

STATUTORY INSTRUMENT NO. OF 2020

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

**The Information Communications Technology Association
of Zambia (Disciplinary Proceedings) Rules, 2020**

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“disciplinary record” in relation to a person, means an order, finding, fine and penalty to which the person is, at any time, subject under the Act or these Rules;

“hearing” in relation to a complaint or an appeal, includes the making of a finding or order in connection with a complaint or appeal;

“investigations committee” means an investigations committee constituted pursuant to rule 10;

“professional misconduct” has the meaning assigned to it in the Act; and

“Secretary” means the Secretary of the Association.

PART II

COMPLAINTS

Reporting of professional misconduct

3. A member shall report to the Secretary an act or omission by a person regulated under the Act which amounts to professional misconduct

Complaint

4. (1) A complaint against a member shall be made in Form I set out in the Schedule and accompanied with an affidavit in Form II set out in the Schedule.

(2) The Secretary shall, where a complaint is made by the Association, sign the complaint and swear the affidavit on behalf of the Association.

Referral of complaint to investigations committee

5. (1) The Committee shall, where it receives a complaint under rule 4, determine whether the complaint discloses a case of misconduct that requires to be investigated or determined.

(2) The Committee shall, where a complaint discloses a prima facie case against the person in respect of whom it is made, refer the complaint to an investigations committee.

(3) The Secretary shall, where a complaint is referred to an investigations committee under sub-rule (2), cause to be served on the person against whom the complaint is made a notice of investigation in Form III set out in the First Schedule.

Medication

6. Where a complaint against a member does not disclose a prima facie case against the Member, the Committee shall resolve the complaint by conciliation or mediation other than disciplinary action under these Rules.

Dismissal of
complaints

7. (1) The Committee shall dismiss a complaint where it determines that the complaint -

- (a) is trivial, frivolous or vexatious;
- (b) is misconceived or lacking in substance;
- (c) may be dealt with using another method;
- or
- (d) has already been dealt with adequately.

(2) The Committee shall, where an issue in a complaint has been determined by a court or tribunal authorised to determine the issue at law, after consideration of the matters raised by the complaint, decline to act on the complaint to the extent that the complaint attempts to re-open the issue.

(3) The Committee shall, where it dismisses a complaint, notify the parties of the dismissal in Form IV set out in the Schedule.

PART III

INVESTIGATIONS COMMITTEE

Investigations
committee

8. (1) The Committee shall, where a prima facie case is established against a member, appoint from the Association such number of persons as it may determine to be members of an investigations committee.

(2) A member of the Committee is not eligible to be a member of an investigations committee.

(3) The members of an investigations committee shall serve on an ad hoc basis from the date of appointment to the date on which the Committee delivers an order or ruling in the matter.

(4) An investigations committee may co-opt any member who is not a member of that Committee, or engage experts to assist it in the performance of its functions.

Powers of
investigations
committee

9. (1) An investigations committee may, for purposes of an investigation –

(a) require a person summoned by a member against whom a complaint is made, or any other member who can help with the investigation, to answer fully and satisfactorily to the best of that person's knowledge and belief, a question lawfully put to that person; and

(b) require a person to produce, for inspection, a book, document or an article required by the investigations committee.

(2) A person commits an offence who, without reasonable cause-

- (a) refuses to answer questions lawfully put to that person pursuant to sub-rule (1);
- (b) fails to produce a document, book or article; or
- (c) fails to appear before an investigations committee.

(3) An investigation shall only commence after the time specified in the notice has elapsed.

Proceedings of investigations committee

10. (1) Subject to these Rules, an investigations committee may regulate its own procedure.

(2) An investigations committee shall give the member against whom the complaint is made an opportunity to be heard.

(3) An investigations committee shall, where it finds that there are -

- (a) sufficient grounds for disciplinary proceedings to be taken in respect of a member against whom a complaint was made -
 - (i) refer the complaint to the Professional Ethics and Compliance Committee; and
 - (ii) make a report of the investigation and state the findings of fact to the Professional Ethics and Compliance Committee; or
- (b) insufficient grounds for disciplinary proceedings to be taken against a member, recommend, in writing, that the Professional Ethics and Compliance

Committee dismisses the complaint immediately, stating the reasons for the recommendation.

PART IV

PROCEEDINGS OF COMMITTEE

Request for further investigation

11. The Committee shall, where it considers that the report made by an investigations committee is not clear in any particular respect or that further investigation is required, refer the matter back to the investigations committee for further investigation.

Notice of hearing

12. (1) The Committee shall, where it determines that a triable case of misconduct is established in the report submitted by the investigation committee under rule 10, fix a date for hearing the complaint.

(2) The Secretary shall, where a date for the hearing is fixed under sub-rule (1) -

(a) serve notice of the hearing to the member against whom the complaint is made in Form V set out in the Schedule; and

(b) request the member against whom the complaint is made to answer to the complaint in Form VI set out in the Schedule.

(3) A notice shall be served at least twenty-one clear days before the date for the hearing.

Adjournment of hearing

13. The Committee may, on its own motion or upon the application of any party, adjourn a hearing on such terms as it may determine.

Amendment,
etc., of affidavit

14. (1) The Committee may, where it determines that allegations set out in an affidavit require to be amended, permit the amendment of the affidavit.

(2) The Committee shall, where it considers that an amendment is not within the scope of the affidavit, require the amendment to be embodied in a further affidavit.

(3) The Committee shall grant an adjournment of the hearing if an amendment is such as to take a party by surprise or prejudice the conduct of the case, on such terms as it considers appropriate.

Inspection of
documents

15. (1) A party may inspect the documents referred to in the list furnished by another party.

(2) A party may, on application in Form VII set out in the Schedule and on payment of the prescribed fee, obtain a copy of any document mentioned in the list furnished by the other party.

(3) A party shall furnish the other party a copy of a document mentioned in the list within three days of the receipt of the application made under sub-rule (1).

(4) An inspection under this rule shall be completed at least seven days before the date fixed for the hearing.

Legal
representation

16. (1) A member who is a party to proceedings under these Rules may be represented by a legal practitioner of that member's choice.

(2) A member shall, where the member intends to be represented by a legal practitioner, inform the Committee, in writing, at least seven days before the date of hearing.

Assessors

17. The Committee may appoint persons who have the relevant professional qualifications and experience as assessors for purposes of assisting it in the determination of any matter under these Rules.

Decisions of Committee

18. A decision of the Committee shall be in the form of a reasoned judgment stating the reasons for arriving at the decision.

Record of proceedings

19. (1) The Committee shall cause to be kept a record of its proceedings.

(2) Any party who appeared at the proceedings may inspect the record of proceedings.

(3) The Committee shall give a copy of the record of proceedings to any person entitled to be heard on an appeal against an order of the Committee, and to the Association.

Report of proceedings

20. The Committee shall, as soon as practicable after the close of a hearing, submit to the Council a report of the proceedings together with a copy of the record kept in accordance with rule 19.

Appeals

21. (1) A person aggrieved by a decision of the Disciplinary Committee may appeal to the High Court within thirty days of the receipt of the decision.

(2) On an appeal under sub-rule (2), the Association shall be respondent.

(3) The cancellation of any registration ordered by the Committee under these Rules shall not take effect until the expiration of the time for lodging an appeal against that order or, if an appeal is lodged, until such time as the appeal is disposed of, withdrawn or struck out.

PART V

GENERAL PROVISIONS

Withdrawal of
complaint or
appeal

22. (1) Unless the Committee directs otherwise, a complaint or appeal may be withdrawn by the complainant or appellant.

(2) An appellant shall give notice of the abandonment of the appeal to the High Court.

Service of
document

Cap. 27

23. Service of a notice or document shall be effected in person or by substituted service in accordance with the High Court Act.

Costs

24. The Committee may, on the hearing, or determination, of any application, in the case of an application against an information and communications technology professional, without finding any misconduct proved against the professional, order any party to pay costs of the proceedings if, having regard to the member's conduct and to all circumstances of the case, the Committee shall think fit.

SCHEDULE

(Rules 4(1), 5(3), 7(3), 8(2), 9(1), 10, 14,15(1), 17, 20(2)(c), 20(2), 22(1), 23(2), and 28(2))

Form I
(Rule 4(1))

PRESCRIBED FORMS



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

COMPLAINT
(Rule 4(1))

TO: THE PROFESSIONAL ETHICS AND COMPLIANCE COMMITTEE

PART I

(TO BE COMPLETED BY THE COMPLAINANT)

- (1) Here state the name of the member against whom the complaint is made
- (2) Here state the full names of the complainant
- (3) Here state the occupation of the complainant
- (4) Here state the address of the complainant
- (5) Here state the member's name
- (6) Here state the name of the company, firm or institution to which the member belongs, or the member's address
- (7) Here, briefly outline the complaint

IN THE MATTER OF C.D (1),
 A MEMBER AND IN THE MATTER OF THE INFORMATION AND
 COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT,
 NO. 7 OF 2018.

I,(2),* a/*an

(3) of (4)

hereby make complaint as follows:

That C.D (5).....

of (6)

*on the day of, 20.....,

*between the day of, 20.....,

and the day of, 20.....

did, whilst registered as a Member, (7)

.....

.....
Accordingly, I pray that –

- (a) CD (7)
be required to answer the allegations contained in the affidavit which accompanies this complaint; and
- (b) that the Professional Ethics and Compliance Committee determines the matter as the Professional Ethics and Compliance Committee considers appropriate.

*Delete whatever is inapplicable

PART II

(TO BE COMPLETED BY THE COMPLAINANT)

Attached herewith are the following documents (See Guidance Notes below prior to completing this Part):

No.	Document Type (For example, Affidavit, Letter, Bank Statement)	√
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

GUIDANCE NOTES

- 1. Documents shall be submitted in triplicate to the Secretary.
- 2. Shaded areas are for official use only
- 3. Documents shall be accompanied with a completed affidavit in Form II.

In witness whereof I have hereunto set my hand this day of,
20.....

.....
Signature

.....
Occupation

.....
Date

PART III

(TO BE COMPLETED BY COMPLAINANT)

DECLARATION

I hereby declare that the information provided above is true and correct to the best of my knowledge and belief.

.....
Name Signature

.....
Date

PART IV

(FOR OFFICIAL USE ONLY)

Received by.....
Name

.....
Signature Rank

.....
Date

OFFICIAL
STAMP



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

AFFIDAVIT

- (1) Here state the name of the Member against whom the complaint is made
- (2) Here state the full names of the complainant
- (3) Here state the occupation of the complainant
- (4) Here state the address of the complainant
- (5) In paragraphs (a), (b), (c), and so on), concisely state the facts relied in support of the complaint

IN THE MATTER OF C.D (1)
A MEMBER AND IN THE MATTER OF THE INFORMATION AND
COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT,
NO. 7 OF 2018.

I, A.B (2).....*a/*an (3)..... of
(4) do hereby make oath and say as
follows (5):

- (a)
- (b)
- (c)
- (d)
- (e)

Sworn by the said.....

At on the day of, 20.....

Before me:

Commissioner for Oaths



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

NOTICE OF INVESTIGATION

- (1) Here state the name of the Member against whom the complaint is made
- (2) Here state the name of the complainant
- (3) Here state the address of the complainant
- (4) Here state the name of the Member against whom the complaint is made
- (5) Here set out briefly the facts alleged and where there is more than one charge, the charges are to be numbered consecutively

IN THE MATTER OF C.D (1)
A MEMBER AND IN THE MATTER OF THE INFORMATION AND COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT, NO. 7 OF 2018.

On behalf of the Information and Communications Technology Association notice is hereby given to you that in consequence of (a complaint made against you to the Council) or (information received by the Council) from A.B (2) of (3) an investigation is to be held into the following charge/charges against you:
(a);
(b);
(c); and
(d)

That whilst registered under the Information and Communications Technology Association of Zambia Act, No. 7 of 2018, you C.D (4) allegedly (5)
.....
.....

Notice is further given to you that from the..... day of, 20..... an investigations committee set up pursuant to rule 11 will commence investigations into the allegations to determine from the evidence gathered whether or not a prima facie has been established against you and consequently, whether or not to refer the complaint to the Professional Ethics and Compliance Committee for consideration.

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

.....
Secretary

ACKNOWLEDGEMENT OF SERVICE

TO BE COMPLETED BY THE PERSON EFFECTING THE SERVICE

I, of
have, this day of, 20.....,
effected service of this notice of complaint upon (the
above-named C.D/ the proprietor of the firm or institution at which the above-named C.D is
employed/ a partner of the firm at which CD is also a partner/the principal place of business
of the firm or institution at which C.D is a partner) of
by (State mode of service of process used)

.....
Signature Time and stamp

TO BE COMPLETED BY THE MEMBER COMPLAINED AGAINST/PERSON WHO RECEIVES
THE NOTICE ON BEHALF OF THE MEMBER COMPLAINED AGAINST

I of
have, thisday of, 20....., been served
with this notice of complaint.

.....
Signature Time



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

NOTICE OF DISMISSAL OF COMPLAINT

- (1) Here state the name of the complainant
- (2) Here state the name of the Member against whom the complaint is made
- (3) Here state the name of the Member against whom the complaint was made
- (4) Here state the name of the complainant

TO: A.B (1)..... AND
 CD (2).....
 IN THE MATTER OF CD (3),
 A MEMBER AND IN THE MATTER OF THE INFORMATION AND
 COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT,
 NO. 7 OF 2018.
 Following a complaint made on the day of
, 20..... by.....
 and the consequent determination of the matter by the Professional
 Ethics and Compliance Committee pursuant to rule ... of the
 Information and Communications Technology Association of Zambia
 Act, No. 7 of 2018;

The complaint has been dismissed on the following grounds:

- (a)
- (b)
- (c)
- (d)

Attached herewith is a reasoned judgment of the matter.

A.B (4) may, within 30
days of the receipt of this order. appeal to the

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

.....
Secretary of the Association/Chairperson of the Professional
Ethics and Compliance Committee



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

NOTICE OF HEARING

- (1) Here state the name of the Member appealing
- (2) Here state the name of complainant
- (3) Here state the complainant's address
- (4) Here state the name of Member complained against
- (5) Here state the Member's address
- (6) Here state the name of the person summoned
- (7) Here state the address of the person summoned
- (8) Here state the venue for the hearing
- (9) Here state the day of the week
- (10) Here state the book, record, document or thing in respect of which the person is summoned or which the person summoned is expected to produce
- (11) State the complainant's name
- (12) State the name
- IN THE MATTER OF C.D (1),
A MEMBER AND IN THE MATTER OF THE INFORMATION AND
COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT,
NO. 7 OF 2018.
- TO: *A.B(2) of
(3).....
.....;
- *C.D(4) of
(5).....
.....;
- *E.F(6)
of(7)
.....
- YOU ARE SUMMONED to appear at (8) on
(9)....., the day of
....., 20....., at hours before the
..... (*investigations committee
established pursuant to rule of the Information and Communications
Technology Association of Zambia Act, No. 7 of 2018. (Disciplinary)
Rules, 2012/*Professional Ethics and Compliance Committee of the
Information and Communications Technology Association of Zambia
Act, No. 7 of 2018, established under section of the Information and
Communications Technology Association of Zambia Act to give evidence
in respect of (10) –
(a);
(b);
(c); and
(d)
- GIVEN under my hand at this
..... of, 20.....

of the Member
complained
against

.....
Secretary of the Association/Chairperson of the Professional Ethics and
Compliance Committee

TO: A.B (11)
You are required by the Information and Communications Technology Association of Zambia (Disciplinary) Rules, 2020, to furnish to every other party to the complaint and to the Professional Ethics Committee at, Lusaka, at least fourteen days before the said day of, 20....., an answer together with a list and copies of all the documents on which you propose to rely.

TO : C.D (11).....
You are invited to answer, in writing, the above-mentioned charge (charges) and also to appear before the Professional Ethics and Compliance Committee at the place and time specified above, for the purpose of answering it (them). You may appear in person or by a legal practitioner, or by any officer or member of any organisation of which you are a member.

You are required by the said Rules to furnish to every other party to the complaint and to the Professional Ethics and Compliance Committee at Lusaka, at least fourteen days before the said day of, 20....., an answer together with a list and copies of all the documents on which you propose to rely

The Professional Ethics and Compliance Committee has power, if you do not appear, to hear and decide upon the said charge (charges) in your absence. Any answer, admission, or other statement or communication, which you may desire to make with respect to the said charge (charges), should be addressed to the Registrar. If you desire to make any application that the inquiry should be postponed, you should send the application to the Secretary of the Association as soon as may be, stating the grounds on which you desire a postponement. Any such application will be considered by the Chairperson of the Committee in accordance with these Rules.

A copy of the complaint, affidavit, investigation Committee report and additional documents that the committee considers relevant are sealed herewith for your use.

A copy of the Information And Communications Technology Association of Zambia (Disciplinary) Rules, 2020, is sent herewith for your information.

.....
Secretary of the Institute/Chairperson of the Professional Ethics and
Compliance Committee

ACKNOWLEDGEMENT OF SERVICE

TO BE COMPLETED BY THE PERSON EFFECTING THE SERVICE

I, of, have, this day of, 20....., effected service of this notice of complaint upon (*the above-named A.B/ *the above-named C.D/ the proprietor of the firm or Association at which the above-named C.D is employed/a partner of the firm at which CD is also a partner/the principal place of business of the firm or Association at which CD is a partner/*the above-named E.F) of by (State mode of service of process used)

.....
Signature Time and Stamp

TO BE COMPLETED BY A.B/C.D/E.F/ THE PERSON WHO RECEIVES THE NOTICE

I of have, this day of, 20....., been served with this notice of complaint.

.....
Signature



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

REPLY BY COMPLAINANT

- (1) Here state the name of the member complained against
- (2) Here state the name of the member complained against

IN THE MATTER OF C.D (1)
A MEMBER AND IN THE MATTER OF THE INFORMATION AND COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA ACT, NO. 7 OF 2018

TO: THE PROFESSIONAL ETHICS AND COMPLIANCE COMMITTEE

I CD (2) do respectfully submit my answer as herein stated (set out in numbered paragraphs below-

- (a)
- (b)
- (c); and
- (d)

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

.....
Signature

FOR OFFICIAL USE ONLY

Received by
Name Signature

.....
Position Time

Fee paid

OFFICIAL
STAMP



Information Communication & Technology
Association of Zambia

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

**The Information and Communications Technology Association of Zambia
(General) Regulations, 2020**

APPLICATION TO INSPECT DOCUMENTS

(1) Here state the name of the Member against whom the complaint was made IN THE MATTER OF C.D (1)
 A MEMBER AND IN THE MATTER OF THE INFORMATION AND COMMUNICATIONS TECHNOLOGY ASSOCIATION OF ZAMBIA (DISCIPLINARY) RULES, 2020.

(2) Here state the name of the person conducting the search I, (2).....
 of (3)..... being (*the Member against whom the complaint herein was made/*the legal representative of C.D (4)/*the agent for the legal representative of C.D (5)..... do apply to inspect the following documents (6):

(3) Here state the address of the person conducting the search (a);
 (b);
 (c); and
 (d)

(4) Here state the name of the Member against whom the complaint was made Dated atthis day of, 20.....

(5) Here state the name of the Member against whom the complaint was made

(6) Here state the documents to be inspected

Signature

FOR OFFICIAL USE ONLY

Received by
 Name Signature

 Position Time

Fee paid



,
Chief Justice

LUSAKA
, 2020
[]