disclosure of interest

- (1) A person who is present at a meeting of the Council or a committee of the Council at which any 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 Council or the committee of the Council otherwise directs, take part in any consideration or discussion of, or vote on, any 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 it is made.

#### 7. Prohibition of publication or disclosure of information to unauthorised persons

- (1) A person shall not, without the consent in writing given by or on behalf of the Institute, otherwise than in the course of duties of that person, publish or disclose to any other 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 duties under this Act.
- (2) A person who contravene subparagraph (1) 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.
- (3) A person who, having information which to that person's knowledge is published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both.

#### 8. Immunity

An action or other proceeding shall not lie or be instituted against a council member, a member of a committee of the Council or a member of staff of the Institute, 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 function conferred under this Act.

## Part II – Financial provisions

#### 9. Funds of Institute

- (1) The funds of the Institute shall consist of monies that may—
  - (a) be paid to the Institute by way of fees, grants or donations; and
  - (b) vest in or accrue to the Institute.
- (2) The Institute may, with the approval of the Minister responsible for finance—
  - (a) accept monies by way of grants or donations from any source within or outside the Republic;
  - (b) raise by way of loans or otherwise, monies that it may require for the performance of its functions; and
  - (c) in accordance with Regulations made under the Act, charge and collect fees in respect of programmes and seminars conducted by the Institute.

- (3) There shall be paid from the funds of the Institute—
    - (a) the salaries, allowances and loans of the members of staff of the Institute;
    - (b) reasonable travelling, transport and subsistence allowances for council members or members of a committee of the Council when engaged in the business of the Institute at the rates approved by the Council; and
    - (c) any other expenses incurred by the Council or a committee of the Council in the performance of the functions under this Act.
10. **Annual report**
- The financial year of the Institute shall be a period of twelve months ending on 31st December in each year.
11. **Accounts**
- (1) The Institute shall cause to be kept proper books of accounts and other records relating to its accounts.
  - (2) The accounts of the Institute shall be audited annually by independent auditors appointed by the Council.
  - (3) The fees of the auditors shall be paid by the Institute.
12. **Financial year**
- (1) As soon as is practicable, but not later than three months from the end of the financial year, the Institute shall submit to the Minister a report concerning the activities of the Institute during that financial year.
  - (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Institute and there shall be appended to the report—
    - (a) an audited statement of financial position;
    - (b) an audited statement of comprehensive income; and
    - (c) other information that the Minister may require.
  - (3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after the receipt of the report referred to in subparagraph (1), lay it before the National Assembly.

## **Second Schedule (Section 55)**

### **Savings and transitional provisions**

1. **Definition**

In this Schedule "former Association" means the Professional Secretaries Association of Zambia registered under the Societies Act.

*[Cap. 119]*

2. **Staff of Institute**

- (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an employee of the former Association, shall continue to be an employee of the Institute as if employed under this Act.
- (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 an employee employed by the former Association before the commencement of this Act.

### 3. Office bearers

- (1) On or after the commencement of this Act, committees and officers of the former Association operating or holding office immediately before the commencement of this Act, shall operate and hold office as the committees and officers of the Institute for a period of six months as if they had been elected or appointed under this Act.
- (2) The Institute shall, six months after the commencement of this Act, hold elections for its Institute, committees and other office bearers.
- (3) The rules of the former Association in force immediately before the commencement of this Act shall remain in force as if they have been made and issued by the Institute until a time that new rules are made.
- (4) A representative appointed by the former Association to serve on any committee or other body shall be deemed to be a representative appointed by the Institute under this Act.

### 3. Transfer of assets and

- (1) On or after the appointed date, there shall be transferred to, vest in and subsist against the Institute by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Association.
- (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Association, was a party immediately before the commencement of this Act, whether or not of such a nature that rights, liabilities and obligations could be assigned, shall unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—
  - (a) the Institute, had been party to it;
  - (b) for any reference to the former Association there was substituted, with respect to anything falling to be done on or after the appointed date, a reference to the Institute; or
  - (c) for any reference to any officer of the former Association not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the appointed date, a reference to such officer of the Institute, as the Institute shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former Association are deemed to be transferred to the Institute, in respect of which transfer a written law provides for registration, the Institute shall make an application, in writing, to the appropriate registration authority for registration of the transfer.
- (4) The registration authority, referred to in subparagraph (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

*[Please note: numbering as in original.]*

### 4. Legal proceedings

- (1) Any legal proceedings pending in court immediately before the commencement date by or against the former Association, may be continued by or against the Institute.

- (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Association, may be continued by or against the Institute.

5. **Members of Institution**

A person who before the commencement of this Act was a member of the former Association shall continue to be a member as if registered under this Act.