

## THE PUBLIC ORDER BILL, 2019

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### MEMORANDUM

The objects of this Bill are to—

- (a) provide for the enjoyment of the right of freedom of assembly and association;
- (b) regulate the conduct of public gatherings for the preservation of public order, public health and public safety;
- (c) repeal and replace the Public Order Act, 1955; and
- (d) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,  
*Attorney-General*



**THE PUBLIC ORDER BILL, 2019**

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# A BILL

ENTITLED

**An Act to provide for the enjoyment of the right of freedom of assembly and association; regulate the conduct of a public gathering for the preservation of public order, public health and safety; repeal the Public Order Act, 1955; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia

Enactment

## PART I

### PRELIMINARY PROVISIONS

1. This Act may be cited as the Public Order Act, 2019. Short title
- 5 2. In this Act, unless the context otherwise requires— Interpretation
  - “authorised officer” means the Inspector-General of Police, Commissioner of Police, Assistant Superintendent, officer-in-charge or any other police officer authorised by the Inspector-General of Police; Cap. 110
  - 10 “firearm” has the meaning assigned to the word in the Firearms Act;
  - “multiple concurrent assemblies” means public gatherings held at the same place and at the same time;
  - 15 “organiser” means a person who is responsible for the organisation and holding of a public gathering and the receipt of revenue from the public gathering, if any;

Act No. 1 of 2018	“public body” has the meaning assigned to the words in the Public Finance Management Act, 2018;	5
Cap. 1	“public gathering” means an assembly, meeting, procession or demonstration of twenty or more people in a public place;	
Cap. 1	“public officer” has the meaning assigned to the words in the Constitution;	
Cap. 1	“public place” includes any highway, market place, square, road, street, bridge or other way which is lawfully used by the public, and any place, including a building, to which the public are for the time being entitled or permitted to have access either without any condition or on the condition of making payment;	10
Cap. 1	“public service” has the meaning assigned to the words in the Constitution; and	
Cap. 1	“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, spear, axe, arrow, stick, stone, axe handle or similar object or article.	15
Unauthorised public gatherings	<p><b>3.</b> (1) A person shall not hold a public gathering —</p> <p>(a) if that person does not give the notice required to be given under section 5;</p> <p>(b) in contravention of the directives issued under section 6(3); or</p> <p>(c) contrary to the provisions of this Act.</p>	20
Application	<p>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.</p>	25
Application	<p><b>4.</b> (1) This Act does not apply to—</p> <p>(a) the President;</p> <p>(b) the Vice President;</p> <p>(c) the Speaker or Deputy Speaker;</p> <p>(d) Minister, a Provincial Minister or any other officer as prescribed;</p> <p>(e) a Member of Parliament;</p> <p>(f) a Mayor, Council Chairperson, and Councillor;</p> <p>(g) public officers in the performance of government functions;</p> <p>(h) religious gatherings held in a place of worship;</p>	30
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- (i) funeral gatherings;
- (j) traditional gatherings;
- (k) indoor meetings of registered unions;
- 5 (l) an indoor meeting of the organs of a registered political party or registered organisation, convened in accordance with the Constitution of that party or organisation, and held exclusively to discuss the affairs of the party or organisation; and
- 10 (m) a meeting convened and held exclusively for a lawful purpose of a public body.
- (2) Subsection (1) (c), (d) and (f) do not apply where Parliament is dissolved in accordance with the Constitution.

Cap. 1

Cap. 1

## PART II

## REGULATION OF PUBLIC GATHERING

- 15 **5.** (1) A person who intends to hold a public gathering shall notify an authorised officer in the prescribed manner and form at least five days before the proposed date of the public gathering.
- (2) A notice under subsection (1) shall include—
- (a) the location, date and time of the public gathering;
- 20 (b) in the case of a procession, the route of the procession and the final destination of the procession;
- (c) the purpose of the public gathering;
- (d) the estimated number of participants;
- (e) the name and contact details of the organisers;
- 25 (f) in the case of a public gathering of a non-political nature, arrangements put in place to ensure the safety and control of the participants; and
- (g) other information that may be prescribed.
- (3) Despite subsection(1), an authorised officer may accept a notice of not less than two days where five days' notice is impracticable.
- 30 (4) The notice referred to under subsection (1), shall be delivered to a police station in the area where the public gathering is proposed to take place.
- 35 **6.** (1) Subject to section 7, an authorised officer shall within two days of receipt of the notice, acknowledge receipt of the notice and notify the person who issued a notice under section 5(1), that the person may convene the public gathering as specified in the notice.

Notice of public gathering

Notification of gathering by authorised officer

(2) An authorised officer may in the notification under subsection (1), attach the following conditions to the holding of the public gathering:

- (a) the maximum duration of the public gathering;
- (b) the granting of adequate facilities to ensure the health and safety of the participants; 5
- (c) the granting of adequate facilities for the recording of the proceedings of the public gathering in a manner and by a person or a class of persons that the authorised officer may determine; or 10
- (d) any other matter intended to preserve public order and safety.

(3) In addition to the conditions referred to under subsection (2), an authorised officer may, issue directives for—

- (a) regulating the extent to which music or other media may be played at the public gathering; or 15
- (b) directing the conduct of a public gathering and in the case of a procession, the route by which and the time at which the procession may pass.

(4) Where an authorised officer does not acknowledge receipt of the notice under subsection (1), that notice shall be deemed to have been received and the organiser may proceed to hold the public gathering in accordance with this Act. 20

Restriction  
of public  
gathering

7. (1) An authorised officer may restrict the holding of a public gathering where the authorised officer reasonably believes that the public gathering is likely to 25

- (a) result in public disorder or damage to property;
- (b) give rise to an obstruction of a public road;
- (c) jeopardise the safety of a person;
- (d) give rise to the commission of an offence under any written law; 30
- (e) be held within or near a restricted area as prescribed by the Minister; or
- (f) result in disruption of the community in the area where the public gathering is proposed to be held. 35

(2) Where an authorised officer restricts a public gathering under subsection (1), the authorised officer shall inform the organiser in writing at least two days prior to the proposed date of the public gathering.



8. (1) Where an authorised officer receives a notice to hold a public gathering from more than one person seeking to hold a public gathering at the same place and at the same time, the authorised officer shall facilitate the holding of multiple concurrent public gatherings or allocate an alternative place for the holding of one or more of the public gatherings where it is not practicable to hold multiple concurrent public gatherings.
- (2) An authorised officer shall ensure that priority is given to the first notice of the public gathering received.
- 10 9. Subject to the National Anthem Act, the national anthem shall be played or sung at the commencement of business of every public gathering.
10. (1) Where the public gathering is of a political nature, an authorised officer shall ensure that there are adequate police officers to attend to the estimated number of participants at the public gathering for the purposes of public order and safety.
- (2) Where an authorised officer is unable to provide adequate police officers to maintain public order and safety at a public gathering referred to under subsection (1), the authorised officer shall at least two days before the date of the public gathering, inform the organisers in writing and propose an alternative date and time for the holding of the public gathering.
- (3) Despite subsection (2), an organiser of a public gathering may, on receipt of the information under subsection (2), propose an alternative date and time for the holding of the public gathering.
- (4) Subject to section 6, an authorised officer may notify the organiser to convene the public gathering on the proposed alternative date and time under subsection (3) or propose another alternative date and time for the holding of the public gathering as agreed between the authorised officer and the organiser.
- (5) Where an authorised officer informs an organiser of the inability to provide adequate police officers to maintain public order and safety under subsection (2), the organiser shall not hold the public gathering on the proposed date.
- 35 11. (1) Subject to the Constitution, an authorised officer shall, in the execution of that authorised officers functions under this Act
- (a) protect and promote the right to freedom—
- (i) of peaceful assembly and association;
- (ii) of expression;
- 40 (iii) of movement;
- (iv) from arbitrary arrest; and
- (v) from partiality in the administration of the law;

Multiple notices

National Anthem at public gatherings Cap. 7

Protection of persons at public gathering

Powers of authorised officer Cap. 1

- (b) ensure that the right to freedom of rightful assembly is exercised with due regard to the interests of public order, public health and public safety;
- (c) direct or control a public gathering, or intervene in the conduct of a public gathering if the failure to do so gives rise to imminent danger to public order and safety; 5
- (d) ensure that persons participating in the public gathering adhere to the conditions attached to the notice referred to under section 6(2);
- (e) ensure minimum disruption in the area where a public gathering is to be held by— 10
- (i) controlling vehicular or pedestrian traffic;
  - (ii) ensuring access to property and work places in that area;
  - (iii) preventing injury to a person or damage to property; and 15
  - (iv) maintaining public order and safety in that area;
- (f) prevent a person from behaving in a manner that constitutes an offence under this Act or any other written law, or threatens public order, public health or public safety; 20
- (g) request a person to remove an item which the authorised officer reasonably believes the person is wearing for the purposes of concealing that person's identify;
- (h) issue orders as may be necessary to maintain public order, public health and public safety; or 25
- (i) arrest without a warrant, a person who participates in the public gathering and commits an offence under this Act.
- (2) An authorised officer shall, before exercising the power of arrest under subsection (1)(i), take necessary measures to ensure voluntary compliance by the person. 30
- (3) An authorised officer may order the participants at a public gathering to disperse from a particular area within a reasonably specified time where the authorised officer has reasonable grounds to believe that the public gathering
- (a) poses a direct and imminent threat to public order, health and safety and the threat cannot be adequately contained under the powers referred to in subsection (1); or 35
  - (b) is likely to result in a loss of life of the participants and members of the public in the surrounding area.

(4) Nothing in this section shall be construed as depriving an authorised officer of the powers granted to that authorised officer under any other written law.

**12.** An organiser shall cooperate with the police—

Obligation  
of organiser

5 (a) regarding the planning and adoption of measures for the maintenance of public order and safety at the public gathering; and

10 (b) to ensure that the participants comply with the law and any condition attached to the holding of a public gathering.

**13.** An authorised officer, organiser, participant and any other person shall respect and uphold the right of the media and of independent monitors to monitor a public gathering.

Monitoring  
of public  
gathering by  
media and  
independent  
monitors

15 **14.** (1) An authorised officer shall keep and maintain a register in the prescribed manner and form of notices received by the authorised officer under section 5.

Register of  
notices

(2) A person may, during, normal working hours, inspect the register kept under subsection (1).

20 **15.** (1) A person, except an authorised officer, shall not wear an attire in a public place or at a public gathering that signifies an association or connection with the defence force, public service or any other uniformed public office.

Prohibition of  
attire in  
connection  
with  
defence force  
and  
security  
officers

25 (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**16.** (1) Subject to the Firearms Act, a person, shall not be in possession of a firearm or weapon at a public gathering, otherwise than in the course of a public duty.

Prohibition of  
firearms or  
weapons  
at public  
gatherings  
Cap.110

30 (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

**17.** (1) A person commits an offence if that person

Offensive  
conduct

35 (a) uses threatening, abusive or insulting words or behaviour towards another person at a public gathering; or

(b) distributes or displays to another person a writing, sign or other visible representation that is threatening, abusive or insulting at a public gathering in a provocative manner.

(2) A person convicted of an offence under subsection (1) is liable, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Hate speech  
or acts

**18.** (1) A person shall not speak any words or do an act at a public gathering intended to incite enmity between a person and another or between a section of the community and another. 5

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both. 10

PART III

GENERAL PROVISIONS

Appeals

**19.** (1) A person aggrieved with a decision or action of an authorised officer under this Act may within fourteen days of the decision or action of an authorised officer appeal to the Minister.

(2) A person aggrieved with a decision of the Minister may appeal to the High Court. 15

Obstruction  
and  
impersonation  
of  
police officer

**20.** (1) A person shall not, while at a public gathering  
(a) delay or obstruct a police officer in the performance of the police officer’s duties under this Act; or

(b) impersonate or falsely present oneself to be a police officer. 20

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Immunity

**21.** 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 Act. 25

Guidelines

**22.** (1) The Minister may make guidelines as are necessary for the better carrying out of the provisions of this Act. 30

(2) The guidelines issued under subsection (1) shall be published in the *Gazette* and a daily newspaper of general circulation in Zambia.

Regulations

**23.** (1) The Minister may make regulations for the better carrying out of the provisions of this Act. 35

(2) Despite the generality of subsection(1), the regulations may

(a) provide exemptions to a person or class of persons from the provisions of this Act; or

(b) prohibit the holding of a public gathering in a specified area.

5   **23.** The Public Order Act, 1955 is repealed.

Repeal of  
Cap. 113  
Act No. 38  
of 1955

**24.** (1) 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 Act.

Savings

(2) After the commencement of this Act, proceedings in respect  
10 of a right, liability or obligation under the repealed Act, shall continue to subsist as if accrued, incurred or arising under this Act.

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