

THE COMPUTER SOCIETY OF ZAMBIA BILL

2012

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

ESTABLISHMENT OF THE COMPUTER SOCIETY OF ZAMBIA

3. Establishment of Computer Society of Zambia
4. Powers and functions of the society
5. Limitation of personal liability
6. Custody and use of seal
7. Constitution of the Society
8. President and Vice president of Society
9. Meetings of Society

PART III

MEMBERSHIP, REGISTRATION AND PRACTICING CERTIFICATE

10. Classes of Membership
11. Application for registration as practicing ICT professional
12. Recognition of foreign applications
13. Disqualification from registration
14. Certificate of registration and Practice
15. Membership and client fees
16. Membership of society before commencement of Act
17. Student member
18. Corporate membership
19. Right to vote
20. Designation of members
21. Penalty for improper use of title or description
22. Expulsion of members
23. Holding out
24. Professional Practice

PART IV

EXECUTIVE COUNCIL

25. Constitution of Executive
26. Functions of Executive Council
27. Committees of Executive
28. Proceedings of Executive council
29. Immunity of members of Executive council

PART V

REGIONS AND BRANCHES

30. Regions of Society
31. Branches of Society

PART VI

MEMBERSHIP COMMITTEE

32. IT Registration Board
33. Proceedings of IT Registration Board
34. Registration of practicing ICT Professionals
35. The Register
36. Offences regarding registered ICT Professionals
37. Disqualifications
38. Practicing certificate
39. Offences relating to Practicing certificate
40. Exemption
41. Cancellation of practicing certificate
42. Appeals to Disciplinary committee
43. Offences relating to registration

PART VII

DISCIPLINARY COMMITTEE

44. Disciplinary Committee
45. Functions of the Disciplinary committee
46. Proceedings of Disciplinary Committee
47. Powers of Disciplinary Committee
48. Professional Misconduct
49. Penalties to be imposed by Disciplinary Committee
50. Appeals to Executive Council

PART VIII

TECHNICAL COMMITTEE

- 51. IT Standards Committee
- 52. Functions of IT Standards Committee
- 53. Proceedings of IT Standards Committee

PART IX

PROFESSIONAL DEVELOPMENT COMMITTEE

- 54. Professional Development Committee
- 55. Functions of the Professional Development Committee
- 56. Proceedings of the Professional Development Committee

PART X

THE SECRETARIAT

- 57. The Secretariat

PART XI

FINANCIAL PROVISIONS

- 58. Funds of the Society
- 59. Investments of the Funds
- 60. Financial year
- 61. Accounts
- 62. Annual reports

PART XII

MISCELLANEOUS

- 63. Prohibition of publication or disclosure of interest to
Unauthorized persons
- 64. Offences and penalties
- 65. Regulations by Executive Council

ACT 2012

An Act to regulate the Information and Communications Technology profession; provide for the continued existence of the Computer Society of Zambia; to define its functions; provide for the regulation of the education and training of ICT professionals; provide for the setting of the ethical code of conduct and ICT professional standards; to constitute the Executive Council of the Computer Society of Zambia and to define its functions; to provide for the qualification of membership to the Society and registration of ICT Professionals; define professional misconduct and provide for the disciplinary procedures for the ICT profession; to provide for the disciplinary Committee; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament of The Republic of Zambia

PART I

PRELIMINARY

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|---|--|
| 1. This Act may be cited as the Computer Society of Zambia Act, 2012, and shall come into operation on such date as the Minister may, by statutory instrument, appoint. | Enactment |
| 2. In this Act, unless the context otherwise requires
“Allied discipline” means a discipline prescribed as such by The Executive Council;
“Approved” means approved by the Executive Council
“Board” means the ICT Professional Registration Board constituted under section <i>thirty-two</i> ;
“Computer hardware” means physical parts or components that make up a computer system
“Computer hardware shop” means a business entity registered and operating as such
“Computer lab” means a computer laboratory
“Computer science” means a field of study that involves the science behind computer systems
“Computer scientist” means a person qualified in theory and practice in the field of computer science
“Computer shop” means a business entity registered and operating as such
“Computer software” means instructions stored electronically required by the computer system to perform any computation
“Computer software dealer” means a business entity registered and operating as such
“Computer system” means a collection of computer hardware and software and related documentation working together to provide information
“Corporate members” means membership accorded to a | Short title
and
commencement
Interpretation |

body corporate or a division thereof under section *fourteen*;

“Data” means inputs for computation

“Data administrator” means title given to a person who defines data elements in an organization

“Database” means a collection of information organized in a table format and electronically stored in a computer system

“Database administrator” means title given to a person responsible for managing a database

“Database developer” means a person qualified in theory and practice, in IT, in developing and implementing databases

“Disciplinary Committee” means the Disciplinary Committee of the Society appointed under section *thirty-seven*;

“Executive Council” means the Executive Council of the Society;

“Financial year” means the period of twelve months commencing on 1st January and ending on 31st December in any year;

“Gazette” means a periodical publication of the Society

“Hardware engineer” means title given to person responsible for designing, implementing and designing computer hardware

“ICT” means Information and Communication Technology, interchanged with IT for short

“ICT consultancy firm” means a business entity registered and operating as

“ICT manager” means title given to a person in charge of ICT in an organization

“IT consultant” means title given to person offering consultancy service of any type in ICT

“IT professional” means any person recognized and registered as such under this Act;

“Information” means computed results from a computer system

“information analyst” means title given to a person responsible for analyzing the information needs of the computer end users

“Information systems auditor” means

“Internet” means a network of interconnected computer systems

“IT” means information technology

“IT project manager” means title given to a person in charge of a project working to design and implement a computer based business application

“IT support” means title given to a person giving technical support to computer end users

“IT security professional” means a person qualified in theory and practice, in IT to discover and meet computer systems protection needs

“IT quality assurance manager” means title given to a person responsible for validation and verification of computer systems specification and requirements specifications

“National Secretary” means National Secretary of the Computer

Society of Zambia;

“Network Engineer” means a person qualified in theory and practice, in IT, in designing and implementing computer networks

“Network Technician” means a person qualified in theory and practice, in IT, to perform day-to-day support and maintenance of an existing corporate network

“Practice” means accepting an appointment to provide and/or to provide ICT services

“Practising IT Professional” means a professional member of the society in good standing.

“Practising Certificate” means a certificate issued under section *thirty- one* authorizing a person to practice as an IT Professional

“Programmer” means a person qualified in theory and practice, in IT to write instructions for a computer system in a language the computer system can understand

“Requirements” means the information needs of a computer system end user

“Requirements Engineer” means a person qualified in theory and practice, in IT, in analyzing the information needs of the computer systems end users

“Software Engineer” means a licensed professional engineer who is schooled and skilled in the application of engineering discipline to creation of computer software

“Special Resolution” means a resolution passed by not less than a two-thirds majority of the total membership of the Executive Council duly convened with the due notice of the intention to propose such a resolution;

“Systems Analyst” means a person qualified in theory and practice, in IT, in designing and managing the development of business applications

“Systems Designer” means title given to a person who designs computer systems

“Systems Developer” means

“The Society” means The Computer Society of Zambia established by section *three*;

“Web Administrator” means title given to a person who administers websites

“Web Designer” means title given to a person who designs websites

“Web Developer” means title given to a person who implements and develops websites

“Web Engineer” means title given to a person who designs and implements websites

“Website” means a collection of related electronic pages on the World Wide Web

“World Wide Web” means electronic pages accessed and viewed using computer systems connected to the Internet

PART II

ESTABLISHMENT OF THE COMPUTER SOCIETY OF ZAMBIA

Establishment
Of Computer
Society of
Zambia

3. There is hereby established the Computer Society of Zambia which shall be a corporate body having perpetual succession and a common seal and shall, under that name be capable of suing and being sued in its own name and subjected to the provisions of this Act, of performing such acts, as a corporate body may by law perform.

Powers and Function of
The Society

4. The functions of the Society are-

- (a) To promote the general advancement of the Information and Communications Technology and advancement of the ICT profession and allied disciplines;
- (b) To formulate and maintain the codes of conduct and standards in the ICT and allied professions in Zambia;
- (c) To play an advisory role to government and the ICT industry on ICT matters, and promote research and technological advancement as well as their implications to the nation.
- (d) To represent Zambia, at international forums, as the professional body for the advancement of information and communication technology.
- (e) To subscribe, affiliate or become a member of other bodies (nationally or internationally) with similar objectives, in the interest of the Society.
- (f) To establish, enforce and regulate proper codes of conduct, ethics and professional standards for its members.
- (g) To facilitate the acquisition of knowledge by members of the Society by the establishment of technical libraries, and the provision of monetary grants, books, tools and any other facilities necessary to achieve this end;
- (h) To hold meetings for the reading and discussion of papers for academic and professional interest, and to make awards to authors of papers of merit and to arrange for other activities of interest or benefit to members;
- (i) To raise and maintain the image of the IT profession and allied disciplines, to promote honorable behavior, good practice and build confidence of the community in practising IT professionals and allied disciplines;

- (j) To acquire, hold, take on lease, develop, lease, hire or dispose of properties of all kinds, whether movable or immovable, and to derive capital from any of the foregoing;
- (k) To raise or borrow money for all or any of the foregoing objects in such a manner and upon such security as may from time to time be determined by the Executive Council;
- (l) To invest and deal with moneys of the Society not immediately required in such manner as may from time to time be determined by the Executive Council:

Provided that this paragraph shall not be construed so as to Permit the distribution of any profit of the Society; and

- (m) To do all such other things as are incidental or conducive to the attainment of any of the forgoing objects.

- 5. No member of the Society shall be personally liable for any action taken by him in good faith in his capacity as a member of the Society and duly authorized by the Executive Council Limitation of personal Liability
- 6. (1) The common seal of the Society shall be kept in such custody and used in such manner as may be prescribed by the Executive Council and shall be kept by the National Secretary. Custody and use of seal
 - (2) The affixing of the seal shall be authenticated by the President or the Vice-President and the National Secretary, or any other person authorized in that behalf by a special resolution.
 - (3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed without seal on behalf of the Society by the National Secretary or any other person generally or specifically authorized in that behalf by the Society.
 - (4) Any document purporting to be under the seal of the Society or issued on behalf of the Society shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.
- 7. (1) The Society shall, by a vote of at least two-thirds (2/3) of the full members voting at a general meeting of the Society, adopt a constitution of the Society and may, in like manner, amend it. Constitution of the Society
 - (2) The Constitution referred to under subsection (1) shall, subject to the other provisions of this Act, regulate the conduct of the affairs of the Society.
 - (3) Subject to subsection (2), the Constitution may provide for the following matters:
 - (a) the meetings of the Society, including the delivery and sufficiency of notices of the meetings, the quorum, voting, adjournments and other matters of procedure or conduct of the meetings;
 - (b) the election, qualifications and tenure of the President and Vice-President of the Society;

- (c) the composition, functions, powers and procedures of the committees of the Society;
- (d) the establishment, powers and functions of the branches of the Society; and
- (e) the classes of Membership and their rights, privileges and obligations.

President and
Vice-
President of
Society

Meetings of
Society

8. The practicing ICT professionals shall elect the President and Vice-President of the Society in accordance with the provisions of the Constitution of the Society.

9. (1) Subject to the other provisions of this Act, the Society

may regulate its own procedure.

(2) There shall preside at any meeting of the Society—

(a) the President, or in the absence of the President, the Vice-President; or

(b) in the absence of the President and the Vice-President, such Member as the members present may elect for the purpose of the meeting.

(3) The Society shall hold an Annual General Meeting (AGM) in accordance with the provisions of the Constitution of the Society.

(4) The Society may call a special general meeting upon giving such notice as may be prescribed in its Constitution.

(5) Notwithstanding subsection (4), fifty one percent (51%) or more of the practicing ICT professionals may call for a special general meeting upon giving of a shorter notice in writing, signed by the practicing ICT professionals.

(6) The validity of any proceedings, act or decision of the Society shall not be affected by any person's absence from any meeting of the Society.

PART III

MEMBERSHIP, REGISTRATION AND PRACTISING CERTIFICATE

10. (1) There shall be such classes of Members as shall be provided for in the constitution of the Society. Classes of membership
- (2) Each class of Membership shall have such rights, privileges and obligations as may be prescribed in the Constitution of the Society.
- (3) A person may apply to the Society for registration as a Member in accordance with the provisions of the Constitution of the Society.

Application for registration as practicing ICT professional

11. (1) A person who intends to be employed or to practice as an ICT professional in Zambia shall apply to the Society for registration in the prescribed manner and form upon payment of the prescribed fee.

(2) A person making any application under section *ten, eleven, twelve, thirteen* or *fourteen* shall produce such evidence of the facts on which he/she relies as the Executive Council may require

- (3) The Society shall register an applicant as a practicing ICT professional where the Society is satisfied that—
- (a) subject to subsection (2) of section *eleven*, the applicant is an Affiliate, Member or Fellow of a body approved by the Society;
 - (b) if the applicant has a foreign qualification, the applicant should undertake such number of courses prescribed by the Society; and
 - (c) the applicant is of good character and is not disqualified for registration under this Act.
- (4) The Society may register a person as a practicing ICT professional under this Act if the person is not a citizen of Zambia or is not practising or working as an ICT professional in Zambia prior to the application if that person—
- (a) is engaged to work as an ICT professional in Zambia under an international agreement entered into by the Government of the Republic of Zambia; or
 - (b) undertakes such number of courses prescribed under the relevant laws of Zambia as the Society may determine.

(5) Notwithstanding anything to the contrary in the Immigration and Deportation Act, an immigration officer shall not, without the approval of the Society, issue an employment or entry permit to a person who intends to practice, or to be employed, as an ICT professional in Zambia.

Cap. 123

(6) A person who contravenes subsections (4) and (5) commits an offence and is liable, upon conviction to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

<p>12. The Government may, on the recommendation of the Society, by statutory instrument, recognize any local and foreign qualifications accredited by the Society for purposes of registration under this Act</p>	<p>Recognition of foreign qualifications</p>
<p>13. (1) A person shall not qualify for registration as a practicing ICT professional under this Act or as a Member under the Constitution of the Society, if the person—</p>	<p>Disqualification from registration</p>
<p>(a) has been convicted of an offence involving dishonesty in the execution of his/her duties as an ICT professional; (b) has been declared to be of unsound mind under any law in force in Zambia; (d) has been found by the Disciplinary Committee to be guilty of professional misconduct;</p>	
<p>Certificate of Registration and practice</p>	<p>14. (1) The Society shall issue a person registered under the Constitution of the Society as a Member with a Certificate of registration as a Member showing the person’s class of membership. (2) The Society shall issue a registered ICT professional with a certificate of practice showing the ICT professional’s field of specialization and shall be renewable annually. (3) The certificates of registration of practice shall remain the property of the Society.</p>
<p>Membership and Client fees</p>	<p>15. (1) The Society may charge such fees for its membership as may be prescribed and different fees may be prescribed for different classes of membership. (2) A member shall charge such client service fees as may be determined by the Society.</p>
<p>16. Notwithstanding section ten, any person who immediately prior to the commencement of this Act was a Fellow, Full Member, Associate, Student or Corporate Member of the Society shall be deemed after the commencement of this Act to be a Fellow, Full member, Associate, Student or Corporate Member of the Society respectively under this Act.</p>	<p>Member of Society before commencement of Act to be member of Society in corresponding membership category after commencement</p>
<p>17. A person may on application to the Society be admitted as a Student, if he/she is a <i>bona fide</i> student at an approved university, institute, or school and he/she is studying ICT or an allied discipline, or undergoing a period of training in industry connected with ICT or allied discipline before graduation and shall belong to a student society at the local institution as provided for in the constitution.</p>	<p>Student</p>

- 18.** A statutory corporation, a company, an association or other body, division, government department or section which is directly engaged in ICT activities or is professionally interested in ICT or an allied discipline in Zambia, and which has two or more members of staff who are Full Members or Fellows, may on application to the Society be admitted as a Corporate Member or otherwise provided for in the constitution. Corporate Membership
- 19.** A Fellow, Full Member or Associate shall have a vote on any matter arising within the Society. Right to vote
- 20.** A member shall be entitled to describe and designate himself as follows: Designation of members
- (a) "Fellow" as "Fellow of the Computer Society of Zambia" or by the initials "FCSZ"
 - (b) "Full Member" as "Member of the Computer Society of Zambia" or initials "MCSZ";
 - (c) "Associate" as "Associate of the Computer Society of Zambia" or initials ACSZ";
 - (d) "Student" as "Student Member of Computer Society of Zambia", or
 - (e) any other title as provided for in the constitution and upon whom such class of membership is awarded.
- 21.** A person using the title or description Fellow, Full Member, Associate or student of the Computer Society of Zambia or the authorized letters designating these titles, when not so entitled shall be liable on conviction to a fine not exceeding eight Hundred thousand units or to imprisonment for a period not exceeding twelve months or both. Penalty for improper use of title or description
- 22.** (1) A member of the Society may be expelled or suspended from the Society by a special resolution of the Executive Council on the recommendation of the Disciplinary Committee, where Expulsion of members
- (a) the Society has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of any material fact;
 - (b) the practising ICT professional or Member is found guilty of professional misconduct under this Act or the Code of Conduct;
 - (c) the practising ICT professional or Member is convicted of an offence involving dishonesty; or
 - (d) since the registration, circumstances have arisen disqualifying the practising ICT professional or Member from registration.
- (2) The Society shall, before cancelling the registration of a practising ICT professional or Member under subsection (1), give the ICT professional or Member an opportunity to be heard.

- (3) The Society may, before cancelling the registration of a practising ICT professional, suspend the practising ICT professional for such a period and on such terms and conditions as the Society may determine.
- (4) No person who has been expelled from membership of the Society shall be re-admitted without the authority of a special resolution of the Executive Council.

23. (1) A person shall not, unless the person is registered as a practising ICT professional under this Act—

Holding out

- (a) practice as, be employed as, offer services as, or hold out to be, a
- (b) practising ICT professional;
- (c) adopt, use or exhibit the terms “systems analyst”, “computer scientist”, “systems designer”, “ICT manager”, “IT consultant”, “programmer”, “software engineer”, “network engineer”, “data administrator”, “database administrator”, “database developer”, “web designer”, “web developer”, “web engineer”, “web administrator”, “requirements engineer”, “information systems auditor”, “information analyst”, “network technician”, “IT support”, “IT security professional”, “IT project manager”, “hardware engineer”, “software developer”, or any other term of like description; or
- (d) do anything likely to lead persons to infer that the person is a practising ICT professional.

(2) A person shall not, unless the person is registered as a Member with the Society—

- (a) practice as, be employed as, offer services as, or hold out to be, a Member, “ICT consultancy firm”, “computer shop”, “computer hardware shop”, “computer lab”, “computer software dealer”, “;”;
- (b) adopt, use or exhibit the terms “Member”, “ICT consultancy firm”, “computer shop”, “computer hardware shop”, “computer lab”, “computer software dealer” or any other term of like description; or
- (c) do anything likely to lead persons to infer that the person is a registered Member.

(3) Nothing in subsection (1) shall prevent a person, however from being a partner in the practice.

- (4) A person, firm, company or government agency shall not employ or engage any person who is not a member of the Society or registered under this Act as a practising ICT professional.
- (5) A person who contravenes subsection (1), (2) or (4) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (6) Where an offence under this section is committed by a body corporate, every director or senior officer of the body corporate shall be liable, upon conviction, as if the director or senior officer had personally committed the offence, unless the director or senior officer proves to the satisfaction of the court that the act constituting the offence under this section was done without the knowledge, consent or connivance of the director or senior officer or that the director or senior officer took reasonable steps to prevent the commission of the offence.

(7) Where a firm does an act which if done by an individual would be an offence under this section, every partner in the firm shall be deemed to have committed the offence unless the partner proves that the offence was committed without their knowledge, consent or connivance.

24. In all professional relations, members of the Society shall be governed by the Code of Conduct for ICT professionals which shall be prescribed by the Executive Council with the approval of two thirds (2/3) majority gathered at an AGM.

Professional
practice

PART IV

EXECUTIVE COUNCIL

- 25.** (1) There shall be established an Executive Council of the Society which shall be Constitution responsible for the management and control of the affairs of Executive of the Society. Council
- (2) The Executive Council shall consist of-
- (a) A President who shall be a Fellow or full member and who previously served as a member of the Executive Council;
 - (b) The immediate past President of the Society;
 - (c) A vice-President who shall be a Fellow or full member;
 - (d) A National Secretary who shall be a Fellow or Full member
 - (e) A National Treasurer who shall be a Fellow or Full Member;
 - (f) A Chairman of each Regional committee
 - (g) A chairman of each statutory committee of the executive council
 - (h) Two (2) elected committee members
 - (i) The Director General of the Zambia Information and Communications Technology Authority (ZICTA) as an ex-officio member.
- (3) The President and Vice-President of the Society shall be the Chairperson and Vice-Chairperson respectively of the Council.
- (4) An ICT professional shall not be qualified to be elected or appointed as an Executive Council member under subsection (1), if the ICT professional—
- (a) has committed any professional misconduct within a period of five years preceding the election or appointment;
 - (b) is in lawful custody or the ICT professional's freedom of movement is restricted under any law in force in or outside Zambia on the date of the election or appointment; or
 - (c) has not been on the register for at least 1 year preceding the election or appointment.
- (5) Members of the Executive Council shall be elected and their term of office shall be as provided for in the constitution of the Society.
- 26.** Except as otherwise provided for in this Act or in the Society's constitution adopted at an annual general meeting, the functions of the Executive Councils shall be- Functions of Executive Council
- (a) to manage and control all the affairs of the Society.
 - (b) to maintain a register of the names of all persons who are members of the Society and the categories of membership applicable to such persons; and
 - (c) to perform all the functions of the Society.
- 27.** (1) The Executive Council may for the purpose of performing its functions under this Act establish committees or other bodies consisting of members the Society and may, except as otherwise provided for in this Act or in any regulations made thereunder, delegate to any such committee Committees of Executive Council

or body any of its functions as it considers necessary.

(2) The four statutory committees of the council are: The Membership Committee, Disciplinary Committee, the Professional Development Committee and the Technical Committee

(3) Subject to any specific or general direction of the Executive Council a committee or body established under this section may regulate its own procedure.

28. Subject to the other provisions of this Act the Executive Council may regulate its own procedures.

Proceedings
Of Executive Council

29. No action or other proceedings shall lie or be instituted against any member of the Executive Council, any Committee or other body of the Executive Council for any act or thing done or omitted in good faith in the exercise or purported exercise of his duties under this Act.

Immunity of
members of
Executive Council

PART IV

REGIONS AND BRANCHES

- 30.** (1) There shall be established as many Regions of the Society as the Executive Council may approve, according to the number of members in a particular geographical area. Regions of
Society
- (2) Subject to the general directions of the Executive Council, a section may regulate its own procedures.
- (3) The management and control of a region shall be vested in a Committee elected as prescribed in the Society's constitution and the Chairman of the Committee shall be a fellow or Full Member.
- (4) A committee of a region shall be responsible for all matters affecting the region including the receipt and expenditure of moneys related to its activities other than membership subscriptions.
- (5) A region of the Society may be dissolved by the Executive Council with the approval of the AGM.
- 31.** (1) There shall be as many branches of the Society as the Executive Council may approve according to the number of members in particular geographical areas. Branches of
Society
- (2) Subject to the general directions of the Executive Council and Regional Committee a branch may Regulate its own procedures.
- (3) The management and control of each branch shall be vested in a committee elected by that branch and Chairman of a committee shall be a Fellow or Full Member.
- (4) A Committee of a branch shall be responsible for all matters affecting the branch including the receipt and expenditure of moneys relating to its activities other than membership subscriptions.
- (5) A branch may be dissolved by the region with the prior approval of the Executive Council

PART V

MEMBERSHIP COMMITTEE

- 32.** (1) There shall be established a Membership Committee of the Society. Membership Committee
- (2) The Committee shall consist of-
- (a) The Chairperson of the Committee
 - (b) A Vice Chairperson
 - (c) A secretary
 - (b) Six full members of the society,
 - (e) One Practicing lawyer registered in Zambia

The Committee, except for the Chairperson who is elected as provided for in the Society's Constitution shall be appointed by the Executive Council as provided for in the Society's Constitution. The members of the Committee referred to in (a) to (c) in section 26 shall be Fellow or Full Members of the society.

- (3) The members of the Committee shall hold office as provided for in the Society's Constitution.
- 33.** (1) Subject to the other provisions of this section the Committee may regulate its own procedures. Proceedings Of the Membership Committee
- (2) The Committee shall for the transaction of its business meet at least once every year at such time as the Committee may determine.
- (3) At every meeting of the Committee five members shall constitute a quorum
- (4) There shall preside at every meeting of the Committee the Chairman or in his absence the Vice-Chairman or in their absence such members as the members present may elect for the purpose of that meeting.
- (5) A decision of the Committee shall be by a majority of the members present and voting at a meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

34. (1) Subject to section thirty-five the Committee shall under the general supervision of the Executive Council prepare and maintain a register of IT Professionals.

Registration
of Practising
IT Professional

(2) The register referred to in subsection (1) shall contain information relating to the registered members as may be prescribed.

(3) A person shall be eligible to be registered as a practising ICT Professional if-

- (a) he/she is a fellow, Full Member or Associate of the Society;
- (b) he/she is resident or has an established office or appointment in Zambia as an ICT Professional; and
- (c) he/she pays a prescribed application fee.

(4) Any person applying for registration as an ICT Professional shall submit documents as required by the Board to support his registration.

35. (1) The Society shall maintain a register of practising ICT professionals, to be referred to as the “Register of Practising ICT Professionals in Zambia”.

(2) The Register referred to under subsection (1) shall contain such particulars and information relating to practising ICT professionals as the Society may determine.

(3) The Society shall maintain a separate register of Members to be called the “Register of Members” which shall contain such particulars and information specified under the constitution of the Society.

(4) The Society may cause any corrections or alterations to be made to the Register in accordance with the purposes of this Act.

(5) The Register shall be kept at the Society and shall be open for inspection on such conditions, including the payment of any fee, as may be prescribed.

(6) The Society shall maintain a register of all persons studying for ICT professionals.

36. (1) A person who—

(a) makes or causes to be made, an unauthorized entry, alteration or erasure in the Register, certificate of registration or practising certificate, or in any copy thereof; or

(b) procures or attempts to procure for another person a practising certificate, registration of any matter by means of fraud, misrepresentation or concealment of any material fact;

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or both.

Offences
regarding
registered
ICT
professionals

37. No person shall qualify to register as an ICT Professional if

(a) he/she has been convicted of an offence involving dishonesty;

(b) he/she has been adjudged or otherwise declared to be of unsound Mind under any law in force in Zambia;

(c) he/she is declared bankrupt

(d) in the case of a company it is not a Corporate Member of the Society

Disqualifications

38. (1) Every ICT Professional or Corporate Member registered under section *seventeen and thirty-four respectively* shall on the payment of a prescribed fee be issued by the Membership Committee with a practicing certificate which shall state the category of registration

Practicing
certificate

and fields of ICT Profession in which the holder may practice.

(2) Every practicing certificate issued under subsection (1) shall take effect on the day it is issued and shall continue in force until the 31st December:

Provided that every practicing certificate issued between the 1st January and the 1st February shall have effect for all purposes from the 1st January in that year.

39. (1) Subject to subsection (2) of section thirty-four no person shall without a practicing certificate-

Offences relating to practicing certificate

- (a) establish practice as an ICT Professional or be a partner in any such practice;
- (b) accept any appointment as an ICT Professional;
- (c) Teach, lecture, practice or offer his services as or hold him out to be a qualified ICT professional;
- (d) do anything likely to lead persons to infer that he/she is a registered ICT Professional.

(2) Any person who acts in contravention of subsection (1) shall be liable upon conviction to a fine not exceeding eight hundred thousand units or imprisonment for a term not exceeding twelve months, or both.

(3) Where an offence under subsection (2) is committed by a body corporate, every director and manager of the corporate body shall be deemed to have committed the offence unless the manager or director proves that the offence was committed without his knowledge or consent.

(4) Where a firm does any act which if done by an individual would be an offence under subsection (2) every partner in that firm shall be deemed to have committed the offence unless he/she proves that the offence was committed without his knowledge or consent.

(5) A practicing certificate shall be renewed annually upon the payment of fees prescribed in the Schedule and shall be displayed at the place of practice.

40. Except for heads of departments at an organization approved by the Executive Council, lecturers in IT subjects, IT trainees or IT students undergoing training programmes approved by the Executive Council who satisfy the academic qualification for a Full Member and who are under the supervision of a registered IT professional shall not be required to comply with the provisions of this party:

Exemption

Provided that the exemption under this section shall be in writing and shall contain such conditions as shall be deemed necessary by the Executive

Council and provided further that such exemption shall only apply to holders of appointment for IT Professional

- 41.** (1) The practicing certificate issued under section *thirty-four* may be cancelled by the Membership Committee if-
- Cancellation of practicing certificate
- (a) It is proved to the satisfaction of the Membership Committee that the registration was Obtained through fraud, misrepresentation or concealment of any Material fact; or
 - (b) a person ceases to be a member of the Society.
- (2) The Membership Committee shall before cancellation of a practicing certificate under subsection (1) give a registered ICT Professional thirty days notice of the intention to cancel and require the registered ICT Profession opportunity to show cause why his/her practicing certificate should not be cancelled.
- (3) The cancellation of a practicing certificate under subsection (1) shall be published in the *Gazette*.
- 42.** A person aggrieved by a decision made by or on behalf of the Board may appeal to the Disciplinary Committee within ninety days of such decision.
- Appeals to Disciplinary Committee
- 43.** Any person who -
- (a) makes or causes to make an unauthorized entry, alternation or erasure in a register, practicing certificate, or in any copy thereof; or
 - (b) procures or attempts to procure himself for any other person a practicing certificate of any matter by means of fraud, misrepresentation or concealment of any material facts;
- Offences relating to registration etc.

shall be guilty of an offence and shall be liable to conviction or a fine not exceeding eight hundred thousand units or to imprisonment for a term not exceeding twelve months, or to both.

PART VII

DISCIPLINARY COMMITTEE

44. (1) There shall be established a Disciplinary Committee of the Society appointed as provided for in the Society's constitution. Disciplinary
Committee

(2) The Disciplinary Committee shall consist of the following members:

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) a registered legal practitioner; and
- (d) not less than three and not more than five other Society members.

(3) The members referred to in paragraphs 44. (a), (b) and (d) shall be Fellow or full members of the society

(4) Members of the Disciplinary Committee shall hold office for terms as provided for in the Society's constitution.

(5) There shall preside at every meeting of the Disciplinary Committee the Chairman, or in his absence the Vice-Chairman or in the absence of the Chairman and the Vice-Chairman such member as the members present may elect for the purpose of that meeting.

45. The functions of the Disciplinary Committee shall be to hear and determine- Functions of
Disciplinary
Committee

- (a) any complaint or allegation against a member of the Society;
- (b) any complaint or allegation against the Executive Council and/or its Committees;
- (c) any complaint or allegation against a registered ICT Professional.

46. (1) Except as approved in this section the Disciplinary Committee may regulate its own procedures. Proceedings of
Disciplinary
Committee

(2) Four members of the disciplinary Committee shall form a quorum

(3) A decision of the Disciplinary Committee shall be by a majority of votes of members present and voting, and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(4) All proceedings of the Disciplinary Committee shall be held *in camera*

(5) The Disciplinary Committee shall cause to be kept a record of all its proceedings.

(6) A party to the proceedings before the Disciplinary Committee shall as of right be present throughout the hearing:

Provided that any party to a hearing before a Committee may be represented

by a lawyer, or with the leave of the Committee by any person authorized by him in that behalf.

(7) The party to the proceeding or his advocates if any shall be invited to cross-examine any person giving evidence before the Committee.

(8) The Disciplinary Committee shall, at the close of the hearing of each case make a ruling which shall be communicated to the parties and to the Executive Council.

(9) Where a disciplinary case involves a member of the Disciplinary Committee or Executive Committee that member shall not sit on that Committee for the purposes of hearing the case.

47. (1) The Disciplinary Committee may, for purposes of any inquiry hear and receive any evidence and may administer oaths. Powers of Disciplinary Committee

(2) Any person summoned to appear before the Disciplinary Committee who, without sufficient cause-

- (a) refuses or fails to attend at the time and place specified in the summon, or having attended leaves without the permission of the Committee; or
- (b) having attended refuses to be sworn or to affirm; or
- (c) refuses without lawful excuse to the best of his knowledge any question lawfully put to him; or
- (d) refuses to produce any book, record, document or thing which he/she has been required by summons to produce other than that which he/she could not be compelled to produce in the trial of action;

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding exceeding eight hundred thousand units or to imprisonment for a term not exceeding twelve months, or to both.

Provided that no such person shall be compelled to answer any question or produce any book, record, document or thing which he/she could not be compelled to answer or produce on the trial of an action in the any Court in Zambia.

48. A registered IT Professional shall be guilty of Professional misconduct if, in the course of his/her practice as an IT Professional, he/she - Professional misconduct

- (a) allows a person, other than a registered IT Professional or trainee in his employee to practice in the name of a registered IT Professional;
- (b) unlawfully discloses or uses to his advantage any information acquired in the course of his professional engagement with his client;
- (c) Certifies and submits in his name or in the names of his firm a report, document, software, hardware, statements and related records which have not been made by him, his partner or an IT professional employed by his firm;
- (d) permits his name or the name of his firm to be used in connection with technical specifications, designs or financial calculations contingent upon future transactions in the manner which may lead people to reasonably infer that he/she vouches for the accuracy of such information;

- (e) In a report in which his client has interest, fails to disclose or knowingly conceals from such client mis-statements of facts known to himself and the disclosure of which is necessary in order that the report does not mislead the client; or gives an opinion in a professional capacity without obtaining sufficient information thereof.

49. (1) Where the Disciplinary Committee, after due inquiry finds an IT Professional guilty of professional misconduct as a member of the Society, it may impose one or more of the following penalties-

Penalties to be imposed by Disciplinary Committee

- (a) order the cancellation of his practicing certificate or modify the fields of specialty in which he/she may practice;
- (b) recommend to the Executive Council, the expulsion or suspension of any member;
- (c) censure him / her
- (d) impose a fine not exceeding two hundred thousand units to be paid to the Society;
- (e) order him to pay to the Society or to any other party to the hearing any costs of, or, incidental to the proceedings;
- (f) impose any reasonable conditions for the postponement or suspension of a period not exceeding two years of any of the foregoing punishments.

(2) In any hearing before the Disciplinary Committee, any decision which is shown to have been made by any court in Zambia shall be conclusive evidence of the facts so found.

(3) The Disciplinary Committee shall as soon as practicable after the completion of each hearing submit to the Executive Council a report of the proceedings together with a copy of the record kept in accordance with subsection (5) of section forty-six.

50. (1) An IT Professional who is aggrieved by any decision of the Disciplinary Committee may within thirty days of the notification to him of a decision, appeal to the Executive Council.

Appeals to Executive Council

(2) The cancellation of any membership ordered by the Disciplinary Committee under paragraph (a) of subsection (1) of section forty-nine shall not take effect until after the expiration of the time allowed for lodging an appeal against such order.

(3) The Executive Council may, on appeal against the findings and orders of the Disciplinary committee-

- (a) confirm, vary or set aside any findings made, penalty imposed or direction given by the Committee; or
 - (b) refer the matter back to the Committee for further consideration.
- (4) Any member of the Society not satisfied with the Executive Council shall have the right to seek redress in the courts of law in accordance with the Laws of the Republic of Zambia

PART VIII

TECHNICAL COMMITTEE

51. (1) There shall be established a Technical Committee of the Society appointed as provided for in the Society's constitution. Technical Committee

(2) The Technical Committee shall consist of the following members:

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) A secretary
- (d) not less than three and not more than five other members.

(3) The Committee members except the Chairperson of the Committee who is elected as provided for in the Society's Constitution shall be appointed by the Executive Council as provided for in the Society's Constitution.

(4) The members referred to in section 51(2) shall be Fellow or Full members of the Society.

(5) Members of the IT Technical Committee shall hold office for terms provided for in the Society's Constitution.

(6) There shall preside at every meeting of the Technical Committee the Chairperson, or in his/her absence the Vice-Chairperson or in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.

52. The functions of the Technical Committee shall be to set ICT standards for Professional practice and in particular to: Functions of the Technical Committee

- (a) Review current ICT Standards and recommend updates
- (b) Propose new ICT Standards
- (c) Review compliance with ICT Standards

53. (1) Except as approved for in this section the Technical Committee shall regulate its own procedures. Proceedings of Technical Committee

(2) Four members of the Technical Committee shall form a quorum.

(3) A decision of the Technical Committee shall be by a majority of votes of members present and voting, and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his / her deliberative vote.

(4) The Technical Committee shall cause to be kept a record of all its proceedings.

(5) The Technical Committee shall report to the Executive Council all its deliberations and Approvals of ICT Standards

PART IX

PROFESSIONAL DEVELOPMENT COMMITTEE

- 54.** (1) There shall be established a Professional Development Committee of the Society appointed as provided for in the Society's Constitution. Professional Development Committee
- (2) The Professional Development Committee shall consist of the following members:
- (a) a Chairperson;
 - (b) a Vice-Chairperson;
 - (c) A secretary
 - (d) not less than three and not more than five other members.
- (3) The Committee members except the Chairperson of the Committee who is elected as provided for in the Society's Constitution shall be appointed by the Executive Council as provided for in the Society's Constitution.
- (4) The members referred to in section 54(2) shall be Fellow or Full members of the society.
- (5) Members of the Professional Development Committee shall hold office as provided for in the Society's Constitution.
- (6) There shall preside at every meeting of the Professional Development Committee the Chairperson, or in his absence the Vice-Chairperson or in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the purpose of that meeting.
- 55.** The functions of the Committee shall be to set Professional Development Programmes for the Society and in particular to: Functions of Professional development Committee
- (a) Review Professional Development and recommend updates
 - (b) Propose new professional development programmes
 - (c) Review performance of professional development programmes
 - (d) Monitor and review continuous professional development of Society members
- 56.** (1) Except where provided in this section the Professional Development Committee may regulate its own procedures. Proceedings of the Professional Development Committee
- (2) Four members of the Professional Development Committee shall form a quorum
- (3) A decision of the Professional Development Committee shall be by a majority of votes of members present and voting, and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(4) The Professional Development Committee shall cause to be kept a record of all its proceedings.

(5) The Professional Development Committee shall communicate to the Executive Council all its deliberations and approvals of Professional Development programmes

PART X

THE SECRETARIAT

- 57.** (1) There shall be established a Secretariat of the Society which shall be headed
Secretariat
by the Chief Executive of the Society. The Chief Executive shall be appointed by the Executive Council on such terms and conditions as the Council may determine.
- (2) The Chief Executive shall be the Executive Director for the Society and shall be responsible for the administration of the day-to-day affairs of the Society under the general supervision of the Executive Council.
- (3) The Executive Council may, on such terms and conditions as it may determine, appoint such other staff of the Society as it considers necessary for the performance of the functions of the Society.

PART XI
FINANCIAL PROVISIONS

- 58.** (1) The funds of the Society shall consist of such monies as may— Funds of
Society
- (a) be appropriated by Parliament for the purposes of the Society;
- (b) be paid to the Society by way of fees, grants or donations; and
- (c) otherwise vest in or accrue to the Society.
- (2) The Society may—
- (a) accept monies by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
- (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions; and
- (c) charge and collect fees in respect of programmes, workshops and seminars conducted by the Society.
- (3) There shall be paid from the funds of the Society—
- (a) the salaries, allowances and loans of the staff of the Society;
- (b) such reasonable travelling and other allowances for Members of the Executive Council or any committee when engaged on the business of the Society at such rates as the Executive Council may, with the approval of the Minister, determine; and
- (c) any other expenses incurred by the Society in the performance of its functions.
- 59.** The Society may invest in such manner as it considers necessary any of its funds which it does not immediately require for the performance of its functions. Investment of
funds
- 60.** The financial year of the Society shall be a period of twelve months ending on 31st December in each year. Financial year
- 61.** (1) The Society shall cause to be kept proper books of account and other records relating to its accounts. Accounts
- (2) The accounts of the Society shall be audited annually by independent auditors appointed by the Executive Council.
- (3) The fees of the auditors shall be paid by the Society.
- 62.** (1) As soon as is practicable, but not later than three months after the financial year, the Executive Council shall submit to the Minister a report concerning the activities of the Society during such financial year. Annual report
- (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Society and there shall be appended thereto—
- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information regarding activities undertaken during the year, as the Minister may require.
- (3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after the receipt of the report referred to in subparagraph (1), lay it before the National Assembly.

PART XII

MISCELLANEOUS

63. (1) No person shall without the consent in writing given by or on behalf of the Executive Council, publish or disclose to any person otherwise than in the course of his duties the contents of any document, communication of information whatsoever which relates to, and which has come to his knowledge in the course of his duties under this Act.

Prohibition of publication or disclosure of information to an unauthorized person

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding two hundred thousand units or imprisonment for a term not exceeding three months or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he/she shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding two hundred thousand units or to imprisonment for a term not exceeding three months or to both.

64. Any person who contravenes any of the provisions of this Act shall be guilty of an offence and where no specific penalty is provided shall be liable upon conviction to a fine not exceeding one hundred and fifty thousand units or to a term of imprisonment not exceeding three months or to both.

Offences and penalties

65. (1) Subject to the approval of the Minister, the Executive Council may by statutory instrument make regulations for the Society prescribing all or any of the following:

Regulations of Executive Council

- (a) the manner of application for membership to the Society and transfer of any member from one class to another,
- (b) entrance fees and annual subscriptions;
- (c) the manner of election, removal and replacement of the President, Vice-President, the officers and other members of the Executive Council, its committees and or representatives of the Society or any other body;
- (d) the regulation of powers exercisable by the Executive Council, its committees and bodies of the Society;
- (e) provision for voting by proxy, post and otherwise;
- (f) the manner of keeping accounts of the Society and the rendering of reports and accounts
- (g) resignation of members of the Society;

- (h) the form and manner of summons requiring the attendance of a witness before the production to any book, record, document or thing;
- (i) the procedure to be followed and rules of conduct to be observed in proceedings before the Disciplinary Committee;
- (j) the manner of application for registration as an IT Professional and fees payable for such registration;
- (k) the grounds for expulsion or suspension of members from the Society and procedure relating thereto;
- (l) the preservation of copyrights of papers, reports of proceedings and discussions of the Society;
- (m) the code of conduct to which all members of the Society shall subscribe;
- (n) the fixing of fees for professional services and any other fees which are required to be subscribed; and
- (o) any other matters as may be deemed by the Executive Council to be necessary for the proper conduct and regulation of the affairs of the Society.