

STATUTORY INSTRUMENT NO. 52 OF 2011

**The Electoral Act, 2006
(Act No. 12 of 2006)**

The Electoral (Code of Conduct) Regulations, 2011

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SCHEDULE

IN EXERCISE of the powers contained in section one hundred and nine of the Electoral Act, 2006, the following Regulations are hereby made:

**PART I
PRELIMINARY**

Title

1. These Regulations may be cited as the Electoral (Code of Conduct) Regulations, 2011.

Interpretation

2. In these Regulations, unless the context otherwise requires -

“campaign material” means party or candidate manifestos, posters, chitenges, T-shirts and any other material with party or candidate symbols or pictures of candidates used in connection with an election;

“campaign period” means such period as the Commission may determine under regulation 8;

“candidate” means a person nominated as a candidate for an election;

“caricature” includes cartoon, effigy, picture, drawing or sketch of a person for comic effect;

“Code” has the meaning assigned to it in the Act;

“Commission” means the Electoral Commission established under the Constitution;

“election officer” has the meaning assigned to it in the Act;

“media” includes print and electronic media, whether publicly or privately operated;

“monitor” means a person accredited as such by the Commission;

“observer” means a person accredited as such by the Commission;

“polling agent” means an agent appointed by a candidate in respect of each polling station;

“public officer” means a person holding or acting in any public office but does not include any person holding the offices referred to in Article 139 (2) and (3) of the Constitution; and

“traditional leader” means a paramount chief senior chief, chief or village headman.

Enforcement of Code

3. The Commission shall promote conditions conducive to the observance of this Code.

Publication of Code

4. The Commission, civil society, traditional leaders, the churches, faith-based organisations and political parties shall endeavour to publicise this Code throughout the Republic.

PART II CODE OF CONDUCT

Rights of person

5. (1) A person has, subject to regulation 21, the right to-

- (a) express political opinions;
- (b) debate the policies and programmes of political parties;

- (c) canvas freely for membership and support from voters;
- (d) distribute election literature and campaign materials;
- (e) publish and distribute notices and advertisements;
- (f) erect banners, placards and posters;
- (g) campaign freely;
- (h) participate freely in partisan political activities; and
- (i) seek the protection of the law from harm as a result of that person's political opinion or affiliation.

(2) A public officer shall not engage in any active partisan political activity referred to in sub- regulation (1) whilst in the public service.

Duty of person during election campaigns or elections

6. A person shall, during an election campaign or election, promote conditions conducive to the conduct of free and fair elections and be bound by this Code.

Duties of Commission

- 7 (1) The Commission shall where reasonable and practicable to do so-
- (a) meet political party representatives on a regular basis to discuss all matters of concern related to the election campaign and election itself;
 - (b) ensure that political parties do not use State resources to campaign for the benefit of any political party or candidate;

- (c) avail political parties with the election timetable and election notices in accordance with the Act;
- (d) censure all acts done by leaders of political parties, candidates, supporters, Government and its organs, which are aimed at jeopardising elections or done in contravention of this Code;
- (e) declare election results expeditiously from the close of the election day;
- (f) ensure that a campaign rally or meeting which is legally organised by any political party is not disrupted or arbitrarily prohibited;
- (g) ensure that no election officer, police officer, monitor, observer or media person is victimised in the course of their election duties;
- (h) ensure that police officers act professionally and impartially during the electoral process;
- (i) ensure that traditional leaders, do not exert undue influence on their subjects to support a particular political party or candidate;
- (j) ensure that equal opportunity is given to all stakeholders, particularly political parties and independent candidates to participate in and conduct their political activities in accordance with the law; and

(k) condemn acts of media organisations and personnel aimed at victimisation, punishment or intimidation of media practitioners implementing any of the provisions of this Code.

(2) A member of the Commission may attend political rallies to monitor compliance with this Code.

Campaign
period

8. The campaign period shall commence and close on such date as the Commission may determine.

Political party
and
candidate to
subscribe to
Code

9. (1) A candidate for Presidential, National Assembly and Local Government elections shall, when filing the candidate's nomination papers, subscribe to the Code in Form I set out in the Schedule.

(2) A political party shall, on such date as the Commission may direct, subscribe to the Code in Form I set out in the Schedule.

(3) A person who, or political party which contravenes this regulation commits an offence.

Duties of
political party
and candidate

10. (1) A political party and candidate shall -
(a) establish and maintain effective lines of communication with the Commission and with other registered political parties and candidates, at national, political and local level, including the provision of names and the contact details and addresses of party election agents and of other relevant office bearers and representatives;

- (b) accept and respect decisions of the Commission in respect of election results announced by returning officers and the Commission in accordance with the law;
- (c) issue directives to their members and supporters to observe this Code and take any necessary steps to ensure compliance;
- (d) hold public meetings in compliance with the law;
- (e) adhere to the election timetable issued by the Commission in conducting election campaigns in accordance with section twenty-six of the Act;
- (f) take appropriate measures to ensure environmental protection and cleanliness in the course of posting or distributing electoral campaign material;
- (g) remove campaign materials within fourteen days of the declaration of election results;
- (h) take necessary measures to ensure public safety in the course of posting or distributing electoral campaign material; and
- (i) carry out campaign meetings and rallies peacefully.

(2) A member or supporter of a political party or a candidate shall not-

- (a) use language which incites hatred or violence in any form against any

person or class of persons or issue any pamphlet, newsletter, poster or other propaganda which contains materials that incite people to violence or rebellion;

- (b) deface, remove or destroy campaign materials of another political party or publications of the Commission;
- (c) disrupt another political party's rally, meeting, march or demonstration or seek to obstruct another person from attending a political rally of another political party;
- (d) continuously remain at a polling station during the campaign period or elections; and
- (e) wear any campaign materials within four hundred metres of the polling station on the polling day.

(3) Without prejudice to any other written law, any person who contravenes sub-regulation (2) commits an offence and shall be liable upon conviction to a fine not exceeding two thousand five hundred penalty units or to imprisonment not exceeding one year, or to both.

Duties of
election agent
and polling
agent

11. (1) An election agent or polling agent shall, subject to regulations 10 and 21, have the following duties during an election:

- (a) observe the opening and closing of a polling station assigned to them on polling day;

- (b) witness the voting process;
- (c) witness the count of ballot papers for candidates;
- (d) witness the announcement of results; and
- (e) witness the declaration of results, where applicable.

(2) An election agent or polling agent shall counter sign the election results duly announced or declared by a presiding officer or returning officer, as the case may be:

Provided that failure to countersign the election results by such election agent or polling agent shall not render the results invalid.

Duties of
Zambia
Police Force

12. The Zambia Police Force shall -
- (a) enforce law and order at campaign meetings and processions in order to maintain peace and order;
 - (b) ensure that police officers do not abuse their authority or Government resources to campaign for the benefit of any political party or candidate;
 - (c) refrain from disrupting any campaign, rally or meeting which is legally convened by any political party; and
 - (d) ensure that police officers do not use their office to oppress any political party, candidate or supporter.

Duties of media

13. (1) All print and electronic media shall -
- (a) provide fair and balanced reporting of

the campaigns, policies, meetings, rallies and press conferences of all registered political parties and candidates during the campaign period;

- (b) provide news of the electoral process up to the declaration of results;
 - (c) abide by regional codes of conduct in the coverage of elections provided that such guidelines are not in conflict with this Code;
 - (d) be bound by the provisions of this Code during elections; and
 - (e) in liaison with the Commission, recognise a representative media body authorised to receive complaints and provide advice regarding fair coverage of elections.
- (2) A media organisation shall endeavour to-
- (a) undertake capacity building of media personnel in their respective organisations;
 - (b) report election news in an accurate manner and not make any abusive editorial comment, incite violence or advocate hatred based on race, ethnicity, tribe, gender, sex, political or religious conviction; and
 - (c) identify any editorial comment it intends to make and separate it from the factual reporting of the news.

(3) The heads, senior management and staff of public or private media organisations shall not intimidate media practitioners and shall allow them to exercise professional judgment without undue influence.

(4) Public and private media personnel shall-

(a) conduct interviews with candidates with fairness both in the style of the interview and in the amount of the time given;

(b) refrain from broadcasting their own political opinions, commentary or assessment, and where they do so, clearly identify the opinion, commentary or assessment as their own and carefully balance it in order to avoid bias; and

(c) be duly accredited by the Commission to enter a nomination centre, polling centre or totalling centre.

Allocation of
air time

14. (1) A public television, radio and electronic media shall allocate public air time equally to all political parties and candidates for their political broadcasts.

(2) A political party or candidate shall not buy more than thirty minutes air time in any given language on public television or radio in any one week.

(3) On polling day all media shall not broadcast any campaign interviews for political parties or independent candidates or predict election results.

(4) Broadcasters shall inform the public on the source of any public opinion poll and shall indicate the

margin of error.

15. (1) All media shall disclose accurate election results and shall provide updates on the progress of the vote counting process and shall not speculate election results but shall broadcast confirmed election results as they are announced and published by presiding officers.

(2) Television and radio stations shall -

(a) maintain full records of all radio and television news bulletins and recordings of all other programmes related to the election, including party political broadcasts and shall institute a close and meticulous monitoring system to ensure balance throughout the campaign and up to the close of poll; and

(b) provide the Commission, at any reasonable time, with such records, information and recordings as the Commission may require to fulfill its monitoring role.

(3) The Commission shall require newspapers to make available archived copies of newspapers for inspection in the event of a complaint.

(4) Any candidate or political party who alleges that that candidate or political party has been unfairly treated or covered by any media organisation in the course of the election campaign, may lodge a complaint against the media organisation, in writing, to the Commission.

(5) Where a complaint made under sub-regulation (4) requires any media organisation to rectify an error, the candidate or political party making the complaint shall send the complaint to that media organisation and a copy of the complaint to the Commission and the media organisation shall respond to the complaint.

(6) Where a right of reply, a retraction or the correction of a matter of significance is necessary, it shall be made in a like manner and with equal prominence as the original report or publication.

Monitors and
observers

16. (1) A person shall not act as a monitor or observer, during an election campaign or election unless the person is duly accredited by the Commission and has subscribed to the Code in Form II set out in the Schedule.

(2) A monitor shall be nominated by the organisation to which the monitor belongs and shall undergo training and assessment by that organisation.

(3) A monitor or observer shall be provided with necessary identification by the Commission and the monitor's or observer's organisations.

(4) A monitor or observer shall discharge monitor's or observer's functions in accordance with this Code and any other written law or such lawful directives as may be given by the Commission or any person acting on its behalf.

(5) A monitor or observer shall -

(a) bring to the attention of the presiding officer or returning officer or member of the Commission any observed electoral malpractice;

- (b) be impartial in the conduct of the monitor's or observer's duty and shall, at no time, publicly indicate or express any bias or preference with reference to any political party or candidate;
- (d) be in a sufficient number at each polling station and shall ensure that their presence is widely known and recognised by the electorate;
- (e) not interfere with the duties of the election officials in any way and shall immediately report any violation to the proper authority;
- (f) ensure that any material information or report which the monitor or observer receives or any event, occurrence or statement of which the monitor or observer has been notified or which indicates the commission of an offence or contravention of the Act or this Code are brought to the attention of the monitor's or observer's organisations, the police, the Commission, conflict management committees and other parties concerned;
- (g) not by themselves or through the monitor's or observer's organisation, forecast, declare or disclose the result of any election before the declaration by the Commission;

- (h) when so requested, immediately identify themselves to any election officer or police officer and shall, during the conduct of the monitor's or observer's activities, at all times carry, wear or otherwise prominently display the identification issued by the Commission;
- (i) not display allegiance to any political party at any time and shall refrain from carrying, wearing and displaying electoral material or any article of clothing, colours, badges or other items denoting support for or opposition to any political party or candidates or any of the issues in contention in the elections;
- (j) not be involved in corrupt practices or accept any favours, so as to make statements in favour of or against any candidate or political party; and
- (k) not carry or display arms or other dangerous weapons during the conduct of the monitor's or observer's activities or while wearing the identification issued by the Commission.

(7) Monitors and observers and their sponsoring organisations shall, whenever requested by the Commission, attend such briefings, training workshops and other meetings convened in order to co-ordinate their activities.

(8) After the declaration of results of the

elections, monitors and observers shall hand over to the Commission any identification received from it.

(9) The Commission may revoke the accreditation of any monitor or observer who contravenes the provisions of this Code.

Powers of
Commission

17. (1) The Commission may-
- (a) reprimand a political party, candidate or stakeholder for any conduct in violation of this Code;
 - (b) report a breach of this Code to the Zambia Police Force, Anti-Corruption Commission and Drug Enforcement Commission or any other relevant law enforcement agency;
 - (c) revoke the accreditation of election agents, polling agents, monitors observers or the media where it is necessary in the interest of public safety and security to do so; and
 - (d) impose any administrative measures on any person, candidate or political party for persistent breach of this code.

(2) The Commission may where practicable to do so, summon any person contravening this Code and any voter, candidate or political party alleging a breach to appear before it.

Complaints

18. (1) The following persons may lodge a complaint to the Commission in relation to an election:
- (a) a voter or candidate in a constituency

where a breach of this Code has been committed; or

(b) from a political party participating in an election.

(2) Complaints arising during election campaigns and elections may be made to an election officer or to a conflict management committee at the place where the conduct complained against occurred.

(3) The Commission may refer and report any violation of the Code to the Zambia Police Force, Anti-Corruption Commission or any other appropriate law enforcement agency for investigation and prosecution where appropriate.

Conflict
management
committees

19. (1) Conflict management committees established by the Commission pursuant to section one hundred and eleven of the Act may resolve electoral disputes.

(2) The conflict management committees shall take into account the provisions of this Code in resolving electoral disputes.

(3) Conflict management committees shall mediate in electoral disputes and shall encourage amicable settlement of electoral disputes within twenty-four hours of receipt of a formal complaint.

PART III GENERAL PROVISIONS

Prohibition of
coercion and
intimidation

20. A person or a member of a law

enforcement agency, civil society, a Church, faith-based organisation, traditional leader, political party or media shall not, by means of threats, violence or sanction, coerce or intimidate another person during campaigns, public debates or elections.

General offences

21. (1) A person shall not -
- (a) cause violence or use any language or engage in any conduct which leads or is likely to lead to violence or intimidation during an election campaign or election;
 - (b) carry or display arms or weapons, traditional or otherwise, of any kind at a political meeting or in the course of any march, demonstration or other public gathering of a political nature;
 - (c) make false, defamatory or inflammatory allegations concerning any person or political party in connection with an election;
 - (d) arrange a public meeting, demonstration, rally or march at the same time and venue as another similar political event organised by another political party or candidate;
 - (e) prevent the reasonable access to voters of any candidate or political party in any manner for the purposes of conducting voter education, fund raising, canvassing membership or soliciting support;

- (f) plagiarise the symbols, colours or acronyms of candidates or other political parties;
- (g) deface, remove or destroy any political campaign materials of any person or political party or publications of the Commission;
- (h) offer any inducement, reward or bribe to any person in consideration of such person-
 - (i) joining or not joining any political party;
 - (ii) attending or not attending any political event;
 - (iii) voting or not voting;
 - (iv) accepting, refusing or withdrawing that person's nomination as a candidate in an election;
 - (v) surrendering that person's voter's card, or national registration card or both; or
 - (vi) offering to surrender a voter's card or national registration card, or both;
- (i) abuse or attempt to abuse a position of power, privilege or influence, including parental, patriarchal or traditional authority for political purposes including any offer of a reward or for the issuance of a threat;

- (j) propagate any opinion or action which is prejudicial to-
 - (i) the sovereignty, integrity or security of the country;
 - (ii) the maintenance of public order; or
 - (iii) the independence of any institution;
- (k) use Government or parastatal transportation or facilities for campaign purposes:

Provided that this paragraph shall not apply to the President and the Vice- President in connection with their respective offices;

- (l) use Government transportation or resources or facilities to transport voters to polling stations;
- (m) discriminate against any person on grounds of race, ethnicity, class, disability, gender, sex, religion or in any other manner in connection with an election or political activity;
- (n) carry any statue, caricature or anything which tends to ridicule, revile or scandalise any political party or its leader, a candidate or the Government, at any public political gathering, meeting or procession; and
- (o) be in possession of a voter's card or national registration card belonging to

another person during the campaign period.

(2) A person who contravenes sub-regulation (1) commits an offence and is liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

General
penalty

22. A person who contravenes any provision of these Regulations for which no specific penalty is provided commits an offence and is liable, upon conviction, to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

Revocation of S.I.
No. 90 of 2006

23. The Electoral (Code of Conduct) Regulations, 2006, are hereby revoked.

SCHEDULE

(Regulations 9 and 16)

Form I
(Regulation 6)



REPUBLIC OF ZAMBIA

The Electoral Act, 2006

(Act No. 12 of 2006)

The Electoral (Code of Conduct) Regulation, 2011

Declaration of Compliance by Candidates and Political Parties

I,do solemnly and sincerely declare that:

- (1) I am a citizen of:
- (2) My National Registration Card Number is
- (3) *I am the Secretary General of
a
political party registered under the Societies Act, Cap. 119 of the Laws of Zambia, and
intending to participate in the elections.

*I am a candidate intending to participate in the elections.
- (4) I shall comply with and be bound by the provisions of the Electoral (Code of Conduct)
Regulations, 2011
- (5) *I shall ensure that the as a political
party and its supporters, shall observe the Electoral Code of Conduct during campaigns
and elections.
- (6) I make this solemn declaration conscientiously believing the same to be true.

Signed:

Name... ..

Residential Address:.....

Subscribed to and solemnly declared before me at this
..... day of20.....

.....

*Magistrate/**Local Court Magistrate**/Notary Public/Commissioner for Oaths/Head Teacher of
Government School/Principal of **Government** College/Election **Officer/Any** other person
authorised by the Commission

*Delete whichever is inapplicable



REPUBLIC OF ZAMBIA

The Electoral Act, 2006

(Act No. 12 of 2006)

The Electoral (Code of Conduct) Regulation, 2011

Declaration of Compliance by Monitors and Observers

I,do solemnly and sincerely declare that:

- (1) I am a citizen of:
- (2) My National Registration Card Number is
.....
- (3) I am a *monitor/*observer duly accredited as such by the Commission to
monitor/observe the elections.
- (4) I shall be impartial in the course of my duties and shall not support or align myself to
any political party, either directly or indirectly.
- (5) I shall comply with the provision of the Electoral (Code of Conduct) Regulations, 2010
- (6) I make this solemn declaration conscientiously believing the same to be true and
correct.

Signed:.....

Name:.....

Residential Address

Subscribed to and solemnly declared before me at this
..... day of..... 20.....

.....

*Magistrate/**Local Court Magistrate**/Notary Public/Commissioner for Oaths/Head Teacher **of Government School**/Principal of **Government** College/Election **Officer/Any** other person authorised by the Commission

* Delete whichever is inapplicable

Made by the Electoral Commission at Lusaka this day of
2011

,
Chairperson

,
Member

,
Member

,
Member

,
Member