

GOVERNMENT OF ZAMBIA

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**ACT**

No. 11 of 2001

Date of Assent: 8th November, 2001

**An Act to amend the Development Bank of Zambia Act.**

[ 9th November, 2001

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Development Bank of Zambia (Amendment) Act, 2001, and shall be read as one with the Development Bank of Zambia Act, in this Act referred to as the principal Act,

Short title  
and  
commence-  
ment

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(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. Section *two* of the principal Act is amended—  
(a) by the deletion of the definitions “economic development” long and medium-term finance” and “recipient”  
(b) by the insertion of the following new definition:  
“member” means the Chairperson or any other member of the Board.

Amendment  
of section 2

3. Section *four* of the principal Act is amended—  
(a) by the deletion of subsection (3) and the substitution therefor of following subsection:

Amendment  
of section 4

(3) The Chairperson and three other members shall be appointed by the Minister and the remaining six members shall be appointed by the holders of Class B shares:

Provided that in the case of an appointment by the holders of Class B shares, a true copy thereof shall be forwarded to the Minister and to the Bank.;

- (b) by the deletion of subsection (5) and the substitution therefor of the following subsection:

(5) A member appointed by the Minister or a member appointed by the holders of Class B shares may, at any time, resign from office by giving written notice to the Minister or to the Chairperson:

Provided that in the case of resignation by a member appointed by the holders of class B shares a true copy of the resignation letter shall be forwarded to the Minister and to the Bank;

(c) by the deletion of subsection (9) and the substitution therefor of the following subsection:

(9) If at any meeting of the Board the Chairperson is absent, the members present shall elect one of their number from class A directors to chair the meeting.;

(d) by the deletion of subsection (10) and the substitution therefor of the following subsection:

(10) A member of the Board shall be paid from the funds of the Bank such remuneration or allowances as the Board may determine;

(e) in subsection (11) by the deletion from paragraph (b) of the words " long - and medium-term; and

(f) by the deletion of subsection (13).

4. The principal Act is amended by the repeal of section *four A*.

Repeal of  
section 4A

5. Section *five* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following subsection:

Amendment  
of section 5

"(1) The quorum for a meeting of the Board shall be two Class A directors and three Class B directors"

6. Section *seven* of the principal Act is amended by the deletion of subsection (1) and the substitution of the following subsection:

Amendment  
of section 7

(1) The Board shall appoint a Managing Director on such terms and conditions as the Board may determine; and the Managing Director shall be the chief executive officer of the Bank who shall be responsible for the management of the affairs of the Bank in accordance with the policies and directions of the Board.

7. Section *eight* of the principal Act is amended —

Amendment  
of section 8

(a) in subsection (1) —

(i) by the deletion of the words " a General Manager; .

(ii) by the deletion of the proviso;

- (b) by the deletion of subsection (2); and
- (c) by the deletion of subsection (4).

Amendment  
of Part III

8. The principal Act is amended by the deletion of the heading of Part III and the substitution therefor of the following new heading:

**SHARE CAPITAL AND OTHER ASSETS**

Repeal and  
replacement  
of section 9

9. The principal Act is amended by the repeal of section *nine* and the substitution therefor of the following section:

Authorised  
capital and  
division of  
shares

9. (1) Subject to subsection (2), the authorised capital of the Bank shall be the Kwacha equivalent of US\$ 700,000,000 divided into 700,000 shares, each having a par value of the Kwacha equivalent of US\$1,000 and the authorised capital shall be subscribed as follows:

- (a) one share designated as a golden share;
- (b) 279,999 shares designated as Class A shares; and
- (c) 420,000 shares designated as Class B shares.

(2) The Board may, with the approval of the Minister, increase the amount of authorised capital but in such manner that the ratio of the golden share together with Class A shares on the one part (constituting forty percent of the total number of shares) to Class B shares on the other part (constituting sixty percent of the total number of shares) is not exceeded.

Amendment  
of section 10

10. Section *ten* of the principal Act is amended by the deletion of subsections (1) and (2) and the substitution therefor of the following subsections:

(1) The share capital referred to in section *nine* shall be allotted as follows:

- (a) the golden share to the Minister;
- (b) Class A shares to the Minister and to such public institutions as the Minister may designate and, in both cases, in such number as the Minister may determine; and
- (c) Class B shares to persons other than the Minister or the institutions referred to in paragraph (b), as the Minister may determine.

(2) The Board, in consultation with the Minister and the shareholders, shall determine how the shares held immediately before the commencement of this Act shall be dealt with on or after the commencement of this Act.

11. The principal Act is amended by the insertion immediately after section *ten* of the following new section: Insertion of section 10A

10A. (1) The Board shall not, without the written consent of the Minister as holder of the golden share, resolve— Consent of Minister required in certain cases

- (a) to wind up the Bank;
- (b) to substantially alter the business of the Bank as provided for in section *twelve*; or
- (c) to sell, transfer, lease, assign or otherwise dispose of any assets of the Bank or any interest therein exceeding such value as the Minister may in consultation with the Board determine.

(2) In a distribution of capital in a winding up of the Bank, the Minister as holder of the golden share shall be entitled to repayment of the capital paid up *pari passu* to any other repayment of capital to any other member.

12. The principal Act is amended by the insertion immediately after section eleven of the following new sections: Insertion of sections 11A and 11B

11A. (1) For the purpose of this section, the non-performing portfolio of the Bank consists of — Transfer and vesting of non-performing portfolio of Bank

- (a) all loans advanced by the Bank and financial instruments issued by the Bank and, in each case, in respect of which any payment of the principal or interest is, on the commencement of this Act, in arrears in excess of one hundred and eighty days; and
- (b) the amount of the equity investment by the Bank in any company or other entity which, for three years or more immediately before the commencement of this Act, has not made a declaration of dividends.

(2) With effect from the date of the commencement of this Act, all assets, liabilities, rights and obligations of the Bank relating to the non-performing portfolio of the Bank and in existence immediately before that date shall, without further assurance, vest in the Government.

(3) Notwithstanding subsection (2), all proceedings pending on the date of commencement of this Act by or against the

Bank in respect of any matter relating to the non-performing portfolio of the Bank may be continued by or against the Bank.

(4) The Bank shall be indemnified by the Government against all liability of the Bank which the Bank incurred before the commencement of this Act arising from any suit or other legal proceedings and from any claim or demand in respect of any matter relating to the non-performing portfolio.

(5) The Minister shall, in writing give directions to the Board for the management and realisation, by the Bank, of the non-performing portfolio on such terms and conditions as may be agreed in writing between the Minister and the Board.

Conversion  
of certain  
financial  
liabilities  
into  
debentures

**11B.** (1) With effect from the date of commencement of this Act, the total amount of money paid by the Government as a guarantor of the loans advanced to the Bank by the African Development Bank, the International Bank for Reconstruction and Development, the Arab Bank for Economic Development in Africa, the Netherlands Development Finance Company (FMO), and the European Investment Bank shall stand converted into long-term debentures in favour of the Government.

(2) The debentures referred to in subsection (1) shall carry no interest and no voting rights and shall have the same status as debentures under the Companies Act.

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Amendment  
of section 12

- 13.** (1) Section *twelve* of the principal Act is amended—
- (a) by renumbering that section as subsection (1) of section *twelve*;
  - (b) by the deletion of paragraph (a) of subsection (1) and the substitution therefor of the following new paragraph:
    - (a) to make available long, medium and short term finance and equity investment for economic development; and
  - (c) by the insertion immediately after sub section (1) of the following new subsection:
    - (2) in carrying on its business, the Bank may, in accordance with its business and development plans, provide borrowers with capital and other resources for investment in economic undertakings and activities for, or relating to—
      - (a) the creation of infrastructure;
      - (b) the production of goods or services;

- (c) the creation of employment; or
- (d) such other economic undertakings or activities as the Board may determine.

(2) The Bank may, subject to the other provisions of this Act, borrow money or other assets required by it for the purpose of meeting any of its obligations or discharging its functions under this Act.

14. The principal Act is amended by the repeal of section *thirteen*. Repeal of section 13
15. Section *fifteen* of the principal Act is amended by the deletion from paragraph (c) of the words “Long-and medium-term”. Amendment of section 15
16. Section seventeen of the principal Act is amended—  
(a) in subsection (1) by the deletion of the words “ long-and medium- term ”; Amendment of section 17  
(b) by the deletion of subsections (3) and (4); and  
(c) by the re-numbering of subsection (5) as subsection (3).
17. The principal Act is amended by the repeal of section *seventeen A*. Repeal of section 17A
18. Section *twenty-three* of the principal Act is amended in subsection (3) by the deletion of the words “ with approval of the Minister ”. Amendment of section 23
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