

# **ANNEX 1- SUMMARY OF THE PROPOSED PUBLIC GATHERINGS BILL**

## **THE PUBLIC GATHERING BILL, 2022**

### **INTRODUCTION**

The Public Gatherings Bill in general is intended to repeal and replace the Public Order Act, Chapter 113 of the laws of Zambia. This is with a view to facilitate the exercise of the fundamental rights and freedoms of expression, assembly and association at any public gathering in accordance with Article 20 and 21 of the Constitution.

Specifically, the objects of the Bill are to—

- a) Facilitate the exercise of the freedom of assembly and association at a public gathering;
- b) Regulate the conduct of public gatherings for the preservation of public order and public safety;
- c) Repeal and replace the Public Order Act, 1955; and
- d) Provide for matters connected with, or incidental to, the foregoing.

The Bill is divided in 3 parts. Part 1 headed Preliminary Provisions, highlights the short title of the Bill, the scope of the application of the Bill, and provides interpretation of key words used in the Bill. Part 2 of the Bill outlines provisions that are pertinent in the regulation of public gatherings which include among others; notice of public gathering; acknowledgement of notices; spontaneous public gatherings; and restrictions of public gathering and register of notices. Part 3 of the Bill outlines the general provisions.

# PART I

## PRELIMINARY PROVISIONS

### Section 2: Interpretation

In this section key terms used in the Bill are defined. Some of the definitions in the current Public Order Act which remain applicable are maintained. Novel definitions which among other things speak to the protection of assembly are also introduced. The following are some of the new definitions introduced in this Bill; -

“Assistive device” means a device that is designed, made or adapted to assist a person with disability to perform a particular task;

“Authorised officer” means the Inspector-General of Police, Divisional Commander, Officer Commanding- District, officer- in-charge of a police station, or any other police officer authorised by the Inspector-General of Police;

“Concurrent assemblies” means public gatherings held at the same place and at the same time;

“Organiser” means a person who is responsible for the organisation and holding of a public gathering;

“Person with disability” has the meaning assigned to the words in the Persons with Disability Act, 2012.

“Protected area” has the meaning assigned to the words in the Protected Places and Areas Act;

“Public body” has the meaning assigned to the words in the Public Finance Management Act, 2018; “public gathering” means an assembly, meeting, procession or demonstration of twenty or more people in a public place;

“Spontaneous public gathering” means an unplanned, unscheduled or unintended public gathering; and

“Weapon” means an object or article made or adapted for use which is likely to cause or threaten injury or death to a person and includes a knife, machete, spear, axe, arrow, sjambok, stick, stone, axe handle or similar object or article but does not include an assistive device that is used for the purpose for which it was intended.

### **Section 3: Application**

This section sets out the scope of application of the Act. It stipulates that the Act shall not apply to the President; Vice President; Speaker or Deputy Speaker; Minister; Member of Parliament in the performance of that members’ functions under any written law, in that members’ constituency; Mayor, Council Chairperson and Councilor in the performance of a civic duty; public officers in the performance of government functions and others as contained in the bill. However, the exemption under subsection (1) (c), (d), (e) and (f) shall not apply during an election campaign or election or where Parliament is dissolved in accordance with the Constitution

## **PART II**

### **REGULATIONS OF PUBLIC GATHERING**

#### **Section 4: Notice of public gathering**

This section requires any person who intends to hold a public gathering to notify an authorised officer at least five (5) days before the proposed date of the public gathering. Further, it provides that an authorised officer can accept a notice of not less than two (2) days, where five days' notice is impracticable.

#### **Section 5: Acknowledgment of notice**

This section compels an authorised officer, within 24 hours of receiving the notice to acknowledge receipt of the notice in the prescribed manner and form. Where the authorised officer does not acknowledge receipt of the notice within the period specified the notice shall be considered to have been received.

#### **Section 6: Restriction of public gathering**

This section outlines circumstances when an authorised officer may restrict the holding of a public gathering. These include where;

(a) the authorised officer is in receipt of a prior notice to hold a public gathering on the same date and at the same time and venue as the public gathering,

(b) the venue for the public gathering –

(i) is unsuitable for purposes of crowd and traffic control;

(ii) shall interfere with other lawful business; or

(iii) is within a protected area, a protected place, or a restricted area.

c) the authorised officer reasonably believes that the public gathering is likely to result in public disorder, damage to property, or a danger to public safety.

However, an authorised officer who restricts the holding of a public gathering on a ground specified above shall within the time stipulated in the Bill, invite the organiser to take remedial measures to address the reasons he would advance for the restriction.

## **Section 7: Spontaneous meetings**

This section exempts spontaneous public gathering from the notification required under section 4. Nevertheless, an authorised officer may direct a spontaneous public gathering to disperse where-

(a) the authorised officer is in receipt of a notice to hold a public gathering on the same date and at the same time and venue as the spontaneous public gathering;

(b) the venue for the spontaneous public gathering -

(i) is unsuitable for purposes of crowd and traffic control;

(ii) shall interfere with other lawful business; or

(iii) is within a protected area, a protected place, or a restricted area as prescribed by the Minister

### **Section 8: Multiple notices**

This section introduces the holding of concurrent public gatherings. An authorised officer shall facilitate the holding of concurrent public gatherings on the same date and at the same time and venue, where the authorised officer reasonably believes that the holding of concurrent public gatherings on the same date and at same time and venue is not likely to result in an imminent danger to public order or public safety. However, an authorised officer who reasonably believes that the holding of concurrent public gatherings on the same date and at same time and venue is likely to result in an imminent danger to public order or public safety shall restrict the holding of one or more of the public gatherings.

### **Section 8: Duties and obligation of authorised officer**

The section lists the duties and obligations of an authorised officer subject to the Constitution. These include:

(a) protect and promote the freedom—

(i) of peaceful assembly and association;

(ii) of expression;

(iii) of movement;

(iv) from arbitrary arrest; (v) from torture, or to inhuman or degrading punishment or other like treatment; and

(vi) from partiality in the administration of the law;

(b) ensure that the right to freedom of assembly is exercised with due regard to the interests of public order, public health and public safety;

(c) intervene in the conduct of a public gathering if the failure to do so gives rise to imminent danger to public order and safety.

### **Section 10: Obligation of Organiser**

Section 10 requires an organiser to cooperate with the police regarding the planning and adoption of measures for the maintenance of public order and safety at the public gathering; and to ensure that the participants comply with the law and any condition attached to the holding of a public gathering.

### **Section 11: Monitoring of public gathering by media and stakeholders**

The section requires an authorised officer, organizer, participant and any other person shall respect and uphold the rights of the media to monitor a public gathering.

### **Section 12: Register of notices**

This section provides that an authorised officer shall keep

and maintain a register in the prescribed manner and form of notices received under section 4. The register shall be open for inspection by the public during normal working hours. Further, an authorised officer shall, on application by a person, issue to the person a certified extract from the register on payment of a prescribed fee.

### **Section 13: Prohibition of attire in connection with defence force and security officers**

This section prohibits the wearing of an attire at a public gathering that signifies an association or connection with the defence force or a national security service of the Republic or of a foreign state, except an officer of the defence force or a national security service.

### **Section 14: Prohibition of firearms or weapons at public gathering**

Section 14 proscribes any person from being in possession of a firearm or weapon at a public gathering, otherwise than in the course of a public duty.

### **Section 15: Unauthorised public gathering**

This section stipulates that a person shall not hold a public gathering if that person does not give the notice required to be given in section 4, or contravenes directives issued under section 6 providing restrictions of public gatherings.



## **PART III**

### **GENERAL PROVISION**

#### **Section 16: Appeals**

The section outlines the appeal procedure and stipulates that a person aggrieved with a decision or action of an authorised officer under this Act may within 14 days of the decision or action appeal to the High Court.

#### **Section 17: Immunity**

Section 17 provides for the immunity of an authorised officer and stipulates that an action or other proceedings shall not lie or be instituted against a police officer or authorised officer in respect of an act or thing done or omitted to be done in good faith in the exercise or performance of any of the functions or duties conferred under this Bill.

#### **Section 18: Regulation**

This section empowers the Minister, by statutory instrument, to make regulations for the better carrying out of the provisions of this Bill.

#### **Section 20: Savings and transitional provisions**

This section provides that on the coming into operation of this Act, a gathering that was notified under the repealed Act shall be regulated as if the gathering had been notified under this Bill.

## The Public Gathering (General) Regulations, 2022

The regulations are made in exercise of the powers contained in section 18 of the Public Gathering Act, 2022.

Regulation 2 requires a person who intends to hold a public gathering to notify an authorised officer of the persons' intention in Form I set out in the 1<sup>st</sup> Schedule.

Regulation 3 provides for acknowledgement of notice. An authorised officer shall acknowledge receipt of the notice referred to under Regulation 2 by stamping two copies of the notice, and returning one stamped copy to the organizer

Regulation 4 provides for a register of notices. An authorised officer shall keep and maintain a register of notices in the form and with the particulars set out in Form II, in the 1<sup>st</sup> Schedule.

Regulation 5 is a declaration of restricted areas. The areas set out in the 2nd Schedule are restricted from public gatherings for the purposes of the Act, namely:

- i) State Lodges and their precincts
- ii) Hospitals and clinics, and their precincts
- iii) Prisons or Correctional Centres and precincts
- iv) Premises of the defence force, and national security and intelligence services and their precincts

A person shall not hold a public gathering in a restricted area unless that person obtains authorisation in writing from an authorised office