

Zambia

Zambia Development Agency Act, 2022

Act 17 of 2022

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Zambia Development Agency Act, 2022 Act 17 of 2022

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An Act to continue the existence of the Zambia Development Agency and re-define its functions; re-constitute the Board of the Agency and provide for its functions; repeal and replace the Zambia Development Agency Act, 2006; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Part I – Preliminary provisions

1. Short title and commencement

This Act may be cited as the Zambia Development Agency Act, 2022, and shall come into operation on the date appointed by the Minister by statutory instrument.

2. Interpretation

In this Act, unless the context otherwise requires—

"Agency" means the Zambia Development Agency continued under [section 3](#);

"associate" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[Act No. 3 of 2012]

"Board" means the Board of the Agency constituted under [section 6](#);

"business" has the meaning assigned to the word in the Business Regulatory Act, 2014;

[Act No. 3 of 2014]

"business development services" include advisory services, promoting training and financing, facilitating the preparation of business plans, project proposals, loan applications, financial statements, audited statements of expenditure and income, and other similar services;

"Chairperson" means the person appointed as Chairperson under [section 6](#);

"Director-General" means the person appointed as Director-General under [section 13](#);

"Emoluments Commission" means the Emoluments Commission established under the Constitution;

[Cap. 1]

"investment" has the meaning assigned to the word in the Investment, Trade and Business development Act, 2022;

[Act No. 18 of 2022]

"**investor**" has the meaning assigned to the word in the Investment, Trade and Business Development Act, 2022;

[Act No. 18 of 2022]

"**joint venture**" means a business undertaken jointly by two or more parties which otherwise retain their distinct identities;

"**privatisation**" means the transferring to the private sector of part, or the whole, of the equity or other interest held by the Government, directly or indirectly, in a state owned enterprise;

"**relative**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[Act No. 3 of 2012]

"**repealed Act**" means the Zambia Development Agency Act, 2006;

[Act No. 11 of 2006]

"**special economic zone**" has the meaning assigned to the words in the Investment, Trade and Business Development Act, 2022;

[Act No. 18 of 2022]

"**State institution**" has the meaning assigned to the words in the Constitution;

[Cap. 1]

"**State-owned enterprise**" has the meaning assigned to the words in the Public Finance Management Act, 2018;

[Act No. 1 of 2018]

"**Vice-Chairperson**" means the person appointed as Vice-Chairperson under [section 6](#); and

"**Zambia Institute of Chartered Accountants**" means the Zambia Institute of Chartered Accountants established under the Accountants Act, 2008.

[Act No. 13 of 2008]

Part II – The Zambia Development Agency

3. Continuation of Zambia Development Agency

The Zambia Development Agency established under the repealed Act is continued as if established under this Act and is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.

4. Seal of Agency

- (1) The seal of the Agency shall be a device that may be determined by the Board and shall be kept by the Director-General.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Director-General or any other person authorised in that behalf by a resolution of the Board.
- (3) A contract or instrument which, if entered into or executed by a person not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Agency by the Director-General or any other person authorised in that behalf by a resolution of the Board.

- (4) A document purporting to be a document under the seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

5. Functions of Agency

- (1) The Agency shall further the economic development of the Republic through the promotion and facilitation of investment, domestic and foreign trade, competitiveness in business development and the privatisation of state owned enterprises.
- (2) Despite the generality of subsection (1), the functions of the Agency are to—
- (a) issue licences, permits or certificate of registration under the Investment, Trade and Business Development Act, 2022;
[Act No. 18 2022]
 - (b) advise the Minister on matters related to investment, export promotion, business development and privatisation;
 - (c) implement and monitor policies, strategies in investment, export promotion, business development and privatisation;
 - (d) assist in securing permission, an exemption, an authorisation, a licence, bonded status, land and any other thing required from a State institution for the purposes of establishing or operating a business;
 - (e) facilitate and promote the development of special economic zones;
 - (f) promote and facilitate partnerships, joint ventures, business linkages, access to capital and other strategic alliances including the transfer of appropriate technology and skills relating to industry development and productivity;
 - (g) maintain regular, productive and effective dialogue and cooperation with the public and private sector;
 - (h) provide business development services to a business; and
 - (i) collect, collate and disseminate information on matters of investment, export promotion, business development and privatisation.
- (3) The Agency shall, in the exercise of the Agency's functions under this section, have regard to the need to—
- (a) facilitate the implementation of policies on reducing the cost of regulating businesses in accordance with the Business Regulatory Act, 2014;
[Act No. 3 of 2014]
 - (b) encourage the development and growth of industries in the Republic that are efficient in their use of resources, innovation and internationally competitive;
 - (c) facilitate adjustments to structural changes in the economy and the avoidance of social and economic hardships arising from those changes;
 - (d) increase employment and wealth creation opportunities in the Republic;
 - (e) promote the growth of exports;
 - (f) promote regional development, cooperation and integration;
 - (g) maintain consistency, coherence and mutually reinforcing measures;

- (h) monitor the progress made by the Republic's trading partners in reducing both tariff and non-tariff barriers;
- (i) ensure that the industry develops in a way that is ecologically sustainable;
- (j) facilitate the implementation of international obligations and commitments under international treaties to which the Republic is a party in relation to the purposes of this Act; and
- (k) maintain regular, productive and effective dialogue and cooperation with public and private sector.

6. Board of Agency

- (1) There is constituted the Board of the Agency which consists of the following part-time members appointed by the Minister:
 - (a) a representative from the Ministry responsible for—
 - (i) commerce and industry; and
 - (ii) finance;
 - (b) a representative of the Attorney-General;
 - (c) a representative of the Zambia Institute of Chartered Accountants;
 - (e) a person nominated from the most representative private sector association;
[Please note: numbering as in original.]
 - (f) a representative of a civil society organisation involved in trade and investment; and
 - (g) two persons with experience and knowledge in trade and investment.
- (2) The members under subsection (1) shall be nominated by their respective ministries, organisations or institutions for appointment by the Minister.
- (3) The Minister shall appoint the Chairperson of the Board from among the members.
- (4) The members of the Board shall elect the Vice-Chairperson from among themselves.
- (5) A person shall not be nominated or appointed as a member of the Board if that person is—
 - (a) legally disqualified from performing the functions of a member;
 - (b) an undischarged bankrupt;
 - (c) convicted of an offence under any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine; or
 - (d) convicted of an offence involving fraud or dishonesty under any written law.

7. Functions of Board

- (1) Subject to the other provisions of this Act, the Board shall perform the functions of the Agency and provide strategic policy direction to the Agency.
- (2) Despite the generality of subsection (1), the functions of the Board are to—
 - (a) approve the policies, programmes and strategies of the Agency;
 - (b) approve the annual work plan, action plans and activity reports of the Agency;
 - (c) approve the annual budget estimates and financial statements of the Agency; and

- (d) promote effective corporate governance of the Agency.
- (3) The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Director-General any of the Board's functions under this Act.
- (4) A delegation made under subsection (3), shall not prevent the Board from performing the function so delegated.
- (5) The Minister may give to the Board directions relating to the performance of its functions and the Board shall give effect to those directions to the extent that they are not inconsistent with this Act.

8. Tenure of office and vacancy

- (1) A member of the Board shall, subject to the other provisions of this Act, hold office for a term of three years and may be reappointed for a further and final term of three years.
- (2) A member shall, on the expiration of the period for which that member is appointed, continue to hold office until a successor is appointed, but in no case shall the further period exceed three months.
- (3) The office of a member becomes vacant if that member—
 - (a) dies;
 - (b) is adjudged bankrupt;
 - (c) is absent from three consecutive meetings of the Board of which the member has had notice, without the prior approval of the Board;
 - (d) resigns, on giving one month's notice to the Minister;
 - (e) is legally disqualified from performing the functions of a member;
 - (f) ceases to be a member of the ministry, institution or organisation which nominated the member; or
 - (g) is convicted of an offence under any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.
- (4) The Minister shall, where the office of a member becomes vacant before the expiry of the term of office, appoint another member in place of that member, but that member shall hold office as a member only for the unexpired part of the term of the Board.

9. Proceedings of Board

- (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.
- (2) The Board shall meet for the transaction of business at least once in every three months at a place and time that the Board may determine.
- (3) The Chairperson shall, on giving notice of not less than seven days, call for a meeting of the Board, or where one third or more of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.
- (4) Five members shall form a quorum at the meeting of the Board.
- (5) There shall preside at a meeting of the Board—
 - (a) the Chairperson;
 - (b) in the absence of the Chairperson, the Vice-Chairperson; or

- (c) in the absence of the Chairperson and the Vice-Chairperson, a member of the Board that the members present may elect from among themselves for the purpose of that meeting.
- (6) A decision of the Board on any question shall be by a majority of votes of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to that person's deliberative vote.
- (7) A member may, where the member is for any reason unable to attend a meeting of the Board, nominate another person in writing, from the same ministry, institution or organisation to attend a meeting of the Board in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.
- (8) The Board may invite a person whose presence is, in its opinion, desirable to attend and participate in the deliberations of the meeting but that person shall have no vote.
- (9) The Board shall cause to be kept minutes of the proceedings of every meeting of the Board and any committee established by the Board.

10. Committees of Board

- (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as it considers necessary.
- (2) The Board may appoint, as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.
- (3) A committee shall have the power to invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of the meeting of the committee but that person shall have no vote.
- (4) A member of a committee shall hold office for a period that the Board may determine.
- (5) Subject to any specific or general direction of the Board, a committee constituted under this section may regulate its own procedure.

11. Allowances

A member of the Board or any committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine.

12. Disclosure of interest

- (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as practicable after the commencement of the meeting, declare the interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

13. Director-General, Secretary and other staff

- (1) The Board shall appoint a Director-General, who shall be—
 - (a) the chief executive officer of the Agency; and
 - (b) responsible for the day-to-day administration of the Agency under the direction of the Board.

- (2) The Director-General shall attend meetings of the Board or a committee of the Board and may address those meetings, but shall have no vote.
- (3) The Board may appoint a Secretary and other staff that the Board considers necessary for the performance of the functions of the Agency.
- (4) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director-General, Secretary and other staff of the Agency.
- (5) The Board shall determine the terms and conditions of service, other than emoluments of the Director-General, Secretary and other staff of the Agency.

Part III – Financial provisions

14. Funds of Agency

- (1) The funds of the Agency consists of monies that may—
 - (a) be appropriated by Parliament;
 - (b) be paid to the Agency by way of levies, fees, grants or donations; or
 - (c) vest in, or accrue to, the Agency.
- (2) The Agency may—
 - (a) accept monies by way of grants or donations from any source in the Republic and subject to the approval of the Minister from any source outside the Republic;
 - (b) subject to the approval of the Minister responsible for finance, raise by way of loans or otherwise, monies that the Agency may require for the discharge of the Agency’s functions; or
 - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Agency.
- (3) There shall be paid from the funds of the Agency—
 - (a) the salaries, allowances, loans gratuities and pensions of the staff of the Agency and other payments for the recruitment and retention of staff;
 - (b) reasonable traveling, and other allowances for members of the Board or members of a committee of the Board when engaged in the business of the Agency at rates that the Emoluments Commissions may, on recommendation of the Minister, determine; and
 - (c) any other expenses incurred by the Agency in the performance of the Agency’s functions.
- (4) Subject to the Public Finance Management Act, 2018, the Board may, subject to the approval of the Minister, invest in a manner that the Board considers necessary any of the Agency’s funds that the Agency does not immediately require for the performance of the Agency’s functions.

[Act No. 1 of 2018]

15. Financial year

The financial year of the Agency shall be a period of twelve months ending on 31st December in each year.

16. Accounts

- (1) The Board shall cause to be kept proper books of accounts and other records relating to the Agency’s accounts.

- (2) The accounts of the Agency shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The fees for the Auditor-General or an auditor appointed by the Auditor-General shall be paid by the Agency.

17. Annual report

- (1) The Board shall, as soon as practicable, but not later than ninety days after the end of a financial year, submit to the Minister a report concerning the functions and activities of the Agency during the financial year.
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Agency and there shall be appended to the report—
 - (a) an audited statement of financial position;
 - (b) an audited statement of comprehensive income and expenditure;
 - (c) a statement specifying the functions of the Agency and the impact of the functions on business development; and
 - (d) other information that the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

Part IV – General provisions

18. Immunity

An action or other proceedings shall not lie or be instituted against a member of the Board, a member of a committee of the Board or a member of staff of the Agency, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.

19. Prohibition of publication or disclosure of information to unauthorised person

- (1) A person shall not, without the consent in writing given by or on behalf of the Agency or as otherwise permitted by any written law, publish or disclose to a person, other than in the course of that person's duties, the contents of a document, communication or information, which relates to, or which has come to that person's knowledge in the course of that person's duties under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- (3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates that information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

20. Immunity from execution of judgements against Agency asset

Where a judgment or court order is obtained against the Agency, execution, attachment or process of any nature, shall not be issued against the Agency or against any property of the Agency, but the Agency shall cause to be paid out of the Agency's funds an amount that may, by judgment or court order, be awarded against the Agency to the person entitled to the amount.

21. Offence by principal officers of body corporate or unincorporate body

Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of a director, manager or shareholder of that body corporate or unincorporate body, that director, manager or shareholder is liable, on conviction, to the penalty specified for the offence.

22. Regulations

- (1) The Minister may, in consultation with the Agency, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.
- (2) Despite subsection (1), Regulations under subsection (1) may provide for—
 - (a) different provisions in respect of different types of business development and sectors of trade and industry; and
 - (b) the collection of data on industry and the procedure for that collection.

23. Repeal of Act No. 11 of 2006

- (1) The Zambia Development Agency Act, 2006, is repealed.
- (2) Despite subsection (1), the Schedule applies to the savings and transitional provisions.

Schedule (Section 23(2))

Savings and transitional provisions

1. Interpretation

For the purposes of this Schedule, "former Agency" means the Zambia Development Agency established under the repealed Act.

2. Staff of former Agency

- (1) A person who, before the commencement of this Act, was an officer or employee of the former Agency shall continue to be an officer or employee of the Agency, as if appointed or employed under this Act.
- (2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.
- (3) Nothing in the Act affects the rights and liabilities of any person employed or appointed by the former Agency before the commencement of this Act.

3. Member

A person who immediately before the commencement of this Act held office as a member of the Board of the former Agency shall continue to hold office as a member for a period of three months after which the Minister shall appoint the members of the Board in accordance with this Act.

4. Transfer of assets and liabilities

- (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Agency by virtue of this Act and without further assurance, the assets, rights and obligations which immediately before the commencement of this Act were the assets, rights, liabilities and obligations of the former Agency.
- (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Agency was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall,

unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

- (a) the Agency had been party to it;
 - (b) for any reference to the former Agency there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Agency; or
 - (c) for any reference to any officer of the former Agency not being a party to it and beneficially interested therein, there were substituted, with respect to anything required to be done on or after the commencement of this Act, a reference to such officer of the Agency as the Agency shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former Agency are considered to be transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application, in writing, to the appropriate registration authority for registration of the transfer.
 - (4) The registration authority, referred to in subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse on the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.
5. **Legal proceedings**
- (1) Any legal proceedings or application of the former Agency pending immediately before the commencement of this Act by or against the former Agency, may be continued by or against the Agency.
 - (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Agency, may be instituted by or against the Agency.