

**THE CONSTITUTION  
CONSULTATIVE PROCESS  
GUIDELINES, 2012**

# **THE CONSTITUTION CONSULTATIVE PROCESS GUIDELINES, 2012**

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## **THE CONSTITUTION CONSULTATIVE PROCESS GUIDELINES, 2012**

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### **PREAMBLE**

**WHEREAS** there is need to provide for a comprehensive and democratic system under which the validation of the provisions of the draft Constitution of Zambia may be undertaken by community and district consultative fora and the provincial and National and Sector Groups Constitution conventions;

**WHEREAS** it is necessary to ensure that the people of Zambia are involved in a meaningful way in the Constitution-making process;

**WHEREAS** it is fundamental to ensure that the people's views are taken into account in the Constitution-making process in a systematic and structured manner;

**WHEREAS** it is essential to ensure that the people of Zambia are equitably represented at the various Constitution conventions by delegates of their choice; **AND**

**NOW THEREFORE** these Guidelines shall govern the nomination or election of delegates to the various fora in the consultative process, the process of collecting and collating comments on the draft Constitution and the procedures to be followed at meetings of the various fora in the consultative process:



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“convention facilitator” means the person appointed by the Technical Committee to be facilitator of a provincial convention or the National and Sector Groups Convention;

“convention vice-chairperson” means the person elected vice-chairperson of a provincial convention or the National and Sector Groups Convention under these Guidelines;

“delegate” means a person who attends a district consultative forum, provincial convention or National and Sector Groups Convention in accordance with these Guidelines;

“district” has the meaning assigned to it under the Constitution or the Local Government Act;

“district chairperson” means a person elected district chairperson under guideline 13;

“district collection centres” means the offices of the Technical Committee in a district that houses desk officers responsible for receiving comments from the community and forwarding the comments to the district consultative forum;

“district facilitator” means a person appointed as a facilitator of a district consultative forum under guideline 14;

“draft Constitution” means the first draft Constitution of the Republic of Zambia issued by the Technical Committee on 30<sup>th</sup> April, 2012;

“draftsperson” means a person appointed by the Republican President, under Articles 33 and 44 of the Constitution;



“final draft constitution” means the draft Constitution by the Technical Committee after collection, collation and consideration of the comments received from the community consultative fora, district consultative fora, provincial conventions and National and Sector Groups Convention;

“member” means a member of the Technical Committee;

“National and Sector Groups Convention” means the final consultative convention on the draft Constitution as provided under Division 2 of Part III;

“National and Sector Groups Validation Report” means a report issued by the National and Sector Groups Convention containing recommendations arising out of the validation process;

“non-governmental organisation” means a non-governmental organisation registered under the Societies Act, Lands (Perpetual Succession) Act or Companies Act;

“proceedings” means activities and procedures of a provincial convention or the National and Sector Groups Convention;

“Province’s Validation Report” means a report issued by a provincial convention containing recommendations arising out of the validation process;

“provincial collation centre” means the offices of the Technical Committee in the Province that house desk officers responsible for data entry and collation for submission to the provincial convention;

“provincial convention” means a gathering of delegates, elected or nominated under these Guidelines from a Province, to validate the provisions of the draft Constitution;

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“public officer” has the meaning assigned to it in the Constitution;

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“Technical Committee” means the Technical Committee appointed by the Republican President, in accordance with Articles 33 and 44 of the Constitution, to draft the National Constitution;

“thematic group” means a group established under Guidelines 17, 30 and 39 to discuss the thematic areas set out in Annex 1;

“Secretary” means the Secretary to the Technical Committee;

“sector group” means representatives of non-governmental organisations and other stakeholders that share common characteristics and interests; and

“validation” means scrutinising and commenting on the draft Constitution to ensure that the principles in guideline 3 are taken into account.

Principles to govern validation

3. The principles that will govern the validation of the draft Constitution shall be as follows:

- (a) the draft Constitution -
  - (i) reflects the values and aspirations of the people of Zambia;
  - (ii) provides for extensive rights and freedoms;
  - (iii) is relevant for the political, socio-economic, technological and scientific environment of Zambia;
  - (iv) establishes a free and democratic system of government that guarantees constitutionalism, the rule of law, human rights, gender

- equity, gender equality and affirmative action;
  - (v) outlines the main State organs and institutions and their core functions;
  - (vi) enables constitutional organs and State institutions to operate harmoniously in order to avoid constitutional crisis;
  - (vii) ensures that excessive and unfettered powers are not given to any particular organ of State, commission or constitutional functionary;
  - (viii) ensures devolution of government structures and functions;
  - (ix) promotes the people's participation in governance;
  - (x) incorporates a democratic electoral system that enhances representation of various groups of society;
  - (xi) strengthens national integration;
  - (xii) respects ethnic and regional diversity;
  - (xiii) ensures free, fair and responsible media; and
  - (xiv) promotes regional and international cooperation; and
- (b) the final Constitution emanating from the first and second draft Constitutions

stands the test of time by ensuring its provisions are flexible, inclusive and cognisant of the supportive legal framework that will be enacted by the Parliament of Zambia.

Democratic and  
secure process  
for validation

4. (1) The Government, members of the Technical Committee, delegates, members of political parties, non-governmental organisations, media and all Zambians shall -

- (a) recognise the importance of confidence building, engendering trust and developing a national consensus for the validation of the draft Constitution and in preparation for its adoption by a National Referendum;
- (b) avoid violence or threats of violence or other acts of provocation during and after the validation process;
- (c) not deny or interfere with any person's right to express their views during the consultative process, through the press or when debating during meetings to validate the draft Constitution;
- (d) ensure that the police protect the safety of all delegates and other participants from violence;
- (e) ensure that all meetings during the consultative process are held in peace;
- (f) respect the independence of the Technical Committee and its members; and

- (g) desist from any political or administrative action that will adversely affect the success of the consultative process.

(2) In the performance of their functions under these Guidelines, a district consultative forum, provincial convention and the National and Sector Groups Convention shall -

- (a) be accountable to the people of Zambia;
- (b) ensure that the diversity of the Zambian people, including socio-economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disabilities and the disadvantaged, are accommodated;
- (c) ensure, particularly through the observance of the principles specified under guideline 3, that the meeting –
  - (i) provides the delegates with an opportunity to actively, freely and meaningfully participate in validating the provisions of the draft Constitution;
  - (ii) is, subject to the other provisions of these Guidelines, conducted in an open manner; and
- (d) ensure that the final outcome of the validation process faithfully reflects the wishes of the people of Zambia.

**PART II**  
**CONSULTATIVE PROCESS**

Consultative  
process

5. The consultative process shall be undertaken through the following:

- (a) community consultative forum;
- (b) district consultative forum;
- (c) provincial conventions; and
- (d) National and Sector Groups Convention.

**Division 1 - Community Consultative Forum**

Community  
consultative  
forum

6. (1) A community consultative forum shall be self-organised where communities organise themselves to validate the draft Constitution which shall commence from 1<sup>st</sup> May, 2012 and conclude proceedings within ninety-two days.

(2) A community consultative forum shall be open to every individual, group or organisation in the community.

(3) A community consultative forum shall be held at any suitable premises within the locality of that community and shall be organised by various stakeholders including the following:

- (a) church groups;
- (b) traditional councils;
- (c) political party structures;
- (d) neighbourhoods;
- (e) residence development committees;
- (f) social clubs;
- (g) school clubs;
- (h) associations;
- (i) neighbourhood health committees;

- (j) community-based organisations;
- (k) work places;
- (l) learning institutions;
- (m) civil society facilitator; and
- (n) any other institution or organisation based and operating in that community.

Effective consultation of citizens

7. The Technical Committee shall ensure that mechanisms are put in place, for effective consultation of citizens at community level.

Submission of comments and recommendations

8. The comments and recommendations from a community consultative forum shall be submitted to a district collection centre by the community consultative forum facilitator, in the template set out in Annex 2.

General proceedings

9. Subject to the other provisions of these Guidelines, a community shall regulate its own proceedings.

**Division 2 - District Consultative Forum**

District consultative forum

10. (1) There shall be a district consultative forum in every district which shall commence its sittings within seven days of being summoned by the Technical Committee and conclude its proceedings within ten days.

(2) Only delegates selected under guideline 11 shall participate in the district consultative forum, except that a person who is not a delegate may attend the proceedings of the district consultative forum as an observer.

Composition  
of district  
consultative  
forum

11. (1) A district consultative forum shall consist of the following delegates:

- (a) District Commissioner;
- (b) Heads of all government departments;
- (c) two councillors;
- (d) two representatives of the royal establishment in the district;
- (e) two representatives of the judiciary;
- (f) members of Parliament in the District;
- (g) two representatives of each registered political party;
- (h) two representatives of each religious umbrella body present in the district;
- (i) one representative from each umbrella body of trade unions;
- (j) two representatives of the Zambia Federation of Employers;
- (k) two representatives of the District Chamber of Commerce;
- (l) two representatives of the district business association;
- (m) two student representatives from tertiary institutions;
- (n) two persons representing the youth;
- (o) two representatives of women's groups;
- (p) one representative from each thematic non-governmental organisation;
- (q) one representative from each association of persons with disabilities;
- (r) two representatives of the district agriculture association;



- (s) two representatives of senior citizens;
- (t) two former freedom fighters;
- (u) two representatives of pensioners;
- (v) the mayor or the Council Chairperson;
- (w) four chairpersons of standing committees of local authorities;
- (x) two representatives of the cultural and arts association;
- (y) two representatives of the media;
- (z) two representatives of Traditional Healers Association of Zambia;
- (aa) two representatives of marketeers; and
- (bb) two children between the ages of fourteen and eighteen years.

(2) The delegates referred to in paragraph (1), who are not Members of Parliament, shall be resident or present in the district.

(3) A district facilitator may, in consultation with the Secretariat of the Technical Committee and without increasing the number of delegates, amend the list of organisations or institutions referred to in paragraph (1).

Selection criterion  
for district  
consultative  
forum delegates

12. (1) The delegates referred to in guideline 11 shall be nominated or elected, as the case may be, as follows:

- (a) in the case of delegates representing an organisation or institution, by their respective organisations or institutions; or
- (b) in the case of delegates who are not representing any specific organisation or institution, by the district facilitator.

(2) The organisations or institutions referred to in paragraph (1) shall form electoral colleges for the purpose of electing a person to represent those institutions or organisations at the district consultative forum.

(3) A district facilitator, an organisation, institution or electoral college shall, when nominating or electing, as the case may be, a representative to the district consultative forum, ensure that equitable consideration is given to persons of both gender.

(4) Where guideline 11 refers to a specific office, the office holder shall participate in the district consultative forum.

(5) A district facilitator shall forward the nominations received under this guideline to the Technical Committee for appointment.

(6) The persons referred to in guideline 11 shall be appointed by the Chairperson of the Technical Committee.

### **Organisation and facilitation**

Chairperson  
and vice-  
chairperson  
of district  
consultative  
forum

13. (1) The delegates to the district consultative forum shall elect the district chairperson and district vice-chairperson from amongst themselves.

(2) There shall preside at any meeting of a district consultative forum –

- (a) the district chairperson;
- (b) in the absence of the district chairperson, the district vice-chairperson; or
- (c) in the absence of both the district chairperson and the district vice-chairperson such delegate as the delegates

present may elect from amongst themselves for the purpose of that meeting.

District  
facilitator and  
deputy district  
facilitator

14. The Chairperson of the Technical Committee shall appoint –

- (a) a Town Clerk or council secretary as a district facilitator; and
- (b) a senior officer from the Ministry of Education, Science, Vocational Training and Early Education nominated by the District Director of Education, as a deputy district facilitator.

Rapporteur of  
district  
consultative  
forum

15. (1) The Chairperson of the Technical Committee shall appoint two persons nominated by the person in charge of the Ministry of Information, Broadcasting and Labour operating within the district, as rapporteurs for the district consultative forum in that district.

(2) A district facilitator shall, where it is not reasonably practicable for the Ministry of Information, Broadcasting and Labour to nominate a person under paragraph (1), nominate two persons as rapporteurs from the Ministry of Education, Science, Vocational Training and Early Education or any other Government or private institution.

(3) The persons referred to in paragraphs (1) and (2) shall have relevant experience in report writing.

Functions of district consultative forum

16. The functions of a district consultative forum are to -
- (a) examine, and deliberate on, the clauses of the draft Constitution;
  - (b) consider the report of the Technical Committee;
  - (c) consider the comments and recommendations from the community consultative forum;
  - (d) consider reports received under guideline 21;
  - (e) validate the draft Constitution;
  - (f) submit a report with comments and recommendations to the provincial convention for consideration and final adoption as part of the Province's Validation Report; and
  - (g) elect three persons, excluding the chairperson, to represent the district at a provincial convention.

Thematic groups

17. (1) A district facilitator shall establish thematic groups for purposes of guideline 16.
- (2) A thematic group established under paragraph (1) shall comprise not less than five persons selected from the delegates.
- (3) A thematic group shall -
- (a) comment on, and discuss the thematic area for that group;
  - (b) consider the comments and recommendations from the community

consultative forum relating to the thematic area; and

- (c) consider any submission relating to the thematic area for that group.

Observer at district consultative forum

18. (1) There shall be no restriction on the right of admission of an observer to a district consultative forum.

(2) An observer who attends a district consultative forum shall upon entering the room where the meeting is being held –

- (a) enter the observer's name in the observer's register; and
- (b) promptly take a seat.

(3) An observer attending a district consultative forum shall behave in an orderly manner and shall not in any manner disrupt the meeting.

(4) A chairperson shall order an observer who conducts themselves in a disorderly manner to leave the meeting.

(5) For the avoidance of doubt, an observer shall not participate in the deliberations of a district consultative forum nor vote on any matter.

Submission of comments and recommendations

19. The comments and recommendations from a district consultative forum shall be submitted to a provincial collection centre and the Secretariat of the Technical Committee by the district facilitator, in the template set out in Annex 3.

General  
proceedings

20. Subject to the other provisions of these Guidelines, a district consultative forum shall regulate its own procedure.

**Division 3 – Submission of comments by members  
of the public**

Submission of  
comments by  
members of  
public

21. (1) A person may make comments on the draft Constitution –

- (a) in writing, addressed to the Secretary or by depositing the comments in a comments box placed at the offices of the Technical Committee or a National Assembly Constituency office or District Commissioner’s office;
- (b) in a form set out in Annex 4 and shall deposit the form in a comments box located at a National Assembly Constituency office or District Commissioner’s office; or
- (c) electronically, through the Technical Committee’s website, facebook page or twitter page.

(2) A district facilitator shall compile and analyse, the comments deposited in the comments box referred to in paragraph (1), and transmit, in a template set out in Annex 5, the comments, to a district consultative forum for consideration.

(3) The Secretariat of the Technical Committee shall ensure that comments addressed to the Secretary or made under paragraph 1(c) are compiled, analysed and

transmitted to the National and Sector Groups Convention for consideration.

### **PART III CONSTITUTION CONVENTIONS**

#### **Division 1 – Provincial Conventions**

Provincial  
conventions

22. (1) There shall be a provincial convention in each province which shall commence its sittings within seven days of being summoned by the Technical Committee and conclude its proceedings within ten days.

(2) Only delegates selected under guideline 23 shall participate in the provincial convention, except that a person who is not a delegate may attend the proceedings of the provincial convention as an observer.

Composition of  
provincial  
convention

23. (1) A provincial convention shall consist of the following delegates:

- (a) Provincial Permanent Secretary;
- (b) four provincial heads of Government departments;
- (c) district consultative forum chairpersons;
- (d) district consultative forum facilitators;
- (e) district consultative forum lead rapporteurs;
- (f) three delegates from each district consultative forum;
- (g) three representatives of traditional leaders;
- (h) one representative from each religious mother body;

- (i) one representative from each of the trade union mother bodies;
- (j) two representatives of the Zambia Federation of Employers;
- (k) one representative from each registered political party;
- (l) two of out-of-school youths;
- (m) two student representatives from tertiary institutions;
- (n) two representatives of women's groups;
- (o) one representative from each thematic non-governmental organisation;
- (p) one representative from each association of persons with disabilities;
- (q) one representative from each professional association;
- (r) six representatives of the private sector;
- (s) two representatives of senior citizens;
- (t) two representatives of the academia;
- (u) two representatives of the Local Government Association of Zambia;
- (v) two representatives of the Traditional Healers Association of Zambia;
- (w) Members of Parliament for the province;
- (x) one representative of freedom fighters; and
- (y) two children between the ages of fourteen and eighteen years.

(2) The delegates referred to in paragraph (1), who are not Members of Parliament, shall be resident or present in the Province.



Selection  
criterion for  
provincial  
convention  
delegates

(3) A provincial facilitator may, in consultation with the Secretariat of the Technical Committee and without increasing the number of delegates, amend the list of organisations or institutions referred to in paragraph (l).

24. (1) The delegates referred to in guideline 23 shall be nominated or elected, as the case may be, as follows:

- (a) in the case of delegates representing an organisation or institution, by their respective organisations or institutions; or
- (b) in the case of delegates who are not representing any specific organisation or institution, by the provincial facilitator.

(2) The organisations or institutions referred to in paragraph (1)(a) shall form electoral colleges for the purpose of electing a person to represent those institutions or organisations at a provincial convention.

(3) A provincial facilitator, an organisation, institution or electoral college shall, when nominating a representative to the provincial convention, ensure that equitable consideration is given to persons of both gender.

(4) Where guideline 23 refers to a specific office, the office holder shall participate in the provincial convention.

(5) The provincial facilitator shall forward the nominations made under this guideline to the Technical Committee for appointment.

(6) The persons referred to in guideline 23 shall be appointed by the Chairperson of the Technical Committee.

## Organisation and facilitation

Chairperson  
and vice-  
chairperson of  
provincial  
convention

25. (1) The delegates to a provincial convention shall elect a chairperson and vice-chairperson from amongst themselves.

(2) There shall preside at any meeting of a provincial convention –

- (a) the chairperson;
- (b) in the absence of the chairperson, the vice-chairperson; or
- (c) in the absence of both the chairperson and the vice-chairperson such delegate as the delegates present may elect from amongst themselves for the purpose of that meeting.

Appointment  
of provincial  
convention  
facilitator and  
deputy  
provincial  
convention  
facilitator

26. (1) The Chairperson of the Technical Committee shall appoint a provincial convention facilitator on the recommendation of the office of the provincial Permanent Secretary.

(2) The Technical Committee may appoint a deputy provincial convention facilitator.

Rapporteur to  
provincial  
convention

27. (1) The Chairperson of the Technical Committee shall appoint two persons nominated by the person in charge of the Ministry of Information, Broadcasting and Labour operating within the Province, as rapporteurs for the provincial convention in that Province.

(2) A provincial facilitator shall, where it is not reasonably practicable for the Ministry of Information, Broadcasting and Labour to nominate a person under

paragraph (1), nominate two persons as rapporteurs from the Ministry of Education, Science, Vocational Training and Early Education or any other Government or private institution.

(3) The persons referred to in paragraph (2) shall be appointed by the Technical Committee signified by the Chairperson of the Technical Committee.

(4) The persons referred to in paragraphs (1) and (2) shall have relevant experience in report writing.

(5) The Secretariat of the Technical Committee shall, in addition to the rapporteurs appointed under paragraph (1) or (3), provide a rapporteur to each provincial convention to offer technical support to the rapporteurs appointed under paragraph (1) or (3).

Functions of provincial conventions

28. The functions of a provincial convention are to

-

- (a) examine, and deliberate on the clauses of the draft Constitution;
- (b) consider the report of the Technical Committee;
- (c) consider the comments and recommendations from the district consultative forum;
- (d) validate the draft Constitution;
- (e) submit a Province's Validation Report with comments and recommendations to the Secretariat of the Technical Committee, in the template set out in Annex 6, for consideration and onward transmission to the National and Sector Groups

Convention, by the Technical Committee;  
and

- (f) elect four persons, excluding the chairperson, to represent the Province at the National and Sector Groups Convention.

Compilation and transmission of names of National Convention delegates

29. The facilitators of the provincial conventions shall compile the names of the delegates representing provincial conventions to the National and Sector Groups Convention and shall forward those names to the Secretariat of the Technical Committee within seven days of the holding of the provincial conventions.

Thematic groups

30. (1) A provincial facilitator shall establish thematic groups for purposes of guideline 28.

(2) A thematic group established under paragraph (1) shall comprise not less than five persons selected from the delegates.

(3) A thematic group shall -

- (a) comment on, and discuss, the thematic area for that group;
- (b) consider the comments and recommendations from the district consultative forum relating to the thematic area; and
- (c) consider any other submission relating to the thematic area for that group.

Equitable consideration of both gender

31. Where any person is empowered to elect, make a nomination, appointment or selection under this Division, that person shall ensure that equitable consideration is given to persons of both gender.

**Division 2 – National and Sector Groups  
Convention**

National and Sector Groups Convention

32. (1) There shall be a National and Sector Groups Convention held in Lusaka, which shall be the final convention in the Constitution consultative process.

(2) The National and Sector Groups Convention shall commence its sittings within seven days of being summoned by the Technical Committee and conclude its proceedings within ten days.

(3) Only delegates selected under guideline 34 shall participate in the National and Sector Groups Convention, except that a person who is not a delegate may attend the meetings of the National and Sector Groups Convention as an observer.

(4) The Secretariat of the Technical Committee shall be responsible for organising and ensuring the smooth operation of the National and Sector Groups Convention.

Sub-committee of Technical Committee

33. (1) The Technical Committee shall constitute a sub-committee of the Technical Committee which shall facilitate the appointment of delegates to the National and Sector Groups Convention.

(2) A non-governmental organisation which intends to participate in the National and Sector Groups Convention

shall make an application, in writing, to the Technical Committee.

(3) The sub-Committee of the Technical Committee shall receive and consider all applications from non-governmental organisations and ensure all the representative groups as specified under guideline 34 are nominated.

(4) The sub-committee of the Technical Committee shall forward the nominations made under this guideline, to the Technical Committee for appointment.

Composition of  
National and  
Sector Groups  
Convention

34. (1) The National and Sector Groups Convention shall consist of –

- (a) representatives of the Executive as follows:
  - (i) ten Cabinet Ministers;
  - (ii) Secretary to the Cabinet; and
  - (iii) Deputy Secretary to the Cabinet;
- (b) representatives of the Legislature as follows:
  - (i) Chairpersons of Portfolio Committees;
  - (ii) the Clerk of the National Assembly; and
  - (iii) one Parliamentary Legal Counsel;
- (c) representatives of the Judiciary as follows:
  - (i) two Supreme Court Judges;
  - (ii) two High Court Judges;
  - (iii) two Magistrates;
  - (vi) two Local Court Justices; and
  - (v) one Chief Administrator;

- (d) representatives of the Public Service as follows:
  - (i) Secretary to the Treasury;
  - (ii) all Permanent Secretaries, except provincial Permanent Secretaries;
  - (iii) one representative of each of the four service commissions;
  - (iv) one representative of each of the security and defence wings;
  - (v) twenty representatives of statutory bodies and government departments;
  - (vi) six representatives of constitutional offices;
  - (vii) one representative of the Citizenship Board;
  - (viii) one representative of the Decentralisation Secretariat;
  - (ix) three representatives of the Electoral Commission of Zambia; and
  - (x) one representative of the Zambia Institute of Public Policy and Applied Research;
- (e) representatives of civil society as follows:
  - (i) twenty representatives of non-governmental organisations;
  - (ii) fourteen representatives of professional bodies, specialised unions and associations;
  - (iii) eight representatives of media bodies and associations;

- (iv) ten representatives of students' unions; and
  - (v) ten representatives of religious umbrella bodies;
- (f) representatives of academia as follows:
  - (i) two representatives from each public or registered private university;
  - (ii) one representative of the National Institute of Public Administration;
  - (iii) one representative from the Zambia Institute for Diplomacy Studies; and
  - (iv) one representative of the Zambia Institute of Advanced Legal Education;
- (g) representatives of traditional leadership as follows:
  - (i) four representatives of the House of Chiefs; and
  - (ii) Clerk of the House of Chiefs;
- (h) political representatives as follows:
  - (i) two representatives of each registered political party; and
  - (ii) one representative of the Zambia Centre for Inter-party Dialogue;
- (i) representatives of industry as follows:
  - (i) two representatives of the Zambia Federation of Employers;
  - (ii) two representatives of the Chamber of Commerce;



- (iii) two representatives of the Chamber of Mines;
- (iv) two representatives of the Zambia Association of Manufacturers;
- (v) two representatives of the Zambia Chamber of Small and Medium Business Association;
- (vi) two representatives of the Bankers' Association of Zambia;
- (vii) fourteen representatives of workers' unions;
- (viii) one representative of the Zambia Cooperative Federation; and
- (ix) two representatives of the Zambia National Farmers Union;
- (j) representatives of provinces as follows:
  - (i) chairpersons of provincial conventions;
  - (ii) four representatives elected by each provincial convention; and
  - (iii) one facilitator from each provincial convention;
- (k) representatives of Local Authorities as follows:
  - (i) Mayor of the City of Lusaka; and
  - (ii) two representatives of the Local Government Association of Zambia;
- (l) retired public servants as follows:
  - (i) former Speaker of the National Assembly;
  - (ii) former Chief Justices;

- (iii) former retired Bank of Zambia Governors; and
- (vi) former retired Auditor Generals; and
- (m) members of the Technical Committee, who shall have no voting rights.

(2) The representative groups outlined in paragraph (1) shall each ensure that the selection process is transparent and organisations dealing with the same or similar subject areas may jointly select a person to represent them.

Selection  
criterion for  
National and  
Sector Groups  
Convention  
delegates

35. (1) A delegate representing an organisation or institution or a group of organisations or institutions shall be nominated by that organisation or institution or the group, in writing.

(2) The organisations or institutions referred to in guideline 34 shall form electoral colleges for the purpose of electing a person to represent those institutions or organisations at the National and Sector Groups Convention.

(3) An organisation, institution or electoral college shall, when nominating a representative to the National and Sector Groups Convention, ensure that equitable consideration is given to persons of both gender.

(4) Where guideline 34 refers to a specific office, the office holder shall participate in the National and Sector Groups Convention.

(5) The persons referred to in guideline 34 shall be appointed by the Chairperson of the Technical Committee.

## Organisation and facilitation

Chairperson  
and vice-chair  
person of  
National and  
Sector Groups  
Convention

36. (1) The delegates to the National and Sector Groups Convention shall elect the chairperson and vice-chairperson from amongst themselves.

(2) There shall preside at any meeting of the National and Sector Groups Convention –

- (a) the chairperson;
- (b) in the absence of the chairperson, the vice-chairperson; or
- (c) in the absence of both the chairperson and the vice-chairperson such delegate as the delegates present may elect from amongst themselves for the purpose of that meeting.

Facilitators  
and  
rapporteurs  
for National  
and Sector  
Groups  
Convention

37. (1) The sub-committee of the Technical committee constituted under guideline 33 shall identify and appoint facilitators for the National and Sector Groups Convention.

(2) The Secretariat of the Technical committee shall

–

- (a) provide assistance to the sub-committee of the Technical Committee constituted under guideline 33; and
- (b) appoint such number of rapporteurs for the National and Sector Groups Convention as the Technical Committee may determine.

(3) The persons appointed under paragraph (2)(b) shall have relevant experience in report writing.

Functions of  
National and  
Sector Groups  
Convention

38. The functions of the National and Sector Groups Convention are to -

- (a) examine, and deliberate on, the clauses of the draft Constitution;
- (b) consider the report of the Technical Committee;
- (c) validate the draft Constitution;
- (d) consider the submissions from the experts;
- (e) consider the Province's Validation Report;
- (f) consider the consolidated comments compiled by the Secretariat of the Technical Committee under guideline 21(3); and
- (g) after considering the draft Constitution, reports, comments and recommendations under this guideline, submit a National and Sector Group Validation Report with comments and recommendations to the Technical Committee, for input into the final draft Constitution, in the template set out in Annex 7.

Thematic  
groups

39. (1) The facilitators for the National and Sector Groups Convention shall establish thematic groups for purposes of guideline 38.

(2) A thematic group established under paragraph (1) shall comprise not less than five persons selected from the delegates.

- (3) A thematic group shall -
  - (a) comment on, and discuss the thematic area for that group; and
  - (b) consider any other submissions relating to the thematic area for that group.

Equitable consideration of both gender

40. Where any person is empowered to elect, make a nomination, appointment or selection under this Division, that person shall ensure that equitable consideration is given to persons of both gender.

### **Division 3 – Final Draft Constitution**

Consideration of comments and recommendations and final draft Constitution

41. (1) The Secretariat of the Technical Committee shall, after receiving the recommendations from the National and Sector Groups Convention, submit them to the Technical Committee.

(2) The Technical Committee shall, within nine days of receipt of the recommendations under paragraph (1), consider the recommendations and submissions from the experts on the draft Constitution and draft the final draft Constitution.

(3) The final draft Constitution shall be subjected to a Referendum for adoption by the people of Zambia.

### **Division 4 – Proceedings of Provincial Convention and National and Sector Groups Convention**

Chairperson to maintain order

42. (1) The chairperson shall maintain order and decorum in meetings of the provincial conventions and

National and Sector Groups Convention to which this Division applies.

(2) Whenever the chairperson rises during a meeting, delegates shall sit down and be silent so that the chairperson can be heard without interruption.

(3) The chairperson may in the event of grave disorder occurring in the meeting -

- (a) suspend the meeting and state the time at which the chairperson shall resume the Chair; or
- (b) adjourn the meeting to the next sitting day.

Quorum of provincial convention and National and Sector Groups Convention

43. (1) The quorum of a provincial convention and National and Sector Groups Convention shall be one half or the next whole number after the half, of all the members of the provincial convention or National and Sector Groups Convention.

(2) If there is no quorum at the expiration of twenty minutes after the hour appointed for the meeting, the chairperson may adjourn the meeting for fifteen minutes.

(3) Where a quorum is still not formed after the fifteen minutes adjournment, the chairperson may adjourn the meeting to the next meeting day.

Delegate to be seated

44. (1) A delegate shall -
- (a) take the delegate's seat promptly and remain seated except when speaking in debate or voting;
  - (b) not remain in the aisles; and

(c) not pass between the chairperson and any delegate who is speaking.

(2) Except when voting, a delegate shall make an acknowledgment to the chairperson, by bowing, on entering and leaving the meeting.

Chairperson  
to order  
delegate to  
withdraw from  
meeting for  
disorderly  
conduct

45. (1) The chairperson shall order any delegate whose conduct is disorderly to withdraw immediately from the meeting during the period, up to the remainder of that day's meeting, that the chairperson shall order.

(2) Any delegate ordered to withdraw from the meeting may not enter the meeting.

Conduct  
considered to  
be disorderly

46. A delegate's conduct shall be considered disorderly if the delegate -

- (a) persistently and wilfully obstructs the meeting;
- (b) uses objectionable words, which the delegate refuses to withdraw;
- (c) persistently and wilfully refuses to conform to these Guidelines;
- (d) wilfully disobeys an order of the chairperson of the meeting;
- (e) persistently and wilfully disregards the authority of the chairperson; or
- (f) is considered by the chairperson to have behaved or conducted themselves in an disorderly manner.

Reflections on members and other persons

47. (1) A delegate shall not -
- (a) make an imputation of improper motives against a delegate or an offensive reference to a delegate's private affairs; or
  - (b) make reflections or insinuations about persons who are not delegates and are not able to defend themselves against those reflections or insinuations.

(2) All imputations of improper motives to a delegate and all personal reflections on other persons shall be considered disorderly conduct under guideline 46.

Intervention by chairperson

48. (1) The chairperson may intervene -
- (a) to prevent any personal quarrel or other disturbance between delegates during proceedings; and
  - (b) when a delegate's conduct is considered offensive or disorderly.

(2) Where the chairperson's attention is drawn to the conduct of a delegate, the chairperson shall determine whether or not it is offensive or disorderly.

Rights forfeited by suspended delegate

49. A delegate who is suspended from attending a meeting shall not enter the meeting place, vote or serve on a thematic group.

Chairperson to call upon delegate to speak

50. (1) A delegate wishing to speak shall raise the delegate's hand and when recognised by the chairperson, shall stand to debate:

Provided that if a delegate is not able to stand, the delegate may be permitted to speak while seated.



(2) Where two or more delegates rise together, the delegate called upon by the chairperson is entitled to speak.

(3) Where a delegate is speaking, no delegate may converse aloud or make any noise or disturbance to interrupt the delegate.

Factors to be taken into account by chairperson in calling delegate to speak

51. In deciding whom to call, the chairperson shall take the following factors into account:

- (a) priority shall be given to delegates who have not spoken on the matter;
- (b) the need to ensure fair and meaningful overall participation in a debate; and
- (c) the expertise of an individual delegate who wishes to speak.

Delegate to address chairperson

52. A delegate on being called to speak shall address the chairperson and, through the chairperson, the meeting.

Points of order

53. (1) Any delegate may raise a point of order.

(2) A point of order takes precedence over other business until ruled on by the chairperson.

(3) The chairperson shall rule on a point of order when it is raised without allowing any discussion apart from that of the delegate raising the point.

(4) A delegate raising a point of order and any delegate permitted by the chairperson to speak to a point of order shall put the point clearly and succinctly and speak only to the point of order raised.

(5) A point of order shall be heard in silence by the meeting.

(6) The chairperson may refuse to accept a point of order raised by a delegate and the chairperson's decision shall be final.

Speeches  
in English

54. (1) A delegate shall address the chairperson in English.

(2) The chairperson shall authorise the use of any other language in the proceedings of the meeting if adequate provision has been made for the translation thereof into English.

Delegate may  
speak only  
once to matter

55. Except as otherwise provided, a delegate shall speak only once to a matter before the provincial convention or National and Sector Groups Convention.

Classification of  
misrepresentation

56. (1) A delegate who has spoken to a matter may be permitted to speak again to explain some material part of the delegate's debate which has been misquoted, misunderstood or misrepresented in the same debate:

Provided that -

- (a) a delegate shall rise and seek permission from the chairperson;
- (b) a delegate shall not introduce any new matter or interrupt any delegate to explain a misquotation, misunderstanding or misrepresentation; and
- (c) the misquotation, misunderstanding or misrepresentation shall not be debated.

Relevance  
of debate

57. (1) All debate shall be relevant to the matter before a meeting.

(2) The chairperson shall caution a delegate on irrelevant or tedious repetition when debating on a matter.

(3) The chairperson, after having called the attention of a meeting to the conduct of a member who persists in irrelevance or tedious repetition either of the delegate's own arguments or of the arguments used by other delegates in debate, may direct the delegate to discontinue the delegate's speech.

Matters awaiting  
judicial decision

58. Matters awaiting or under adjudication in any court of law shall not be referred to -

(a) in any debate; or

(b) in any question, including a supplementary question.

Application of  
prohibition of  
reference to  
matters awaiting  
judicial decision

59. (1) Guideline 58 has effect -

(a) in relation to a criminal case, from the moment the law is set in motion by a charge being made; or

(b) in relation to cases other than criminal, from the time when proceedings were initiated by the filing of the appropriate document in the registry or office of the court.

(2) Guideline 58 shall cease to have effect in any case when the verdict and sentence have been announced or judgment given.

(3) In any case where notice of appeal is given, guideline 58 shall have effect from the time when the notice is given until the appeal has been decided.

Use of offensive words

60. A delegate shall not use offensive words against -

- (a) a delegate of the provincial convention or National and Sector Groups Convention; or
- (b) any person attending the provincial convention or National and Sector Groups Convention at the invitation of the meeting.

Time limits of speeches and debates

61. The time limits for speeches and debates shall be determined by the chairperson or chairperson of a thematic group.

When interruption of delegate allowed

62. (1) A delegate may only interrupt another delegate to -

- (a) call attention to a point of order;
- (b) call attention to the lack of a quorum;
- (c) move that the delegate be no longer heard for reasons that the member shall explain;
- (d) move that the matter be now determined by vote; or
- (e) make any other intervention authorised by the chairperson.

(2) At any time except when another delegate is addressing the meeting, a delegate may request the chairperson to state the matter under discussion.

Determination of matter

63. A matter at a provincial convention or the National and Sector Groups Convention shall be determined by consensus, except that where delegates at a provincial convention or the National and Sector Groups Convention fail to reach consensus on a matter, the matter shall be determined by a simple majority vote of the delegates present and voting.

Delegates not to be absent from, or leave, meeting without permission

64. A delegate shall not leave a meeting, permanently, or be absent from a meeting without the permission of the chairperson.

Custody of records and documents

65. A facilitator shall have custody of all the records and other documents belonging to the provincial convention or National and Sector Groups Convention and shall neither take nor permit to be taken any such record or other documents from a meeting place without the express leave of the chairperson.

Sign language interpreter

66. A facilitator shall, where reasonably practicable, provide a sign language interpreter for delegates who have a hearing impairment and members of the public at each sitting of the district consultative forum, a provincial convention and the National and Sector Groups Convention.

Proceedings of thematic groups

67. (1) A thematic group shall, at its first sitting elect a chairperson and a rapporteur from amongst their number.

(2) The meeting of a thematic group shall be open to the public.

(3) The quorum of a thematic group shall be one-half of all the members of the thematic group.

(4) If there is no quorum at the expiration of twenty minutes after the hour appointed for the meeting, the chairperson shall adjourn the meeting for fifteen minutes.

(5) Where a quorum is still not formed after the fifteen minutes adjournment, the chairperson shall adjourn the meeting to the next meeting day.

Convening of consultative process, expenses and attendance

68. The Technical Committee shall facilitate the convening and meet all expenses for and in relation to the district consultative fora, provincial conventions and National and Sector Groups Convention.

Members, draftsperson and secretarial services

69. (1) The Technical Committee shall nominate at least one member to attend a provincial convention but shall not participate in the deliberations of the convention nor vote on any matters but may give guidance to the delegates on key issues of the draft Constitution and the manner to debate these issues.

(2) A draftsperson may attend a provincial convention and the National and Sector Groups Convention but shall not participate in the deliberations of the convention nor vote on any matter but may give guidance to the delegates on key issues of the draft Constitution and the manner to debate these issues.

(3) The Secretariat of the Technical Committee shall provide secretarial services to a provincial convention and the National and Sector Groups Convention.

70. (1) There shall be no restriction on the right of admission of an observer to a provincial convention or the National and Sector Groups Convention.

(2) An observer who attends a provincial convention or the National and Sector Groups Convention shall upon entering the room where the meeting is being held –

(a) enter the observer's name in the observer's register; and

(b) promptly take any available seat.

(3) An observer attending a provincial convention or the National and Sector Groups Convention shall behave in an orderly manner and shall not in any manner disrupt the meeting.

(4) A chairperson shall order an observer who conducts themselves in a disorderly manner to leave the meeting.

(5) Guideline 46 shall apply to paragraph (3) with the necessary modification to make it applicable in the circumstances.

(6) For the avoidance of doubt, an observer shall not participate in the deliberations of a provincial convention or National and Sector Groups Convention nor vote on any matter.

Adopted and signed at Lusaka at the ..... meeting of the Technical Committee on Drafting of the Zambian Constitution, this ..... day of ....., 2012.

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Hon. Justice A. M. Silungwe, SC  
Chairperson

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Dr. J. B. Sakala, SC  
Vice-Chairperson

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Mr. S. Kabanda  
Member

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Mr. W. D. Mungo'mba  
Member

---

Hon. S. S. Zulu, SC, MP  
Member

---

Prof. M. P. Mvunga, SC  
Member

---

Ms. C. C. Mwansa  
Member

---

Mrs. M. F. Zaloumis  
Member

---

HRH Chief Luchembe  
Member

---

Dr. W. S. Mwenda  
Member

---

Prof. M. M. Munalula  
Member

---

Fr. I. C. Bantungwa  
Member

---

Mr. E. C. Mwansa  
Member

---

Mr. P. Chungu  
Member



---

Rev. S. Matale  
Member

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Mr. R. L. Lifuka  
Member

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Mr. R. M. A. Chongwe  
Member

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Mrs. T. D. Oteng  
Secretary