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Foreword

This guide provides answers to questions that are frequently asked by Zambian businesspeople and foreign investors with an interest in Zambia. It gives a broad overview of the legislative regime applicable to business in the country.

It has been prepared by a team of our Zambian lawyers who specialise in various relevant areas of law.

We hope you find it useful.

For further information or specific assistance, please do not hesitate to contact any one of our lawyers in Zambia.

Mabvuto Sakala
Managing Partner, Zambia

The contents of this guide are for reference only and should not be considered as a substitute for detailed legal advice. It is correct as at November 2021.
Introduction

The Country at a Glance

Zambia is a resource-rich country located in South-Central Africa. Its name is derived from the Zambezi River, which drains all but a small northern part of the country. This makes Zambia one of the most water-rich countries in Africa, with five vast lakes, three major rivers, 17 waterfalls and various wetland areas.

While large parts of Zambia are thinly populated, most of its population is concentrated along the Line of Rail, which is the country’s most developed area. This area is served by the railway that links the Copperbelt with Lusaka, the capital, and with border towns such as Livingstone, Nakonde and Chipata.

Many of Zambia’s 72 ethnic groups still reside in rural areas and rely on subsistence farming to get by. In this light, agricultural pursuits employ most of the country’s labour force.

The ‘land-linked’ country shares its border with eight countries (Angola, Botswana, Democratic Republic of Congo, Malawi, Mozambique, Namibia, Tanzania and Zimbabwe) that serve as an expanded market for its goods, and as routes for imports.

Zambia is a member of both the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA), which are regional economic communities comprising 16 and 21 member states respectively. It is also among the countries that have ratified the African Continental Free Trade Area agreement.

The country’s chief export is copper; however, trade in non-traditional exports – such as gemstones, gold, sulphur, lime and cement – has experienced exponential growth. Additionally, cotton, sugar and tobacco are also exported. Zambia’s most important trade partners include Switzerland, South Africa, China, Singapore, Malawi, Luxembourg and the Democratic Republic of Congo.

On the political front, Zambia is considered a stable country with successful democratic elections held every five years. The current President is Mr. Hakainde Hichilema, who was elected in August 2021. The next elections will be held on 13 August 2026.
General Considerations

1. What is the legal system in Zambia?

Zambia is a common law jurisdiction. The laws of Zambia consist of the Constitution, statutory and/or written laws that are enacted by the Zambian Parliament. English laws and statutes which have been extended to Zambia, statutory instruments and/or delegated legislation and the English common law.

The Zambian legal system is enforced through the judiciary and statutory tribunals established under various laws. The Zambian judiciary operates a hierarchical structure, which consists of the Subordinate Court, the High Court, Court of Appeal, the Supreme Court and the Constitutional Court.

2. What are the key recent developments affecting doing business in Zambia?

• COVID-19 pandemic

Since the declaration of the severe acute respiratory syndrome novel Coronavirus 2 (COVID-19) as a pandemic by the World Health Organization, the Zambian Government made a number of declarations and passed a number of statutory instruments aimed at containing the spread of the virus in Zambia. These declarations have affected the business environment in Zambia as they enabled employers to work from home.

• Recently enacted legislation

The Data Protection Act 3 of 2021 (DPA)

The DPA applies to the processing of personal data by resident and non-resident data controllers and processors where the data subjects are located in Zambia. The penalties for breaching the provisions of the DPA are quite stringent, amounting to as much as ZMW 30 000 000 (approximately USD 1875 000) or 2% of annual turnover for the preceding financial year, whichever is higher. The full enforcement of the DPA will depend largely on the office of the Data Protection Commission, which has yet to be set up, as well as regulations yet to be published.

The Electronic Communications and Transactions Act 4 of 2021 (ECT Act)

The ECT Act came into operation on 31 March 2021, primarily to continue regulating the use of electronic signatures in Zambia and e-commerce transactions. The ECT Act addresses the legal effect of electronic records, use of electronic signatures, authenticity of data messages, admissibility and evidential weight of data messages or electronic records, and consumer protection.

The Lands and Deeds Registry (Amendment) Act 49 of 2021 (LDR Act)

The LDR Act has been enacted to align the objectives of the Electronic Government Act 41 of 2021, discussed on page 9, in relation to the land registration system in Zambia. Pursuant to the LDR Act, certificates of title will now be kept in electronic form, and documents relating to an interest in land can be executed using electronic or digital signatures. Further, such documents may be lodged for registration by means of a device or facility that records or stores information electronically. Once fully operational, the digitised land registration system will enable increased efficiency in registering property-related documents.

• Pending Legislation

The Insurance Act 38 of 2021

Zambia undertook a legislative review of the insurance sector by enacting the Insurance Act. The significant changes in the insurance sphere are the new local empowerment provisions. The Insurance Act requires insurance companies to have 30% of their shares held by Zambians, while insurance brokerage companies are required to have at least 51% of their shares held by Zambians or a citizen-owned company.

The Electronic Government Act 41 of 2021

The Electronic Government Act (EGA), which will come into operation on a date to be announced by the President, aims to promote the use of electronic government services and processes to improve service delivery, administrative functions and productivity when accessing government services and information. The EGA is seen as a first step in digitising the process of obtaining permits or licences as a way of increasing efficiency when doing business in Zambia.
Establishing a Business

Business Vehicles

3. What are the most common forms of business vehicles used in Zambia?

The most common forms of business vehicles in Zambia are:

- Limited liability companies (private and public)
- Partnerships
- Sole traders

The most common type of limited liability company and one often used by foreign investors is a private company limited by shares. The registration and management of a private company limited by shares is governed by the Companies Act 10 of 2017.

Partnerships and sole proprietorships, while available as a form of business vehicle, are rarely used by foreign investors as unlike limited liability companies, partnerships and sole proprietorships have no separate personality from that of the partners or proprietors. Partnerships in Zambia are regulated by the English Partnership Act of 1890 and the terms and conditions set out by the partners in their partnership deeds. Regarding sole proprietorships, they are regulated by the Registration of Business Names Act 16 of 2011, which requires an individual to register the name if a sole proprietor wishes to trade under a business name (as opposed to his or her personal name).

4. In relation to the most common form of corporate business vehicle used by foreign companies in Zambia, what are the registration and reporting requirements?

Registration Requirements

The company’s promoter must submit three proposed names, in order of preference, to the Registrar of Companies for name clearance. Once the proposed name is cleared/approved, the registration of the company is undertaken by submitting a prescribed application form together with the standard articles of association or bespoke articles of association, if any, and a prescribed fee.

Reporting Requirements

A company incorporated in Zambia is required to report any changes in the details of the company post-incorporation to the Registrar of Companies. The company is also required to file annual returns.

5. What grants or incentives are available to investors?

The primary legislation relating to foreign direct investment in Zambia is the Zambia Development Agency Act 2006 (ZDA Act). As part of its investment enhancement approach, the ZDA Act provides fiscal and non-fiscal incentives to persons who are registered as investors. The ZDA Act also provides protection from arbitrary expropriation, excludes restrictions on the repatriation of funds, and provides for the resolution of investment disputes by arbitration.
To qualify for incentives, an investor must meet the minimum investment threshold of USD 500,000 or its kwacha equivalent in a priority sector or product in a multi-facility economic zone (MFEZ), rural area or industrial park under the ZDA Act.

Some of the fiscal incentives include:

• a rebate, refund or remission of the whole or any part of duty paid or payable in respect of machinery and equipment required for use by a business enterprise; and

• a wear-and-tear allowance that may be claimed on a straight-line basis, at an accelerated rate, not exceeding 100% in respect of any new implements, plant or machinery.

Some of the non-fiscal incentives include assistance with:

• acquisition of land and right to hold land;

• obtaining immigration permits;

• obtaining facilities such as water, electricity, transport and communication services and any facilities required for the investment; and

• obtaining any licence, permit or certificate.

To encourage investment in the MFEZs and industrial parks and to propel Government’s long-term strategy of promoting growth of the manufacturing sector, the Minister of Finance has proposed the following measures in the 2022 National Budget:

• introduction of 0% tax for a period of 10 years from the first year of commencement of works in an MFEZ or industrial park, on dividends declared on profits made on exports;

• introduction of 0% tax for a period of 10 years from the first year of commencement of works in an MFEZ or industrial park, on profits made on exports;

• taxation on profits made on exports by companies operating in the MFEZs and industrial parks to increase to 50% of profits of years 11 to 13 and 75% of profits for years 14 and 15; and

• reduction of the threshold for a Zambian citizen to qualify for incentives provided under the ZDA Act to USD 50,000.

6. Are there any restrictions on foreign investments (including authorisations required by the central or local government)?

There is no legislation that prohibits, limits or restricts foreign investment in any sector of the economy, except sectors such as small-scale mining or mineral trading, commercial cleaning and domestic haulage of commodities, which are reserved for Zambian citizens or companies that are majority owned or controlled by Zambian citizens.

Exchange Controls

7. Are there any exchange controls or currency regulations?

There are no exchange controls or currency regulations in Zambia.

Import/Export Regulations

8. Are there any import/export regulations?

Imports and exports in Zambia are regulated by the Control of Goods Act Cap 421 of the Laws of Zambia and the Customs and Excise Duty Act Cap 322 of the Laws of Zambia. These statutes are administered by the Ministry responsible for Commerce, Trade and Industry in relation to the control of goods and the Zambia Revenue Authority (ZRA), which has the mandate to manage and regulate exports and imports on behalf of the Zambian government.
Employment

9. What are the main laws regulating employment relations?

The following Acts regulate employment relations:

• the Constitution of Zambia, 1996 (as amended);
• the Employment Code Act 3 of 2019 (Employment Code);
• the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia; and

The following regulations regulate employment relations:

• the Minimum Wages and Conditions of Employment (General) Order, 2012;
• the Minimum Wages and Conditions of Employment (Shopworkers) Order, 2012;
• the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2012;
• the Minimum Wages and Conditions of Employment (Truck & Bus Drivers) Statutory Instrument 106 of 2020; and

10. Is a written contract of employment required? If so, what terms must be included in it? Do any implied terms and/or collective agreements apply to the employment relationship?

Yes, the Employment Code imposes a requirement for an employer to have a written contract with an employee where the employee is engaged for a period longer than six months. The written contract must specify the rights and obligations of the parties, and should contain the following minimum particulars:

• details of the employer;
• details of the employee;
• contract terms; and
• execution of contract.

The Employment Code also imposes an obligation on an employer to keep a record of all oral contracts of employment; this record should include the following particulars:

• the name, gender, address and nationality of the employee;
• the name, address and occupation of the employer;
• the date of the employee’s engagement and the capacity in which the employee is to be employed;
• the type of contract;
• the place of engagement;
• the rate of wages to be paid and any additional payments in kind;
• the intervals of payment of the wages; and
• any other prescribed particulars.

Collective agreements between employees’ associations or trade unions and employers are recognised to form part of an employment contract. The common law principles on implied terms apply equally to contracts of employment as to any other type of contract.
11. Do foreign employees require work permits and/or residency permits?

Yes, the Immigration and Deportation Act 18 of 1992 imposes an obligation for non-Zambian nationals to obtain a work permit from the Director General of Immigration in order to be employed in Zambia.

12. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as redundancies and disposals)?

Yes, the Employment Code makes it mandatory for an employer to notify and consult with an employee prior to effecting a redundancy.

13. How is the termination of individual employment contracts regulated?

The Employment Code and the contract of employment regulate the termination of employment. The Employment Code stipulates the forms of termination of an individual contract and the requirements for each, as follows:

Summary dismissal: Under this form, termination occurs in circumstances where:

- an employee is guilty of gross misconduct inconsistent with the express or implied conditions of the employment contract;
- an employee wilfully disobeys a lawful order given by the employer;
- the employee lacks a skill which he or she, expressly or implicitly, is warranted to possess;
- there is habitual or substantial neglect of the employee’s duties;
- there is continual absence from work without the permission of the employer or a reasonable excuse; or
- the employee breaches the employer’s disciplinary rules whose punishment is summary dismissal.

Automatic termination: This happens by natural causes such as death, employees reaching retirement age or the closing or dissolving of the employer’s business. The only requirement here is for the employee to be paid termination benefits in accordance with the law and the contract of employment.

Termination by lapse of contract: This is where the contract of employment is for a fixed period, and that period expires. The employer is required to pay a gratuity of not less than 25% of the employee’s basic salary earned during the contract period.

Resignation by an employee: This happens where an employee unilaterally decides to opt out of the employment contract, or where the employer makes the employment environment so intolerable for the employee that he or she is forced to resign (in the latter circumstances, constructive dismissal is deemed to have occurred and the employee may sue for damages).

Termination by an employer: This happens when an employer decides to terminate the employment of an employee. The employer is required to give valid reasons for this termination which should be connected with the capacity or conduct of the employee or based on the operational requirements of the undertaking. The employer is also obliged to:

- abide by contractual clauses relating to termination;
- provide notice of termination; pay severance pay;
- repatriate the employee to the place of recruitment; and
- follow fair procedure for termination.

14. Are redundancies and mass layoffs regulated?

Redundancies are regulated by the Employment Code. The employer is required to:

- give not less than 30 days’ notice of the redundancy to the affected employees;
- afford the employees or their representative an opportunity to consult on the measures to be taken to minimise the termination and the adverse effects on the employee;
- give the Labour Commissioner no less than 60 days’ notice of the redundancy with the following information:
  - the reasons for the termination by redundancy;
  - the number of categories of employees likely to be affected; and
  - the nature of the redundancy package.

15. When is a business vehicle subject to tax in Zambia and what are the main taxes that apply to a business?


The tax rate for companies generally is 35%; for companies in the tourism business, the rate is 15% for the year 2021 and for companies in farming, 10%. In the 2022 National Budget, the Minister of Finance has proposed to reduce corporate income tax to 30% and has extended the 15% tax rate for companies in the tourism business to the year 2022.

Withholding tax is applied to payments of dividends, rental income, interest, royalties, commission, entertainment fees paid out to non-residents, and management and consultancy fees paid out to non-residents.

16. How are the following taxed?

- Dividends paid to foreign corporate shareholders: dividends payable to non-resident persons are subject to withholding tax at the rate of 20%.
- Interest paid to foreign corporate shareholders: interest payable to non-resident persons is subject to withholding tax at a rate of 20%.
- Intellectual property (IP) royalties paid to foreign corporate shareholders: IP royalties paid to foreign corporate shareholders are subject to withholding tax at a rate of 20%.

17. Are there any thin capitalisation rules (restrictions on loans from foreign affiliates)?

There are no thin capitalisation rules in Zambia except for mining companies where the debt-to-equity ratio is currently 3 to 1.

18. Must the profits of a foreign subsidiary be imputed to a parent company that is tax resident in Zambia (controlled foreign company rules)?

The Income Tax Act uses a source-based system of tax. Therefore, as the profits of the foreign subsidiary are sourced from outside Zambia, there is no obligation to impute the profits of a foreign subsidiary to a parent company in Zambia.

19. Are there any transfer pricing rules?

The Income Tax Act, as read with the Income Tax (Transfer Pricing) Regulations of 2000, sets out the rules for transfer pricing in Zambia. The transfer pricing rules apply to controlled transactions between a person liable to tax in Zambia and an associated person who may or may not be liable to tax in Zambia.

The Income Tax Act and the Transfer Pricing Regulations require that the assessable (taxable) income of a body corporate is calculated on the basis that the arm’s length principle is applied in relation to all controlled transactions.
20. How are imports and exports taxed?

Customs and excise duty

The Customs and Excise Act Chapter 322 of the Laws of Zambia (Customs Act) regulates procedures for the exportation of goods from, and importation of goods to, Zambia. The Customs Act also regulates the imposition and regulation of customs and excise taxes, which are imposed on imported and exported goods in accordance with the tariff classifications and taxes set out in the schedule to the Customs Act.

Value added tax

Value added tax (VAT) is chargeable on the supply of goods and services in Zambia unless the goods or services are exempt from VAT. Where the supply in issue is not VAT exempt under the VAT Act, it attracts the payment of VAT and is either:

- standard rated at 16%; or
- zero rated.

Zero rating and VAT exemption are granted sparingly to essential goods and services.

21. Is there a wide network of double tax treaties?

Zambia is currently party to a number of double taxation treaties. These include agreements with Canada, China, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, Kenya, the Netherlands, Norway, Seychelles, South Africa, Sweden, Switzerland, Tanzania and the United Kingdom.

A double taxation treaty is pending with Mauritius.

22. In what circumstances are employees taxed in Zambia and what criteria are used?

Any person employed by an employer based in Zambia and receiving emoluments arising from that employment is subject to income tax in Zambia, which is paid in the form of Pay As You Earn (PAYE). PAYE applies to all income and benefits from any employment (namely wages, salaries, bonuses, commissions, directors’ fees and taxable benefits).

The scope of liability for each employee depends on an employee’s gross salary and the applicable rates, as stated in the next section.

23. What income tax and social security contributions must be paid by the employee and the employer during the employment relationship?

The following are some of the mandatory contributions:

- PAYE and personal income tax returns

This is collected on a monthly basis through the PAYE system. The Income Tax Act obliges employers, when paying employment income in any month, to withhold tax at the prescribed tax rates, below, and pay the tax over to the Zambia Revenue Authority.

<table>
<thead>
<tr>
<th>Tax bands</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>First ZMW 4 000.00 @</td>
<td>0%</td>
</tr>
<tr>
<td>Next ZMW 4 000.01 but not exceeding ZMW 4 800.00</td>
<td>25%</td>
</tr>
<tr>
<td>Next ZMW 4 800.01 but not exceeding ZMW 6 900.00</td>
<td>30%</td>
</tr>
<tr>
<td>ZMW 6 900.00 and above</td>
<td>37.5%</td>
</tr>
</tbody>
</table>

In the 2022 National Budget, the Minister has proposed to increase the tax exempt income bracket from ZMW 4 000.00 to ZMW 4 500.00.

- National Social Security Fund

Social Security contributions are made to the National Pension Scheme Authority (NAPSA). Participation in this fund is mandatory for every employer who is registered as a taxpayer and has a contract of service with an employee.

Contributions are made by both the employer and the employee at 5% of the employee’s income with a cap of ZMW 2 230. The employee’s portion is deducted from his or her salary and the total amount is paid by the employer to NAPSA.

- Skills Development Levy

A skills development levy at a rate of 0.5% of the company’s total gross emoluments must be collected and paid by the employer to the ZRA.

Competition

24. Are restrictive agreements and practices regulated by competition law? Is unilateral (or single firm) conduct regulated by competition law?

Restrictive agreements and practices are regulated by the Competition and Consumer Protection Act 24 of 2010 (CCP Act). The CCP Act prohibits the making of agreements whose object, effect or likely effect is to prevent, restrict or distort competition. The CCP Act classifies these kinds of agreements as anti-competitive. Any such agreements are unenforceable to the extent of their restrictive clauses.

Moreover, the CCP Act prohibits the conclusion of agreements whose object, effect or likely effect is to engage in:

- price fixing between competitors;
- collective boycott by competitors; and
- collusive bidding or tendering.

The unilateral conduct of a firm is subject to regulation under the CCP Act. It prohibits misuse of market power for entities with dominant positions that might result in limiting access to markets or otherwise unduly restraining competition, or has or is likely to have an adverse effect on trade or the economy in general.

25. Are mergers and acquisitions subject to merger control?

Mergers and acquisitions are subject to merger control under the CCP Act. The merging entities must notify the Competition and Consumer Protection Commission by submitting a prescribed form and paying a prescribed fee if the transaction amounts to a merger as defined under the CCP Act and meets the merger threshold of ZMW 15 000 000 (approximately USD 882 335).

Intellectual Property

26. Is IP protected in Zambia?

IP rights are protected in Zambia under the following legislation:

- The Copyright and Performance Rights Act Chapter 406 of the Laws of Zambia provides for copyright protection in literary, musical, dramatic and cable programmes.
- The Trademarks Act Chapter 401 of the Laws of Zambia provides for the protection of designs and the rights of proprietors of distinct trademarks upon registration. The protection granted under this law is territorial and not universal. Further, in the case of Olivine Industrias V D H Brothers Industries, SCCZ 12 of 2012, the Supreme Court of Zambia ruled that well-known but unregistered trademarks are not protected in Zambia.
- The Industrial Designs Act 22 of 2016 mainly provides for the registration and protection of designs and the rights of proprietors of registered designs.
Consumer Protection

27. Are marketing agreements regulated?

There is no specific law which regulates marketing agreements. However, a marketing agreement should comply with the consumer protection provisions under the CCP Act. Prohibited conduct includes misleading consumers or compromising the standard of honesty and good faith which an enterprise can reasonably be expected to meet, and which thereby distorts, or is likely to distort, the purchasing decisions of consumers.

28. Are there consumer protection laws and if so, what are they?

There are consumer protection laws that aim to protect consumers and the general public at large against unfair business practices, health hazards and counterfeit products, among others. The laws are:

• The CCP Act
  The CCP Act prohibits unfair trading: false and misleading representation; placing of a sign or notice that purports to disclaim any liability or deny any right that a consumer has under any other written law; and the supply of defective and unsuitable goods and services. The CCP Act further requires products to have labels clearly indicating information about the product, and that product should conform to the mandatory safety standard for the class of goods set by the Zambia Bureau of Standards. A consumer should also not be charged more than the price indicated or displayed on a product or service.
  • The Electronic Communications and Transactions Act 4 of 2021
    Part VIII of the Electronic Communications and Transactions Act (ECT Act) contains provisions for the protection of consumers, among others in relation to online transactions. These provisions govern the collection, processing and storing of personal information or data obtained electronically.
  • The Standards Act 4 of 2017
    The Standards Act establishes the Zambia Bureau of Standards, which has an obligation to undertake measures to ensure quality control of commodities, services and descriptions through standardisation, and quality assurance of products and services through the setting of national standards and provision of conformity assessment services for products and services.
  • The Food Safety Act 7 of 2019
    The Food Safety Act provides for the protection of the public against health hazards and fraud in the manufacture, sale and use of food.
  • The Banking and Financial Services Act 7 of 2017
    The Banking and Financial Services Act prohibits a financial service provider from, among others: compelling a customer to use the financial service provider’s choice of a supplier of any service or goods; or compelling a person to contract for another service with the financial service provider or another person as a condition for receiving a banking or financial service.

29. How are product liability and product safety regulated?

The main laws regulating product safety and liability are the CCP Act, Food Safety Act, ECT Act and Standards Act.

30. How is insurance regulated?

Insurance in Zambia is regulated by the Insurance Act 27 of 1997 (Insurance Act). The Pensions and Insurance Authority of Zambia (PIA), established under the Insurance Act, is the regulatory body for the insurance industry. The main objective of the PIA is to ensure the effective administration, supervision, regulation and control of insurance businesses in the country.

The Insurance Act requires all assets, liabilities and interests situated in Zambia to be insured with insurers licensed under the Insurance Act. However, where a particular type of insurance is not available locally, the Registrar of the PIA may approve the placing of such insurance outside Zambia. The prohibition on the issuance of insurance by foreign insurers does not apply to reinsurance.

There are no mandatory insurance requirements in Zambia except for third party motor vehicle insurance, which is compulsory for all motor vehicles or trailers using a Zambian road.

The Insurance Act 38 of 2021, once in force, will repeal and replace the Insurance Act.

31. Are there specific statutory data protection laws? If not, are there laws providing equivalent protection?

The Data Protection Act 3 of 2021 (DPA) regulates and protects the collection, use, transmission, storage and processing of personal data of persons residing in Zambia by a resident or non-resident entity.

32. Are there laws protecting personal information?

The DPA regulates and protects personal information.

E-Commerce

33. Are there any laws regulating e-commerce (such as electronic signatures and distance selling)?

The ECT Act permits the use of electronic signatures in Zambia and regulates e-commerce transactions. It also addresses the legal effect of electronic records, use of electronic signatures, authenticity of data messages, admissibility and evidential weight of data messages or electronic records, and consumer protection.

The ECT Act requires a person offering goods or services for sale, hire or exchange through an electronic transaction to provide certain information, either on the website where the goods and services are offered or through electronic communication. The following information, among others, is required:

• the full name and legal status of the person;
• the physical address and telephone number of the person;
• the website address or email address of the person;
• any code of conduct to which that person subscribes and how the consumer may access that code of conduct electronically;
• a description of the main characteristics of the goods or services offered;
• the full price of the goods or services, including transport costs, taxes and any other fees or costs;
• the manner, terms and conditions of payment; and
• the time within which the goods will be dispatched, among others.
Fintech

34. Is fintech regulated? If so, how?

Fintech companies are regulated in Zambia by the Central Bank of Zambia under the Banking and Financial Services Act 7 of 2017, the National Payment Systems Act 1 of 2007 and other regulations, guidelines and circulars issued by the Central Bank from time to time.

Fintech companies are required to be registered as limited liability companies and therefore to comply with other enabling laws such as the Companies Act, the ECT Act, the Financial Intelligence Centre Act 46 of 2010 and the CCP Act.

Environmental Considerations

35. Are there laws protecting the environment? If so, what are they?

Zambia’s environmental legal framework is vast. The following legislation regulates the use of the environment in Zambia:

The Constitution of Zambia as amended by the Constitution of Zambia (Amendment) Act 2 of 2016

The Constitution provides for the principles of environmental management and development such as the polluter pays principle, public participation, precautionary principle and equitable access to environmental resources and information, among others. The Constitution further requires any person to co-operate with state institutions to maintain a clean, safe and healthy environment; respect, protect and safeguard the environment; and prevent or discontinue an activity which is harmful to the environment.

Further, in the utilisation of natural resources and management of the environment, state institutions are required to, among other things, protect genetic resources and biological diversity; implement mechanisms that minimise waste; encourage public participation; and ensure that the environmental standards enforced in Zambia are of essential benefit to citizens.

Environmental Management Act 12 of 2011

The Environmental Management Act (EMA) is the main statute with key provisions aimed at protecting the environment in Zambia. The EMA regulates the issuance of licences required by any person who intends to emit any pollutant or contaminate into the environment. The EMA also regulates the processes and procedures relating to environmental impact assessments; environmental audits; environmental standards and declarations of protected areas. The EMA also provides for the right to a clean, safe and healthy environment.

Forests Act 4 of 2015

The Forests Act regulates soil conservation, soil improvement, natural resources, desertification; traditional knowledge and indigenous knowledge; climate change; forest management and forest conservation; forestry protection measures and ecosystem preservation through the establishment of local and national forests.

Fisheries Act 22 of 2011

The Fisheries Act regulates fishery management and conservation, fishing areas, special aquaculture licensing; environmental impact assessments related to fishing; policy planning and protected fishing areas.

Bio-safety Act 10 of 2007

The Bio-safety Act regulates biotechnology, biosafety, biosecurity; traditional knowledge and indigenous knowledge; plant production; plant protection; biodiversity and environmental impact assessment relating to genetically modified organisms.

Dispute Resolution

36. How are disputes resolved in Zambia?

Various fora are available for the settlement of disputes in Zambia, as summarised below.

The Courts of Law

The courts offer a formal mechanism for settling disputes. These courts are (in order of hierarchy):

- The Supreme Court of Zambia and the Constitutional Court of Zambia (both are apex courts for matters under their jurisdiction);
- The Court of Appeal of Zambia;
- The High Court for Zambia – divided into the Commercial Division, Industrial Relations Division, Family Division, Principal Registry (General List);
- Subordinate Courts – with territorial jurisdiction;
- Local Courts and Small Claims Court.

Tribunals

These are quasi-judicial bodies that are established under the law to resolve disputes emanating from various statutes and sectors. They include, but are not limited to the:

- Tax Appeals Tribunal;
- Competition and Consumer Protection Tribunal;
- Lands Tribunal; and
- Capital Markets Tribunal.

37. Are there any alternatives to litigation?

There are many alternatives to litigation when resolving disputes in Zambia. The alternatives are either provided for by statute or in commercial/employment contracts, or are voluntarily resorted to by parties to a dispute. These include the following:

- arbitration;
- mediation;
- conciliation; and
- negotiations among parties to the dispute.

38. Are foreign judgments and international arbitration awards enforceable in Zambia?

Foreign judgments are enforceable pursuant to the provisions of the Foreign Judgments (Reciprocal Enforcement) Act, Chapter 76 of the Laws of Zambia. This Act makes provision for the enforcement in Zambia of judgment issued by foreign courts that accord reciprocal treatment to judgments delivered by Zambian Courts.

There is a further requirement that the President of Zambia must issue a Statutory Order directing that judgments from the foreign jurisdiction can be enforced in Zambia. A person seeking to enforce a foreign judgment from a jurisdiction that is not recognised under the Foreign Judgments Act has to re-litigate the matter with the judgment as the cause of action.

The Zambian Arbitration Act incorporates the UNCITRAL Model law. Zambia is also a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and therefore international arbitration awards are enforceable in Zambia. A person seeking to enforce an arbitral award is required to submit an application for registration to the High Court for Zambia. Once registered, an arbitral award can be enforced in the same manner as a judgment in the High Court.
Anti-Corruption, Money Laundering and Bribery

39. Are there laws against money laundering and corruption? If so, what are they?

Zambia has a number of laws that endeavour to combat money laundering and corruption. The laws are as follows:

The Anti-Corruption Act 3 of 2012

The Anti-Corruption Act provides for the prevention, detection, investigation, prosecution and punishment of corrupt practices and related offences based on the rule of law, integrity, transparency, accountability and management of public affairs and property. The Anti-Corruption Act is administered by the Anti-Corruption Commission and provides for the nullification of corrupt transactions and payment of compensation for damage arising out of corrupt activities.

The Financial Intelligence Centre Act 46 of 2010

The Financial Intelligence Centre Act (the Centre) as the sole designated agency responsible for receiving, requesting, analysing and disseminating the disclosure of suspicious transaction reports.

The Centre analyses and evaluates suspicious transaction reports and information to determine whether there is sufficient basis to refer reports for investigation by law enforcement agencies or a foreign-designated authority.

The Forfeiture of Proceeds of Crime Act 19 of 2010

The Forfeiture of Proceeds of Crime Act provides for the confiscation of the proceeds of crime and for the forfeiture of any proceed, benefit or property derived from the commission of any serious offence. The Act also facilitates the tracing of any proceeds, benefit and property derived from the commission of any serious offence.

The Prohibition and Prevention of Money Laundering Act 14 of 2001

This Act provides for the prohibition and prevention of money laundering. It is administered by the Anti-Money Laundering Investigations Unit under the Anti-Money Laundering Authority, which is in charge of investigating money-laundering activities, including reports received from the Financial Intelligence Centre about suspicious transactions.
Dissolving a Business

40. Are there any considerations in terminating a business?

There are various factors to be taken into consideration when terminating a business in Zambia. These are summarised below.

Employment Consequences

When a business is dissolved, termination of employment must be conducted in accordance with the contracts of employment or in accordance with the Employment Code, failing which an employee will be considered to have been declared redundant and therefore, entitled to a redundancy package.

Where an employer has an option to transfer the employees to another employer, consent of the employees must be obtained.

Tax Consequences

The Income Tax Act (ITA) does not provide any sort of tax relief upon dissolution but rather sets out how taxes are to be deducted in the event of an entity becoming insolvent. Section 73 of the ITA provides that taxes are to be deducted in accordance with preferential claims under the Bankruptcy Act. The Preferential Claims in Bankruptcy Act lays down the order of priority of how unsecured debts are to be paid.

Business Specific Consequences

Companies: The dissolution of a business in Zambia is governed by the Companies Act and the Corporate Insolvency Act 9 of 2017. The dissolution of a business may be carried out voluntarily or involuntarily, either by the members of the business itself or other parties, such as creditors.

Sole trader: The sole proprietor is required to file a notice of cessation of business informing the Registrar of Companies that the said business name has ceased to exist.

Partnership: Partnerships are unincorporated entities. The partnership will be terminated in accordance with the terms of the partnership agreement. The partnership is also required to file a notice of cessation informing the Registrar of Companies that the said business name has ceased to exist.
Our Firm

We help our clients overcome legal complexity and unlock opportunity in Africa.

We have an enviable track record of providing legal services to the highest professional standards in Africa. We work for clients across numerous African jurisdictions on corporate, finance, competition, taxation, employment, technology and dispute resolution matters.

With eight offices in six African countries and over 400 specialist lawyers, we draw on our unique knowledge of the business and socio-political environment to advise clients on a wide range of legal issues.

Everywhere we work, we offer clients a service that uniquely blends expertise in the law, knowledge of the local market, and an understanding of their businesses. Our aim is to assist clients to achieve their objectives as smoothly and efficiently as possible while minimising the legal and regulatory risks.

Our clients include domestic and foreign corporates, multinationals, funds and financial institutions, across almost all sectors of the economy, as well as state-owned enterprises and governments.

Our expertise is frequently recognised by independent research organisations. Most recently, we won three IFLR Africa Awards (2021) including National Firm of the Year for South Africa and for Zambia. At the 2021 Africa Legal Awards, we won five practice awards, more than any other law firm. In the 2020 Dealmakers East Africa Awards we ranked first for number of M&A transactions among which was the East Africa Deal of the Year. In 2020, Mergermarket identified us as the number one legal adviser in Africa by number of completed deals.

Our Presence in Africa

Recognising the size and enormous diversity of Africa, our approach to providing legal services across the continent is intended to offer on-the-ground advice in the countries that matter for our clients. Our presence in Africa is always evolving to meet the changes that are shaping the future of this vast continent.

Currently, we have our own offices in six African countries: Kenya (Nairobi), Mauritius (Moka), South Africa (Cape Town, Durban, Johannesburg), Tanzania (Dar es Salaam), Uganda (Kampala) and Zambia (Lusaka).

We work closely with our Bowmans Alliance firms in Ethiopia (Aman Assefa & Associates Law Office) and Nigeria (Udo Udoma & Belo-Osagie). These are two of the leading corporate and commercial law firms in their jurisdictions.

We have special relationships with competent practitioners in Malawi and Mozambique. We also have a non-exclusive co-operation agreement with French international law firm Gide Loyrette Nouel that provides our clients access to assistance in francophone west and north Africa and Gide’s. The arrangement provides complementary access for Gide’s clients and lawyers to markets in central, southern and eastern Africa.

We ensure that, whenever our clients need legal advice in other parts of Africa, we can assist them by tapping into our comprehensive database of contacts of the best firms and practitioners across the continent.

On the global front, Bowmans has long-standing and excellent relationships with a range of international law firms with whom we often work on Africa-focused client mandates. We are also a member firm of Lex Mundi, a global association of more than 160 independent law firms in all the major centres across the globe. Lex Mundi gives us the ability to connect our clients with the best law firms in each of the countries represented.
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