The information contained in this report is of a general nature and is not intended to address the circumstances of any particular individual or entity. While the information is accurate as at date hereof, there can be no guarantee that the information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.
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General Overview

Capital City: Lusaka

Currency: Zambian Kwacha (ZMK)

Languages: English

Government: Republic

President: Edgar Lungu

Population: 15.02 million (2013 estimate)

GDP: US$ 26.82 billion (2014 estimate)

Timezone: GMT + 2
Introduction

Zambia is a landlocked country in south-central Africa with an area of 290,587 sq mi (740,724 sq km) and is strategically surrounded by eight neighbouring countries; Malawi, Zimbabwe, Tanzania, Botswana, Namibia, Angola, Congo DR, and Mozambique. It is a sovereign, unitary, multi-party democracy and provides a market oriented liberalised economic environment. It has a population of approximately 15.02 million and a growth rate of about 1.6% in 2012. The country is highly endowed with natural resources such as copper, waters, good soils, labour, game and land. Furthermore, it has experienced continuous political stability since attaining independence in 1964.

Factors such as abolition of control-prices, interest rate, foreign exchange and free repatriation of earnings; security to investors with statutory rights to full and fair compensation; and repayments provide a suitable environment for investment in the country. Zambia also provides duty free access to regional, wider African and the USA markets under Southern African Development Community, Common Market for Eastern and Southern Africa Agreements, the Africa Growth and Opportunity Act and the Cotonou Agreements respectively. Its attractive sub-tropical climate and vegetation with plenty of water and electricity as well as friendly people who are mostly English speaking with high literacy rates act as a bonus to both foreign and local investors.

The Legal System

Zambia has a dual legal system made up of general or statutory law as well as the tribe-specific customary laws. The general law is based on the English Common law system whilst the customary law is based on the various norms and cultures of the different tribes in Zambia. The Zambian legal system has developed in such a way that customary law is administered by special courts called Local Courts and can be set aside if such customs contradict the written law or offends English principles of justice, good conscience and equity. The importance of the dual legal system is that it creates two standards of justice applicable side by side with regard to the same population.

Sources of Law

The power to make laws is vested in the Parliament of Zambia. The sources of law in Zambia include the following listed in order of importance to the legal system:

- The Constitution of Zambia
- Acts of Parliament
- Subsidiary legislation
- Judicial decisions
- English Common Law, Equity and Statutes
- Customary law

As mentioned above, the law in Zambia is principally based on the English common law system. The English Law (Extent of Application) Act as amended by Act, No. 6 of 2011 sets out the extent to which English law is applicable to Zambia. The Act provides that English principles of common law, equity and English statutes enacted before 1911 as well as the Supreme Court Practice Rules of England in force until 1999 are all applicable in Zambia provided that they are applied in conformity
with the Zambian written laws. With regards to commercial activities in Zambia, it is the local statutes that take priority. For instance, there are Zambian statutes governing, among other matters, Companies, Mining, Banking and Insurance Business, Agriculture, Land Law, Energy, Information and Communication Technology, Capital Markets, Taxation, Local Government, Shipping, Competition Law and Intellectual Property. Common law principles are only relied upon when there exists a lacuna (or gap) in the Zambian law.

Zambia does not have a highly developed case law system; as such it is very difficult to be certain as to whether or not there is a specific Zambian authority on a particular point. Where there is no local judicial authority, the Zambian courts may consider case law from other jurisdictions, including England and other commonwealth countries which follow the English common law like Kenya, Uganda, India and Australia. As a matter of practice, English case law and cases from other commonwealth countries are often cited in court proceedings although they only play a persuasive function and are not binding on the courts. It must be noted, however, that when dealing with a Zambian law matter, one is advised as much as possible to obtain Zambian authorities in support of the claim.

**The Judiciary of Zambia**

Created under the Constitution of Zambia, the Judiciary consists of the Supreme Court of Zambia; the High Court of Zambia; the Industrial Relations Court; the Subordinate Courts; Small Claims Courts, the Local Courts; and such lower courts as may be prescribed by an Act of Parliament. The High Court of Zambia has original and unlimited jurisdiction over all claims except cases specifically reserved for the Industrial Relations Court. It is also an appellate court. The Industrial Relations Court is specifically reserved for matters arising out of any labour and industrial matter such as trade union actions or employment law matters. An appeal from the Industrial Relations Court lies with the Supreme Court. The Supreme Court of Zambia has appellate jurisdiction only (except in matters involving presidential petitions) and is the highest court in Zambia. Appeals from the decisions of the High Court also lie with the Supreme Court.

The lower courts consist of the Magistrates' Courts. An appeal from a decision of the magistrate’s court lies to the High Court with a final appeal to the Supreme Court. There are also various tribunals such as the Lands Tribunal, the Town and Country Planning Tribunal, Competition and Consumer Protection Tribunal, Information and Communication Technology ad hoc Tribunal and the Revenue Appeals established under various statutes to deal with specific matters and whose decisions may or may not be subject to appeal. Judgments of the superior courts of record (the High Court of Zambia and the Supreme Court) are binding on the subordinate courts.

**Commercial Courts**

This court is a division of the High Court which is meant to deal with actions arising out of commercial transactions alone. Litigation in the Commercial Court is optional, provided the matter is of a commercial nature. All commercial matters are registered in the Commercial Registry. The Commercial Registry is advantageous as it is a very quick way of dealing with commercial disputes. Furthermore, the judges dealing with the matters in the Court are experienced in commercial law; appeals from the Commercial Court lie to the Supreme Court.
Alternative Dispute Resolution

**Arbitration**

Arbitration in Zambia is governed by the Arbitration Act No 19 of 2000 *(The Act)* which repealed the 1933 Arbitration Act. The Act has taken a number of strides towards adopting and incorporating several international legal instruments into its own municipal laws, on arbitration. The Zambia Centre for Arbitration, Conciliation and Mediation is one of the organisations that deals with arbitration in Zambia. Zambia is also a member state to the treaties, establishing international bodies and forums that deal with Alternative Dispute Resolution. One such body in which Zambia is a member state is the International Centre for the Settlement of Investment Disputes.

**Mediation**

In Zambia, parties, or the court in certain instances, may submit a dispute to mediation. Mediation in Zambia involves a third neutral party, whether one person or more, who acts as a facilitator to assist in resolving a dispute between two or more parties. The mediator assists the disputing parties in communicating their positions and exploring possible solutions or settlements.

**Enforcement of Foreign Judgments**

It is possible to enforce some foreign judgments in Zambia. The Foreign Judgments (Reciprocal Enforcement) Act, Chapter 76 of the Laws of Zambia *(FJREA)* provides for such enforcement. Certain foreign judgments are enforceable in Zambia if they originate from countries whose courts are recognised under the FJREA; a superior court of a reciprocating country (a commonwealth country), a superior court of any other reciprocating country which is specified in an order made under section 13 of the FJREA or a subordinate court of a reciprocating country which is specified in an order made under the FJREA. Furthermore, section 3 of the FJREA empowers the President to declare a country to be a reciprocating country where the President is satisfied that that country has made or will make provisions for the enforcement in that country of judgments given by superior courts in Zambia. The Act currently recognises the Gilbert and Ellice Islands, and the British Solomon Islands as the two reciprocating states. For a foreign judgment to be recognised by the Zambian courts under the FJREA it has to be registered in the High Court of Zambia upon the making of an application to that effect. Section 4 of the FJREA sets out elaborate rules detailing the application for registration, which should be done within six (6) years from the date of the judgment save where the judgment is subject to appeal in which case the six (6) year period runs from the date of the determination of the appeal.

Even after registration of a judgment, such registration can be set-aside on various grounds set out in Section 7 of the FJREA. However, there are certain instances when the Zambian courts will not consider a matter adjudicated upon in a foreign judgment as conclusive. These instances include:

- where a foreign court lacked jurisdiction to adjudicate on the matter the subject of its judgment;
- where the merits of the case were not considered by the foreign court;
- where the proceedings in the foreign court were in contravention of the rules of natural justice;
- where the judgment was obtained by fraud; or
- where the judgment sustains a claim founded on a breach of any law in force in Zambia.

It must be noted that aside from the states recognised under the FJEA, it is not possible to enforce a foreign judgment without commencing a fresh action.
Promotion and Regulation of Foreign Investment

Overview

Zambia has now opened the doors for foreign investment both in terms of foreign direct investment and portfolio investment. In line with the economic reforms, Zambia is encouraging private investment in all major productive sectors including agriculture, mining, manufacturing, tourism and energy. It has introduced new economic policy measures, liberalised open market trade and investment conditions. Export processing zones have been established and applications for zoning are being encouraged. Zambia also has numerous opportunities for investment in the agro-industry (horticulture and floriculture, tobacco-processing, cotton-ginning, crop production for the processing industries); in industry (consumer goods); in tourism (holiday accommodation, managed safaris, licensed hunting safaris and organised holidays).

Investment Under The Zambia Development Agency Act

In a bid to encourage investment in Zambia, the Parliament has enacted a number of statutes that are meant to facilitate and promote investment within the Zambian economy. The primary legislation for investment in Zambia is the Zambia Development Agency Act, No. 11 of 2006 (ZDA Act).

The ZDA Act provides for the establishment of the Zambia Development Agency (the Agency). The Agency is pivotal to the economy in that it functions to foster economic growth and development by promoting trade and investment in Zambia, through an efficient, effective and coordinated private sector. The ZDA Act also aims at streamlining bureaucratic procedures and requirements faced by investors. It facilitates industrial infrastructure development and local services as well as, promotes greenfield investments through joint ventures and partnerships between local and foreign investors. The Agency also ensures that the private sector takes advantage of the benefits from international and regional trade agreements.

There is a requirement under the ZDA Act for any person wishing to develop premises as a multi-facility economic zone, export prescribed goods and services, invest in any business enterprise, register a micro or small business enterprise, education enterprise, skills training enterprise or rural business enterprise, or operate a business enterprise in a multi-facility economic zone, to apply in the prescribed manner, to the Agency for approval of such undertaking either by way of licence, permit or certificate of registration.

Incentives Available To Foreign Investors

In a bid to promote investment in Zambia, the ZDA Act provides for a number of substantial incentives available to both local and foreign investors. These incentives are valid for a period of five years from the time the licence or permit is granted by the Agency. The first form of incentive given under the Act involves taxation; an investor who invests not less than US$500,000 or the equivalent in convertible currency, in a priority sector or product, is entitled to incentives as specified by or under the Income Tax Act, Cap. 323 or the Customs and Excise Act, Cap. 322. Furthermore, any machinery or equipment acquired by a business enterprise conducting operations in a priority sector, priority products, or a rural enterprise will be entitled to exemption from customs duties as specified by the Customs and Excise Act.

Where a major investment occurs, the Finance minister may specify additional incentives for investment in an identified sector or product of not less than US$10,000,000, or the equivalent in convertible currency, in new assets that qualify for those incentives.
Protection From Compulsory Acquisition of Property

The ZDA Act also contains provisions which seek to not only promote foreign investment, but also protect investors. This is especially true in matters involving an investor's property. The Act states that an investor's interest in or right over property will not be compulsorily acquired. However, in instances where there is a public purpose related to the acquisition, compulsory acquisition may be allowed provided that payment of compensation for such acquisition is made to the investor.

This compensation must be made promptly at the market value and shall be fully transferable at the applicable exchange rate in the currency in which the investment was originally made, without deductions for taxes, levies and other duties, except where those are due.

Foreign Ownership of Land

All land in Zambia vests in the President absolutely for and on behalf of the people of Zambia. The President may thus alienate land vested in him to any Zambian. However, the Lands Act, Cap. 184 places a number of restrictions on the allocation of land to foreigners by the President of the Republic. Under Section 3 (3) (b) holders of investment licenses may own land. The ZDA Act also makes provision for the ownership of land by investors. The Agency in consultation with the Ministry of Lands is empowered to assist an investor in identifying suitable land for investment, as well as assist that investor to apply to the responsible authorities for land, in accordance with established procedures.

Conversion and Transfer Policies

Investors are free to repatriate capital investments as well as dividends, management fees, interest, profit, technical fees, and royalties. Foreign nationals can also transfer and/or remit wages earned in Zambia without difficulty. There is no exchange control in Zambia for anyone doing business as either a resident or non-resident. Additionally, there are no restrictions on non-cash transactions. Over-the-counter cash conversion of the local currency, into foreign currency is restricted to a US$ 5,000 maximum per transaction per day for account holders and US$ 1,000 for non-account holders.

Business Organisations

Sole Proprietorships

A sole proprietorship is advantageous in Zambia due to a number of reasons including the fact that from a tax point of view, a sole proprietorship does not pay corporate tax but rather the sole proprietor pays income tax.

Partnerships

The Zambian law which governs partnerships is the English Partnership Act of 1890 which is applicable to Zambia by virtue of the English Law (Extent of Application) Act, Cap. 11. The statutory law contained in the Partnerships Act has been supplemented and interpreted by judicial decisions and general principles of common law. The Companies Act of Zambia prohibits the formation of an association or partnership consisting of 20 or more persons where such association or partnership is not a body corporate. This provision however does not apply to a partnership formed for the purpose of carrying on a prescribed profession or calling.
Companies

Companies in Zambia are regulated under the Companies Act, Cap. 388. There are various types of companies that can be formed in Zambia; this includes a company limited by shares, a company limited by guarantee and an unlimited company. In practice, however, unlimited companies are rarely formed in Zambia. Furthermore, a company in Zambia can be classified either as a private company or a public company. A “private company” means a private company limited by shares, a company limited by guarantee or an unlimited company. On the other hand, a “public company” means a company incorporated as such, being a company satisfying Section 14 of the Companies Act.

In terms of company incorporation, any two or more persons associated for any purpose may form an incorporated company by subscribing their names on an application for incorporation that satisfies provisions of the Companies Act and lodging it with the Registrar of the Patents and Companies Registration Agency, together with the following documents:

- any proposed articles of the company
- a statutory declaration
- a signed consent from each person named in the application as a director or secretary of the company
- a declaration of guarantee by each subscriber, if the company is to be limited guarantee

Cooperative Societies

A cooperative society is a form of business association which is usually undertaken by communities trying to achieve social, economic and cultural needs while members maintain democratic control. The Cooperative Societies Act, Cap. 397 is the primary legislation governing cooperative societies in Zambia. The Act does not set out what type of cooperative society can be registered under it. The Act however, gives the impression that only one type of cooperative could be formed under the Act, namely; a private cooperative limited. The cooperatives may be limited by shares. A cooperative limited by shares is one which the liability of the members (shareholders) is limited to the amount unpaid for the shares.

Specific Sector Investment

Overview

The Government actively supports, facilitates and rewards new companies in all sectors of enterprise. This support is equally available to indigenous and foreign-based companies without any discrimination whatsoever against offshore companies. Large and small enterprises are equally welcome. The ZDA Act guarantees foreign investment against compulsory acquisition or nationalization without compensation. Time-wasting procedures that may confront foreign investors elsewhere have been greatly eliminated in Zambia and legal requirements have been reduced to an absolute minimum. Streamlined processing of paperwork and rapid decisions, guided by the Agency, greatly facilitate all aspects of importation of equipment and export of products. Prime growth sectors for investment are manufacturing, agriculture and agro-processing, tourism and mining. Others offering potential investment opportunities include: construction, transportation, energy, telecommunications and IT services.
Agriculture

In the Fifth National Development Plan, agriculture remains the key priority in the growth and poverty reduction programme of Zambia. The Government has been implementing institutional reforms aimed at liberalising the agricultural markets and encouraging the private sector to take the lead in agricultural sector development. Under these institutional reforms, the Government’s focus is on providing public goods that are needed for efficient sector growth, such as rural infrastructure, research, extension and pest and disease control. Agri-business is also being encouraged to strengthen linkages with smallholder farmers through increased private sector participation in agricultural service delivery, such as in input supply, output marketing and agro-processing. Ownership of agricultural land will depend on the particular land registration regime.

Ownership of land and dealings in agricultural land are restricted. As discussed above, the Lands Act prohibits ownership of land by a foreigner unless the foreigner falls within the listed exceptions outlined in the Act. One such exception relates to foreign investors. Basically, it allows a foreigner to own land if such foreigner is an investor.

Banking and Financial Services

The banking industry is governed by the Banking and Financial Services Act, Cap. 387 and the Bank of Zambia Act, Cap. 360. The banking industry is regulated by the Bank of Zambia. There are several commercial banks in Zambia and other non-bank financial institutions like building societies. However, the banking industry is dominated by four (4) major banks being Zambia National Commercial Bank Limited (a local bank which is a listed company), Barclays Bank Zambia Limited, Standard Chartered Bank Zambia Limited which are subsidiaries of Barclays Bank Plc and Standard Chartered Bank Plc respectively and Stanbic Bank Zambia Limited. A few international banks have established branches and subsidiaries in Zambia. Zambia also has various Micro-finance institutions.

Opening and Operating Bank Accounts

There are no restrictions per se in opening or operating a bank account in Zambia other than complying with the relevant bank's own account opening requirements which follow international best practices. Documents that will generally be required in order to open a bank account include incorporation documentation, introduction references, photographs of authorised signatories, a copy of the Taxpayer Personal Identification Number and board resolutions authorising the opening of the account.

Opening and Operating Bank Accounts

There are no restrictions per se in opening or operating a bank account in Zambia other than complying with the relevant bank's own account opening requirements which follow international best practices. Documents that will generally be required in order to open a bank account include incorporation documentation, introduction references, photographs of authorised signatories, a copy of the Taxpayer Personal Identification Number and board resolutions authorising the opening of the account.
The Insurance Industry
There are approximately twenty (20) insurance companies and three (3) re-insurance companies operating in Zambia. The governing statute for insurance matters is the Insurance Act, No. 27 of 1997.

Other Financial Sectors
Zambia has a few investment banks which are licensed and regulated by the Securities and Exchange Commission (SEC). An example of an investment bank operating in Zambia is the Bank of China.

The Capital Markets
The primary legislation dealing with capital markets is the Securities Act, Chapter 354 of the Laws of Zambia. The SEC is established under the Securities Act. SEC licenses securities exchanges, dealers, investment advisers and their respective representatives and persons who are, according to the Securities Act, non-bank custodians or service registrars.

The Lusaka Stock Exchange (LuSE) was formed in 1993 with the help of the World Bank and the International Finance Corporation and is a member of the African Stock Exchanges Association. The formation of LuSE was part of the Government’s economic reform programme aimed at developing the financial and capital market in order to support and enhance private sector initiative. Being the umbrella under which the entire securities market operates in Zambia, the Securities Act creates and defines a central market in which both unlisted and listed securities can be traded.

Energy
Zambia has an abundance of energy resources. The most important source of energy is electricity, which is generated by three major hydroelectric power stations. Other endowments in Zambia’s energy sector include coal, woodlands and forests as well as other renewable energy forms such as solar and wind. Zambia has an estimated hydropower capacity of 6,000MW, of which only about 1,640 MW has so far been installed. This represents only 30 percent of the total capacity. Hydroelectric plants account for 92 percent of the total installed capacity and 99 percent of the total electricity generated in the country. So far there are only two important inter-connectors to Zimbabwe and the Democratic Republic of Congo which are the key electricity export grids. With the liberalisation of the economy, the Government has amended legislation affecting generation, transmission, distribution and supply of electricity thus allowing private sector entry. Potential opportunities identified are Kafue Gorge Lower Hydroelectric Project, Itezhi-tezhi Hydroelectric Project, Zambia-Tanzania Interconnector and Zambia-Namibia Interconnector. Exploration potential for hydrocarbons (oil and gas) is one area that has not been fully tapped - hydrocarbon source rocks are proven and are preserved in all basinal areas of Zambia. The Government welcomes active participation from prospective investors with modern technological expertise.

Mining
Zambia has enormous reserves of copper-cobalt ore and the country is the fourth largest producer of copper metal. Gold, nickel, lead-zinc, iron and manganese are also mined. In addition, Zambia is endowed with high quality gemstones - emerald, amethyst, aquamarine, rubies, garnets and diamonds - which are still largely unexploited. With the privatisation of the mining sector, potential opportunities have become very attractive.

Mining Legislation
The primary law governing the mining sector in Zambia is the Mines and Minerals Development Act, No. 7 of 2008 (Mines Act). The Mines Act provides for mining rights, mining licences, large scale mining in Zambia, gemstone mining, safety, health and environmental protection, geological services and analysis, royalties and charges as well as administration of the mining sector in Zambia. All rights of ownership in, searching for, mining and disposing of, minerals in Zambia are vested in the President on behalf of the Republic.
Mining Rights and Licences
There is a strict requirement that a person shall not prospect for minerals or carry on mining operations or mineral processing operations without the granting of a mining right or mineral processing licence under the Mines Act. Further, two kinds of non-mining rights may be granted in Zambia: a mineral processing licence and a gemstone sales certificate.

In the case of a company, mining rights cannot be granted to a company which:
- is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company;
- is not incorporated under the Companies Act; or
- has not established an office in Zambia.

A prospecting permit, small-scale mining licence, small-scale gemstone licence and an artisan’s mining right cannot be granted to a person who is not a citizen of Zambia or a company which is not a citizen-owned company.

Preference for Zambian Products
The Mines Act offers preferential treatment to Zambian products, materials and service agencies owned by Zambian citizens in the conduct of operations under mining rights or mineral processing licences, and in the purchase, construction and installation of facilities, to the maximum extent possible. Additionally, a licence or right holder is expected to give preference in employment to citizens of Zambia to the maximum extent possible.

Royalties on Mineral Production
There is a requirement for licence holders to pay royalties under the Mines Act. It states that a holder of a large-scale mining licence, large-scale gemstone licence, small-scale mining licence, small-scale gemstone licence or an artisan’s mining right must pay a mineral royalty. There is also a requirement for persons who hold licences under the Mines Act to pay annual charges to the Government. The amount varies and is calculated in a manner prescribed by a statutory instrument issued by the Minister of Mines.

Duration and Tenure
Large-scale and small-scale mining licences are granted for a term not exceeding twenty-five years and ten years respectively, and are renewable for further terms. Holders of mining licences are further required to obtain an operating permit annually in order to conduct mining operations.

Tax Stability Agreements
Prior to the commencement of the Mines Act, investors were able to enter into development agreements with the Government under which concessions were provided for generally, in the form of suspension or reduction of all main taxes and tax stability periods.

Following the enactment of the mining act, however, the development agreements were outlawed and the Minister of Mines could no longer enter into any agreement relating to the grant of a large scale mining licence or any other mining right. Furthermore, the Mines Act now provides that existing development agreements ceased to bind the Republic.

Real Estate
There is currently a property boom in Zambia. More and more people are looking to buy or rent property and the demand for apartments and houses has grown exponentially.
The system of land registration which Zambia adheres to reflects every piece of land on a diagram (called a survey diagram) and the ownership recorded in the Deeds Registry at the Ministry of Lands where documents are available for public viewing. Zambia deeds registration systems are continually improved with investment in technology, an exceptional degree of accuracy and security of tenure being guaranteed. Property can be owned individually, jointly in both divided and undivided shares, or by an entity such as a company, close corporation or trust or similar entity registered outside Zambia.

**Telecommunications**

There have been major developments in the ICT sector in Zambia. The number of subscribers for mobile telephones has increased remarkably. The number of internet service providers has also greatly increased. However, the telecommunications sector has potential for more growth. The telecommunications sector in Zambia falls under the Ministry of Information and Communications. The sector is primarily governed by the Information and Communications Technologies Act, No. 15 of 2009 (ICT Act). The ICT Act is basically intended to regulate the provision of telecommunication services to, from and within Zambia through the Zambia Information and Communications Technology Authority (ZICTA), formerly called the Communications Authority. ZICTA is a body corporate with a common seal and capable of suing and being sued. The Act is intended to provide for the regulation of information and communication technology. It also facilitates the access to information and communication technologies. The ICT Act further protects the rights and interest of service providers and consumers. The ICT Act merges the former segments of telecommunications, information and information technology. The mentioned segments have now become one in terms of both the delivery of infrastructure and consumer gadgets. For instance, a cellular telephony which used to be a telecommunication device can now be used as a television/radio set as well as a computer. ZICTA mainly regulates the provision of electronic communication services and products and monitors the performance of the sector, including the levels of investment and the availability, quality, cost and standards of the electronic communication services. One important aspect of the ICT Act is that in exercising the powers conferred upon it under the ICT Act, ZICTA is required to have regard to the provisions of the International Telecommunications Convention signed in November, 1982, or any other convention on, or relating to, telecommunication, to which Zambia is a party.

**Licences**

ZICTA is empowered to issue a network licence, to allow the holder to construct, own or make available an electronic communications network, or to provide a network service; and a service licence, to allow the holder thereof to provide one or more electronic communications services. Pursuant to the ICT Act, any person may apply for a telecommunications licence, whether that licence is a service licence or a supplier’s licence. There are two classes of licences that can be issued by ZICTA: an individual licence and a class licence. The transfer of a licence by a licensee is allowed as long as ZICTA’s consent is obtained. In 2010, an amendment to the ICT Act was made with regards to tariffs for services offered by the licensee holding a dominant position in the sector. Basically, the ICT Act states that a licensee that holds a dominant position in a retail electronic communications market must submit to ZICTA in the prescribed manner and form, the tariffs the licensee intends to charge, including the justification for such prices, prior to the introduction of the tariffs. ZICTA is then required to approve or reject such an application within 14 days of the receipt of the application.

**Recent Changes in Telecommunications Laws**

*Electronic Communication and Transaction Act, No. 21 of 2009 (ECT Act)*

The Zambian legislature in 2009 enacted the ECT Act in order to develop a safe, secure and effective environment for consumers, the business sector and the Government to conduct and use electronic communications. More importantly, the ECT Act creates legal certainty and confidence, and encourages investment and innovation, in the electronic communications industry by placing a number of legal rules and requirements that must be met in matters that relate to electronic communications and transactions. It also facilitates the creation of secure communication systems and networks and establishment of the Central Monitoring and Coordination Centre (CMCC).
New Services by Mobile Phone Providers
Mobile phone providers are rolling out other services besides the provision of telephone services in order to attract and retain their customers. Most notable is the provision of mobile banking; where a customer is able to use his SIM card to send and receive money instantly. The mobile phone companies have also linked the service to some automated teller machines thereby allowing the mobile users to easily withdraw funds. So popular is the service that some organisations are even using it to pay utility bills as well as school fees. The transfer of funds using mobile phones remains largely unregulated since there are no provisions under the existing legal framework dealing with its regulation. However, due to the large volumes of funds that are being transferred using this method, there is growing concern that this new service needs to be regulated.

Tourism
The tourism sector is one of the most thriving and vibrant sectors in the country. Zambia’s potential as a one-stop destination offers excellent prospects for advancement of this highly under-developed sector. With 19 national parks, 23 game management areas, the largest water-fall in the world, and 23 million hectares devoted to the conservation of a spectacular variety of animals, the scope for an integrated quality tourism related investment is very attractive. Wildlife such as elephants, leopards, lions, cheetahs, rhinoceroses, zebras, giraffes, hippos, crocodiles, buffaloes, impalas, antelopes, baboons and a host of smaller creatures as well as over 700 species of birds can be seen. Opportunities to promote adventure holidays, white-water rafting, canoeing, rock-climbing, hand-gliding, fishing, bungee jumping at Victoria Falls including its unique walking safaris offer excellent tourism potential.

Tourism Act
The tourism industry in Zambia is regulated by the Tourism and Hospitality Act, No. 23 of 2007 of the laws of Zambia (Tourism and Hospitality Act). The Tourism and Hospitality Act is intended to provide for the development of the tourism industry; incentives for investors in the tourism industry; the control and regulation of hotels and the enforcement of reasonable standards of cleanliness, sanitation and service; the authorisation and licensing of tourism enterprises and the constitution of the hotel managers registration council.

Water
The major enactment relating to and governing the usage and maintenance of water is the Water Resources Management Act, No. 12 of 2011. Through this Act, the Water Resources Management Authority was established. Its functions include the identification, preservation and protection of potential and already existing sources of fresh water and the environment in general.

Company Formation and Corporate Governance

Company Law
The principal statute dealing with company law is the Companies Act. The Companies Act sets out provisions dealing with all aspects of company law including the incorporation of companies generally, share capital provisions, shareholders rights, offers to the public, the management and administration of companies, accounts, directors duties, consequences of winding up and the regulation of foreign companies based in Zambia. A company incorporated outside Zambia which has established a place of business in Zambia must apply to be registered as a foreign company pursuant to the Companies Act.
A foreign investor can set up a place of business in Zambia by setting up a branch or the incorporation of a company. For purposes of corporate taxation, a company is deemed to be a resident in Zambia if the company is incorporated in Zambia; or the central management and control of the company during a particular fiscal year was conducted in Zambia.

Further, where a non-resident company has a permanent establishment in Zambia (e.g. a branch or a project office) it will be taxed on the same rate as resident companies. Therefore, corporate income tax is at a rate of 35% generally, for both resident and non-resident companies. It is however worth noting that companies involved in agriculture, manufacture of chemical fertiliser and non-traditional exports pay tax at a rate of 10%. Mining companies are taxed at a rate of 35% while banks with profits of over ZMW 250,000,000.00 (US$ 48,126) are taxed at a rate of 40%.

**Incorporating a Company**

The alternative to setting up a branch in Zambia is to set up an independent company or a subsidiary which unlike a branch will be a separate legal entity from its holding company. Generally speaking, both private and public companies are required to satisfy minimum capital requirements. Private companies are required to have a minimum of ZMW 5,000 as their capital and this requirement is deemed to have been met upon a director of the company lodging a signed declaration to the Registrar of Companies (that this statutory requirement had been met). In the case of public companies, the nominal value of the company's allotted share capital is required to be not less than the authorised minimum that is ZMW 50,000. A company can increase or reduce its share capital if authorised by its articles.

**Sourcing of Capital for a Limited Liability Company**

A company can source for capital either through issuing shares or through debt financing. Share capital is obtained by the company through issuing shares and receiving payment for those shares. The Companies Act (Amendment) Act, Cap. 388 in section 208 stipulates residential requirements for directors; the Act provides that half of the directors should be resident in Zambia including a managing director and an executive director (if the company has one).

**Protection of Minority Shareholders**

Zambian company law has in place mechanisms to protect minority shareholders from being defrauded or oppressed by the majority/controlling shareholders. While the day to day management of a company is generally delegated to the board of directors of a company, conduct of the members (shareholders) relationship *inter se* is governed by provisions of the Companies Act and more particularly the articles of association of a company. Both case law and statutory provisions reinforce the rights of minority shareholders.

**General Business and Investment Environment**

**Business Regulatory Act, No. 3 of 2014**

The Business Regulatory Act was passed to compliment laws that generally regulate business. Its purpose is to introduce a licensing system and licensing principles that all regulatory regimes must adhere to. It is further supposed to introduce regulatory service centres at which all regulators are to have a presence or an affiliation with, for all applications for licences, permits, certificates and authorisations to be processed. Most importantly, regulators are required to only put in place regulatory regimes that fulfill legitimate regulatory purposes.
Licensing Regime

A company is required to register with the Zambia Revenue Authority (ZRA) for income tax purposes and obtain a TPIN. Upon a TPIN being generated by ZRA, it is presented for collection as a certificate. Various categories of businesses are required to register for TPIN; these include companies, partnerships, individuals (sole proprietorships), non-governmental organisations, clubs, associations and other similar organisations registered with the registrar of societies.

Taxpayer Personal Identification Number (TPIN) Certificate

A company is required to register with the Zambia Revenue Authority (ZRA) for income tax purposes and obtain a TPIN. Upon TPIN being generated by ZRA, it is presented for collection as a certificate. Various categories of businesses are required to register for TPIN; these include companies, partnerships, individuals (Sole Proprietorships), non-governmental organisations, clubs, associations and other similar organisations registered with the registrar of societies.

VAT Registration

Limited companies are required to apply for VAT registration if they deal in taxable goods and services and their taxable turnover exceeds the registration threshold of ZMW 800,000 per annum. This application can only be done following the TPIN registration. The application is done through the filling in of VAT Form 1 which should be accompanied by the TPIN, a sketch map of location, the latest bank statement, a copy of the business plan, a certified copy of the certificate of registration or incorporation and evidence of records such as the cashbook, purchases daybook, sales daybook, invoice books etc. VAT registration like any other under ZRA is free. A VAT number can be allocated within 7 working days.

Trading and Manufacturing Licences

A company undertaking any trade or manufacturing is required to obtain a licence under the Trades Licensing Act. Section 18 A of the Trades Licensing Act requires that licence holders under the Act should submit to the Licensing Authority details such as the physical address of the place where the licence holder conducts his business or trade. The information obtained by the Licensing Authority is forwarded to the Commissioner General of the Zambia Revenue Authority at the time when the licence expires or is renewed.

Environmental Impact Assessments

Generally speaking, environmental issues are governed by the Environmental Management Act, No. 12 of 2011. This Act provides for various matters including the granting of licences for the discharge of effluent, emissions and for the operation of waste disposal sites/plants. Furthermore, the Environmental Impact Assessment Regulations pursuant to this Act impose an obligation on any person intending to implement any project, to prepare and submit a Project Brief to the Zambia Environment Management Agency (ZEMA) for approval. ZEMA may on receipt of a Project Brief direct that an Environmental Impact Statement should be prepared by the developer if ZEMA determines that the project is likely to have an adverse impact on the environment. Such a statement would be required, even if the developer is undertaking any project as part of a previously approved project.

Other Licences

Depending on the particular commercial activity a company is engaged in, there may be other industry-specific licences, approvals or permits that the company would be required to obtain. For instance, in sectors such as telecommunications and energy.
Currency and Exchange Rate

Zambia operates a floating exchange rate against foreign currencies. Therefore, the exchange rate between the ZMW and other countries is determined by market forces, subject of course to interventions from time to time by the Bank of Zambia (BOZ). BOZ and commercial banks usually publish on a daily basis the selling and buying prices for various leading currencies.

Competition

Zambia’s competition law is governed by the recently enacted Competition and Consumer Protection Act, No. 24 of 2010 (Competition Act). The scope of the Act is wide and as such applies to all economic activity within Zambia. It binds the state insofar as an enterprise owned by the state engages in trade or business for the production, supply, or distribution of goods or the provision of any service within a market that is open to participation by other enterprises.

The Competition Act is basically intended to ensure fair trade competition and free flow of truthful information in the market place. The Competition Act forbids any agreement which has as its object or effect, the prevention, restriction or distortion of competition to an appreciable extent. Also, an agreement between enterprises is prohibited if the commission determines the agreement has the effect of preventing, distorting or restricting competition or substantially lessening competition in a market for any goods or services in Zambia.

Special Economic Zones

An Export Processing Zone (EPZ) is a “special economic zone” and is established under the Exporting Zones Act (EPZ Act), No 7 of 2001. The Export Processing Zones Authority (the EPZ Authority) was established under the EPZ Act to develop export processing zones to facilitate the development of export processing zones by developers and investors; to consider and determine applications for licences under the Act and to issue such licences, assist applicants for licences under the Act by providing services for obtaining other relevant licences, permits and facilities; to administer, control and regulate export processing zones and to ensure compliance with the Act and any other laws relevant to the activities of export processing zones; and to monitor and evaluate the activities, performance and development of enterprises zones.

The EPZ Authority acts as a “one-stop” centre through which the EPZ enterprises can channel all their applications for permits and licences. The activities eligible to be carried out within EPZs include manufacturing activities, commercial activities or service activities. Real estate developers may set up their EPZs by obtaining a licence to develop or operate a zone on land gazetted as an EPZ.
Tax

**Income Tax**

Income tax in Zambia is chargeable pursuant to the provisions of the Income Tax Act, Cap. 323 (ITA). Personal income tax is paid by people resident or deemed to be resident in Zambia. Pay As You Earn is the method for collection of income tax from persons who are gainfully employed as the employer is required to deduct the tax from the individual's salary or wages and remit the same to the ZRA. In addition, income tax is charged directly on profits made by corporate bodies such as limited liability companies and trusts. Therefore, businesses are subject to corporate income tax on trading profits and other taxable income such as interest, royalties and rental income.

In general, expenses and losses of a revenue nature that are wholly and exclusively incurred for the purpose of the business are allowable as deductions. For other sources, to be deductible, expenses must have been incurred wholly and exclusively in the production of the income from that source. The ITA sets out the matters to be considered in the determination of taxable income and also sets out the rates of taxation. The rates do not differ between resident and non-resident entities. The corporate income tax rates are currently at 35%. It is worth noting that a 1 year 2% discount is granted to newly listed Companies on LuSE.

**Withholding Tax**

Withholding tax is payable on dividends, interest, royalties and management fees.

**Property Transfer Tax**

This is a type of tax imposed by virtue of the Property Transfer Tax Act, Cap. 340. The rate of property transfer tax according to the Act is charged at ten per cent (10%) of the realised value of the property.

**Double Taxation Arrangements**

Zambia has double taxation relief agreements with Canada, Denmark, Finland, France, Germany, Holland, Ireland, Italy, Japan, Kenya, Mauritius, Romania, South Africa, Sweden, Tanzania, Uganda, the United Kingdom, Norway, Zimbabwe and India (please note that the agreements with the last three states have not yet been ratified).

Labour Relations

**Labour Supply**

Zambia is estimated to have a population of about 15.02 million and the majority of the population constitutes persons of an employable age. Although the labour supply is high in Zambia, the demand does not match the supply as is indicated by the high levels of unemployment. Primary schooling is free while tertiary education in government institutions is heavily subsidised by the Government.
Labour Laws

The Employment Act, Cap. 268 (Employment Act).

The Employment Act principally makes provision for the employment of persons; for the engagement of persons on contracts of service; for the form of and enforcement of contracts of service; for the appointment of officers of the labour department and for the conferring of powers on such officers and upon medical officers; for the protection of wages of employees; for the control of employment agencies; and for any matters incidental thereto.

Section 12 of the Employment Act prescribes a minimum contractual age; the employment of any person below the age of 15 is therefore an offence. This provision excludes contracts of apprenticeship entered into with minors that are approved by the Controller in accordance with the Apprenticeship Act, Cap. 275. Unlike the Employment Act, a minor under the former Act is any person below the age of 21.

Section 45 of the Act provides for authorised deductions; therefore it is permissible for the employer to make deductions from the employee’s salary of a specific nature. There is no threshold stated in the Act above which the employer is proscribed from exceeding. The Employment Act (in section 15A) provides that unless the parties to the employment contract have agreed otherwise, every female employee who has completed at least two years of continuous service with her employer from the date of first engagement or since the last maternity leave taken, as the case may be, shall, on production of a medical certificate as to her pregnancy signed by a registered medical practitioner, be entitled to maternity leave of twelve weeks with full pay. Maternity leave does not serve to forfeit any other leave such as annual leave, which such an employee may be entitled to.

The Employment Act offers protection for employees in the case of redundancy. The employer is allowed to terminate the contract of service on grounds of redundancy in instances where he ceases to carry on business by virtue of which the employee is employed, or he ceases, or reduces the requirement for the employees to carry out work of a particular kind, in the place where the employee was engaged and the business remains a viable going concern. The Act requires that the employer fulfils certain conditions before he can terminate a contract of service on grounds of redundancy. Some of these conditions include notifying the employee’s trade union.

Interestingly, the provisions relating to redundancy are only to be found in Part IV of the Act. This part of the Act is only applicable to oral contracts and as such there are no provisions relating to redundancy applicable to written contracts of service. The Zambian Supreme Court has pronounced its stance on the issue and as such, “the Employment Act does not provide for redundancy procedures in relation to written contracts of service. Consequently, where a written contract of service is to be terminated on grounds of redundancy, the parties are to rely on either the provisions relating to redundancy procedures to be found in a Collective Agreement or in the contract of employment itself.”

Under the Employment Act, an employee’s contract of employment can come to an end upon summary dismissal. In relation to both oral and written contracts of service, the Act makes provision for summary dismissal. In the former case, Part IV of the Act provides that wherever an employer dismisses an employee summarily and without due notice or payment of wages in lieu of notice, such an employer has to deliver a written report of the circumstances leading to and the reasons for such dismissal to a labour officer within the District the employer was working within 4 days of the dismissal. The Employment Act further provides that where an employee is summarily dismissed, he shall be paid on dismissal the wages and other working or other allowances due to him up to the date of such dismissal. It is also worth noting that an employer is not allowed to terminate the service of an employee on grounds related to his conduct or performance without affording him an opportunity to be heard on the charges laid against him.
Immigration

Immigration is governed by the Immigration and Deportation Act, No. 18 of 2010. It is an Act that regulates the law relating to immigration and immigration control. It regulates the entry, exit and remaining within Zambia of immigrants and visitors. It also deals with the issuance and revocation of residence permits to applicants who meet the laid out criteria as prescribed by the Act.

It is significant to note that under the ZDA Act, any foreign investor who invests a minimum of US$ 250,000 or its equivalent and employs a minimum of 200 employees (of certain technical or managerial levels) is entitled to a self-employment permit or resident permit. The ZDA further assists the qualifying investor to obtain work permits for up to 5 expatriate employers. An entry permit holder can apply to be granted a dependant’s pass for each of his dependants.

Conclusion

Zambia has in the recent past experienced high levels of investment opportunity. With this occurrence, the need for adequate legal provisions and safeguards has been felt now more than ever. The legislature has reacted to this and as such has enacted laws which suit the investment climate both in the country and in the region. The law has consequently undergone a lot of change, keeping abreast with changes in the law is therefore a necessity for any person wishing to enjoy the full benefits of the investment ‘boom’ currently being experienced in Zambia.
Musa Dudhia & Co.
A: 3rd floor, Mpile Office Park 74 Independence Avenue
P: P.O. Box 31198, Lusaka, Zambia
T: +260 21 125 3822
F: +260 21 125 3827
E: info@musadudhia.co.zm

ALN Head Office
A: Apollo Centre, 2nd floor, Wing A, Ring Road Parklands.
P: P.O. Box 200-00606, Sarit Centre, Nairobi, Kenya
T: +254 20 364 0000, +254 703 032 000
E: alnhq@africalegalnetwork.com
W: www.africalegalnetwork.com