

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. ....

**Information and Communications Technology Association of Zambia Act**  
(Act No. 7 of 2018)

**Information and Communications Technology Association of Zambia (Professional Ethics  
and Compliance Committee Procedures and Appeals) Rules, 2020**

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IN EXERCISE of the powers contained in section *forty-eight* of the Information and Communications Technology Association of Zambia Act, 2018, the following Rules are hereby made:

## PART I

### PRELIMINARY

1. These Rules may be cited as the Information and Communications Technology Association of Zambia (Professional Ethics and Compliance Committee Procedures and Appeals) Rules, 2020. Title
  
2. In these Rules, unless the context otherwise requires- Interpretation
  - “Act” means the Information and Communications Technology Association of Zambia Act No. 7 of 2018;
  
  - “Association” has the meaning assigned to the word in the Information and Communications Technology Association of Zambia Act, 2018; Act No. 7 of 2018
  
  - “Committee” means the Professional Ethics and Compliance Committee;
  
  - “Court” means the High Court;
  
  - “Secretary” means the Secretary to the committee or any deputy or person appointed by the Committee temporarily to perform the duties of that office;
  
  - “Council” has the meaning assigned to the word in the Information and Communications Technology Association of Zambia Act, 2018; Act No. 7 of 2018
  
  - “Information and communications technology professional” has the meaning assigned to the word in the Information and Communications Technology Association of Zambia Act, 2018. Act No. 7 of 2018

## PART II

### PROCEDURES AND MEETINGS

3. The Committee shall, except as otherwise provided in the Act, regulate its own procedure and the validity of any proceedings, act or decision of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings. General procedure of the Committee
  
4. For the transaction of its business, the Committee shall meet at such places and at such times as may be necessary or as the Chairperson may determine. Meetings

Decisions  
made by  
circulation

5. A decision may be made by the Committee on any urgent matter by the circulation of the relevant papers among the members, and by the expression in writing of the views of the majority thereof;

Provided that any member shall be entitled to require that any decision shall be deferred until the matter is considered at a meeting of the Committee.

### **PART III** **LEAVE TO APPEAL**

Conditions  
of appeal

6. (1) Subject to the provisions of the Act, any person aggrieved by a decision of the Committee and desiring to appeal against it may cite the Association as the only or one of the respondents.
- (2) Any appellant may appeal from the whole or any part of a decision and the notice of appeal shall state whether the whole or part only, and what part, of the decision is complained of.
- (3) The Court may in any case direct that the notice of appeal be served upon any party to the proceedings before the Committee on whom it has not been served, or upon any person not party to those proceedings.
- (4) Every appellant shall with leave of the Committee within thirty days of the decision of the committee, file a notice of appeal into the Court and such notice shall be substantially in Form A in the Schedule.
- (5) The notice of appeal shall be served within the period of thirty days on all parties directly affected by the appeal or their practitioners respectively. It shall not be necessary to serve parties not so affected. The names and addresses of all persons intended to be served shall be stated in the notice of appeal.

Application  
for leave to  
appeal

7. (1) Leave to appeal to the Court may be granted or refused by the Committee without formal application at the time when judgment is given, and in such event the judgment shall record that leave has been granted or refused accordingly. If leave is granted, the appellant shall proceed to give notice of appeal in accordance with the provision of rule
- (2) In other cases application to the Committee for leave to appeal to the Court shall be by motion or summons, which shall state the grounds of the application, and shall, if necessary be supported by affidavit. Such application shall be instituted and filed in the proceedings from which it is intended to appeal, and all necessary parties shall be served. If leave is granted, the order giving leave shall be included in the record of appeal. If leave is refused, the order refusing leave shall be produced on any application for leave to appeal made subsequently to the Court.

(3) If leave to appeal is refused by the Committee, the applicant may make a fresh application for leave to the High court by motion or summons, which shall state the grounds of the application, and shall if necessary be supported by affidavits. The proceedings and other documents relating thereto shall be filed in duplicate.

(4) Notice of motion and copies of any affidavit and other documents filed shall be served on all necessary parties not less than two clear days before the hearing: Provided that in case of urgency, application may be made *ex parte* and without notice, but in any case a certificate of urgency signed by the practitioner for the applicant, or, if none, by the Clerk, shall be filed with the proceedings.

8. (1) After one month from the date of a final judgment or decision, application for leave to appeal shall not be entertained by the Committee.

Limitation of time for appeals

(2) After three months from the date of a final judgment or decision, application for leave to appeal shall not be entertained by the Court.

9. The appellant shall, within seven days after obtaining final leave to appeal, file with the Committee the grounds of appeal, and shall cause a copy of such grounds of appeal to be served on the respondent.

Grounds of appeal to be filed

10. On the appellant failing to file the grounds of appeal within the prescribed time, he shall be deemed to have abandoned the appeal, unless the Committee shall see fit to extend the time.

Effect of failure to file grounds of appeal

11. The appellant may, at any time, by leave of the Court, amend or add to the grounds of his appeal.

Amendment of grounds of appeal

#### PART IV

#### TRANSMISSION OF RECORD

12. On the expiration of fourteen days after final leave to appeal has been given, the Committee shall, without the application of any party, make up the record of appeal, which shall consist of the certified copies of all documents admitted as evidence or tendered as evidence and rejected, the notes of the evidence, the judgment of the Committee and the grounds of appeal. The record of appeal, when completed, shall be forwarded to the Registrar.

Contents of the record

13. The Committee shall not, except for some special cause, take upon itself the charge or the transmission of original letters or documents produced in evidence. These shall be returned to the parties producing them, and the parties must be prepared to produce the originals, if required by the Court, before or at the hearing of the appeal.

Production of original letters or documents

**PART V**  
**PROCEEDINGS IN THE COURT**

Control by Court while appeal pending

14. After the record of appeal has been transmitted, until the appeal is disposed of, the Court shall be in possession of the whole proceedings as between the parties to the appeal. Every application in the proceedings shall be made to the Court.

Security for costs

15. The Court may, where necessary, require security for costs or for performance of the orders made on appeal.

Notices of hearing

16. Notices of the date of hearing shall be prepared and both parties shall either personally or through their legal representatives, uplift the said notices from the Court's registry.

Failure of appellant to appear

17. (1) If the appellant fails to appear, in person or by professional representative, when his appeal is called on for hearing, the appeal shall, on proof of service upon him of the notice of the hearing, stand dismissed with costs.

(2) When an appeal has been dismissed owing to the non-appearance of the appellant or his professional representative, the Court may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

Failure of respondent to appear

18. If the respondent fails to appear, in person or by professional representative, when the appeal is called on for hearing, the Court shall, on proof of the service upon him of notice of the hearing, proceed to hear the appeal *ex parte*.

Hearing in absence of parties

19. (1) Notwithstanding anything in rules 15 and 16 contained, if any party to the appeal is desirous that the appeal should be disposed of without his attendance, either in person or by his professional representative, he shall notify the Committee, and the Committee shall inform the Registrar at the time of transmitting the record; and thereupon, if the Court sees fit, it may determine the appeal in the absence of that party.

(2) If any party so notifies the Committee, it shall not be necessary to give notice of hearing in accordance with Rule 16.

New evidence on appeal

20. It is not open, as of right, to any party to an appeal to adduce new evidence in support of his original case; but, for the furtherance of justice, the Court may, where it thinks fit, allow or require new evidence to be adduced. A party may, by leave of the Court, allege any facts essential to the issue that have come to his knowledge after the decision of the Committee, and adduce evidence in support of such allegations.

General powers of Court

21. The Court may, from time to time, make any order necessary for determining the real question in controversy in the appeal, and may amend any defect or error in the record of appeal, and may direct the Committee to inquire into and certify its finding on any question which the Court thinks fit to determine before final judgment in the appeal, and generally, shall have as full jurisdiction over the whole proceedings as if the

proceedings had been instituted and prosecuted in the Court as a court of first instance, and may rehear the whole case, or may remit it to the Committee to be reheard, or to be otherwise dealt with as the Court directs.

22. The Court shall have power to give any judgment and make any order that ought to have been made, and to make such further or other orders as the case may require, including any order as to costs. These powers may be exercised by the Court, notwithstanding that the appellant may have asked that part of a decision may be reversed or varied, and also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision.

Power of Court to give any decision or make any order

## PART VI

### ENFORCEMENT OF JUDGMENTS, DECREES OR ORDERS ON APPEAL

23. Any judgment, decree or order given or made by the Court may be enforced by the Court or by the Committee, according as the Court may consider most expedient and may direct.

Execution to be as directed by the Court

24. When the Court directs any judgment, decree or order to be enforced by the Committee, a certificate under seal of the Court and the hand of the presiding Judge setting forth the judgment, decree or order of the Court shall be transmitted by the Registrar to the Committee, and the latter shall enforce the judgment, decree or order made by the Court in the terms of certificate.

Execution by the Committee in terms of certificate

25. The fees shall be charged in accordance with the provisions of the High Court Rules.

Fees

SCHEDULE  
PRESCRIBED FORMS

FORM A  
(Rule 6)

REPUBLIC OF ZAMBIA

NOTICE OF APPEAL

IN THE HIGH COURT FOR ZAMBIA HOLDEN AT .....  
CIVIL JURISDICTION

BETWEEN: .....

and

.....

TAKE NOTICE that .....  
being satisfied with the judgment of the Professional Ethics and Compliance Committee given at  
..... on the ..... day of ..... 20.....,  
intends to appeal to the High Court against the whole judgment or against such parts of the said  
judgment (.....) as decides that  
.....

Dated at .....this ..... day of ....., 20.....

.....  
*Appellant (or his Counsel)*

Address for service.....  
.....

To: The District/ Registrar of the High Court at .....  
The Respondent to the intended appeal.....

(Name)

of .....

.....  
(Address for service)

The Clerk of the High Court.

Filed this ..... day of ....., 20....., at .....

.....  
(The Secretary)

at.....

NOTES:

(1) A respondent served with this Notice is required within 14 (fourteen) days after such service to file in these proceedings and to serve upon the appellant a Notice of his address for service for the purpose of the intended appeal, and within a further 14 (fourteen) days to serve a copy thereof on every other respondent named in this Notice who has filed a Notice of an address for service. In the event of non-compliance, the appellant may proceed *ex parte*.

(2) Inapplicable words, etc., on this form shall be deleted.