

GOVERNMENT OF ZAMBIA

ACT

No. 8 of 2023

Date of Assent: 15th August, 2023

An Act to amend the Environmental Management Act, 2011.

[17th August, 2023

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Environmental Management (Amendment) Act, 2023, and shall be read as one with the Environmental Management Act, 2011, in this Act referred to as the principal Act.

Short title

Act No. 12 of 2011

2. Section 2 of the principal Act is amended by the—

Amendment of section 2

(a) deletion of the definition of the word “waste” and the substitution therefor of the following:

“waste” means a matter whether liquid, solid, gaseous or radioactive which is discharged, emitted or deposited in the environment in such volume, composition or manner as to cause an adverse effect to the environment, and includes waste as may be prescribed under this Act, but does not include solid waste;; and

(b) insertion of the following new definitions in the appropriate places in alphabetical order:

“certificate of registration” means a certificate of registration issued under section 29B or 65A;

Act No. 2 of 2023	“controlled substance” means a substance or mixture, whose manufacture, re-processing, possession, use or disposal is regulated by the Agency and includes substances listed under Annex A, B, C, E and F of the Montreal Protocol on substances that deplete the ozone layer and a controlled substance under the Sixth Schedule of the Controlled Substances Act, 2023;
Cap. 1	“emoluments” has the meaning assigned to the word in the Constitution;
Cap. 1	“Emoluments Commission” means the Emoluments Commission established under the Constitution;
	“environmental assessment” means the process of identifying, estimating, analysing and evaluating the positive and adverse effects that a proposed policy, plan, programme, project or product has or is likely to have on the sustainable management of the environment;
	“environmental assessment expert” means a person or firm registered as an environmental assessment expert under section 29B;
	“environmental emergency” means a sudden disaster or accident resulting from natural, technological or human induced factors that causes, or is likely to cause, an adverse effect on human health or the environment;
Act No. 20 of 2018	“e-waste” has the meaning assigned to the word in the Solid Waste Regulation and Management Act, 2018;
Act No. 11 of 2011	“firm” has the meaning assigned to the word in the Registration of Business Names Act, 2011;
	“green economy” means an economy that allows for low carbon emission, resource efficiency and social inclusiveness, resulting in improved human well being and social equity while significantly reducing environmental risks and ecological scarcities;
Act No. 20 of 2018	“healthcare waste” has the meaning assigned to the words in the Solid Waste Regulation and Management Act, 2018;

“resource efficiency” means use of the earth’s limited resources in a sustainable manner while minimising impact on the environment; and

“solid waste” has the meaning assigned to the words in the Solid Waste Regulation and Management Act, 2018;.

Act No. 20 of 2018

3. Section 6 of the principal Act is amended by the insertion of the following new paragraph immediately after paragraph (l):

Amendment of section 6

(m) low carbon emissions, resource efficiency and social inclusiveness shall be integrated in development programmes.

4. Section 9 (2) of the principal Act is amended by the—

Amendment of section 9

(a) deletion of paragraph (h) and the substitution therefor of the following:

(h) in collaboration with an appropriate authority, mainstream green economy and environment in national planning;;

(b) insertion of the following new paragraphs immediately after paragraph (o):

(p) promote actions on climate change adaptation and mitigation in collaboration with an appropriate authority;

(q) undertake inventory of greenhouse gas emissions;

(r) in consultation with an appropriate authority, promote fair and equitable sharing of the benefits arising out of exploitation and utilisation of the environment and natural resources among the people; and; and

(c) renumbering of paragraph (p) as paragraph (s).

5. Section 11 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

Amendment of section 11

(1) There is constituted the Board of the Agency consisting of the following part-time members appointed by the Minister:

(a) one representative each from the Ministries responsible for—

(i) energy;

(ii) mines;

(iii) green economy; and

(iv) agriculture;

- (b) a representative of the Attorney-General;
- (c) a representative of a non-governmental organisation dealing with environment management; and
- (d) three representatives from the private sector with relevant knowledge and experience in matters relating to this Act.
- Insertion of section 12A **6.** The principal Act is amended by the insertion of the following new section immediately after section 12:
- Delegation of functions 12A. The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Director-General any of its functions under this Act.
- Amendment of section 13 **7.** Section 13 of the principal Act is amended by the—
- (a) deletion of subsection (4) and the substitution thereof of the following:
- (4) The Director-General may, in writing, except for the functions delegated on the Director-General under section 12A, delegate any of the functions conferred on the Director-General under this Act to a member of staff at management level of the Agency that the Director-General considers necessary;
- (b) insertion of the following new subsections immediately after subsection (4):
- (5) The Board shall appoint the Secretary and other staff of the Agency that the Board considers necessary for the performance of the Board's functions.
- (6) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director-General, Secretary and other staff of the Agency.
- (7) The Board shall determine the terms and conditions of service, other than emoluments, of the Director-General, Secretary and other staff of the Agency.
- Amendment of section 29 **8.** Section 29 of the principal Act is amended —
- (a) by the insertion of the following new subsection immediately after subsection (1):

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

(b) by the deletion of subsection (4) and the substitution therefor of the following:

(4) The Agency shall not grant an approval in respect of a project if the Agency considers that the—

(a) implementation of the project—

(i) would bring about adverse effects; or

(ii) may contravene a provision of this Act or any other written law; or

(b) mitigation measures may be inadequate to satisfactorily mitigate the adverse effects of the proposed projects;

(c) in subsection (5), by the deletion of the word “fourteen” and the substitution therefor of the word “thirty”; and

(d) by the renumbering of subsections (2), (3), (4) and (5) as subsections (3), (4), (5) and (6), respectively.

9. The principal Act is amended by the insertion of the following new sections immediately after section 29:

Insertion of sections 29A and 29B

29A. (1) A person shall not prepare an environmental assessment report without registering with the Agency as an environmental assessment expert in accordance with section 29B.

Prohibition of preparing environmental assessment report without registration

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

Registration of
environmental
assessment
experts

29B. (1) A person or firm that intends to be registered as an environmental assessment expert shall apply to the Agency for registration in the prescribed manner and form on payment of a prescribed fee.

(2) The Agency shall, within thirty days of receipt of an application under subsection (1), grant or reject the application and inform the applicant of the decision of the Agency.

(3) The Agency shall register a person or firm as an environmental assessment expert if the person or firm meets the prescribed criteria.

(4) The Agency shall, where the Agency grants an application in accordance with subsection (2), issue the applicant with a certificate of registration in the prescribed form.

(5) An application under subsection (1) shall be deemed to have been granted where the Agency fails to inform the applicant of its decision within the period specified in subsection (2).

Amendment
of section 30

10. Section 30 of the principal Act is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following:

(1) The Minister may, on the advice of the Agency, by statutory instrument, make Regulations for the effective administration of environmental assessments.; and

(b) in subsection (2), by the—

(i) insertion of the following new paragraphs immediately after paragraph (f):

(g) requirements for the registration of environmental assessment experts;

(h) the validity of a certificate of registration;

(i) the suspension and cancellation of a certificate of registration issued under this Act; and

(j) the re-registration of a person or firm where a certificate of registration is cancelled; and

(c) by the renumbering of paragraph (g) as paragraph (k).

11. Section 31 of the principal Act is amended—

Amendment
of section 31

(a) in subsection (1) (b), by the deletion of subparagraph (i) and the substitution therefor of the following:

(i) the elimination of substances that deplete the stratospheric ozone layer and other components of the stratosphere that affect human health and well being, and the environment;

(b) in subsection (2), by the deletion of paragraph (b) and the substitution therefor of the following:

(b) import, export, distribute, sell or offer for sale, handle or store, a controlled substance or a substance likely to deplete the ozone layer.; and

(c) by the deletion of subsection (4) and the substitution therefor of the following:

(4) The Minister may, by statutory instrument, on the recommendation of the Agency, make Regulations for the importation, exportation and consumption of a controlled substance, an ozone depleting substance or related equipment.

12. Section 37 of the principal Act is amended by the insertion of the following new subsection immediately after subsection (3):

Amendment
of section 37

(4) An owner or operator of an agricultural scheme, sewerage system, industrial facility or plant, business or any other undertaking shall —

(a) on the request of the Agency, connect the Agency to an online monitoring system of that owner or operator as determined by the Agency for the purpose of monitoring compliance; and

(b) undertake any other action that the Agency may require.

- Amendment of section 40
- 13.** Section 40 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:
- (1) The Agency shall, in collaboration with an appropriate authority and a conservancy authority, promote—
- (a) cleaner production technologies and techniques;
 - (b) sustainable consumption of goods and services;
 - (c) green economy;
 - (d) eco labeling; and
 - (e) any other matter as may be prescribed.
- Amendment of section 53
- 14.** Section 53 of the principal Act is amended by the deletion of the definition of “waste” and the substitution therefor of the following:
- “waste” means sludge and other discarded substances resulting from industrial and commercial activities, but does not include waste water as defined in the definition of “effluent” in Division 2, and solid waste.
- Amendment of section 56
Act No. 20 of 2018
- 15.** Section 56 (1) of the principal Act is amended by the deletion of the words “A local authority shall, within its area of jurisdiction” and the substitution therefor of the words “Subject to the Solid Waste Regulation and Management Act, 2018, a local authority, within its area of jurisdiction, shall —”.
- Repeal and replacement of section 61
Environmental emergency
- 16.** The principal Act is amended by the repeal of section 61 and the substitution therefor of the following:
- 61.** The Agency shall, where an environmental emergency occurs, take appropriate measures for the protection of human beings and the environment.
- Repeal and replacement section 65
- 17.** The principal Act is amended by the repeal of section 65 and the substitution therefor of the following:
- 65.** (1) A person who intends to manufacture, import, export, store, use, sell, distribute, transport, blend, process, re-process, change the composition of a pesticide or toxic substance or reprocess an existing pesticide or toxic substance for a significantly new use, shall apply to the Agency for a licence in the prescribed manner and form on payment of a prescribed fee.
- Licensing of manufacturer, importer, exporter of pesticide and toxic substance

(2) The Agency shall, within thirty days of receipt of an application under subsection (1), grant or reject the application and inform the applicant of the decision of the Agency in a prescribed manner.

(3) The Agency shall not issue a licence under this section unless the pesticide or toxic substance is registered in accordance with section 65A.

(4) The Minister may, on the recommendation of the Agency, prescribe—

(a) the criteria for the licensing of persons under this section;

(b) the procedure for applying for a licence and the grant, modification, renewal, transfer or revocation of a licence;

(c) the terms and conditions attached to the grant, modification, renewal, transfer or revocation of a licence; and

(d) any other matter necessary for purposes of this Division.

18. The principal Act is amended by the insertion of the following new section immediately after section 65:

Insertion of section 65A

65A. (1) A person who intends to manufacture, import, export, store, use, sell, distribute, transport, blend, process, re process or change the composition of, a pesticide or toxic substance, or re process an existing pesticide or toxic substance for a significantly new use shall apply to the Agency for the registration of the pesticide or toxic substance in the prescribed manner and form on payment of a prescribed fee.

Registration of pesticide or toxic substance

(2) The Agency shall, within ninety days of receipt of an application under subsection (1), grant or reject the application and inform the applicant of the decision of the Agency in a prescribed manner.

(3) The Agency shall, where it rejects an application under subsection (2), give reasons for the rejection in writing.

(4) The Agency shall, where the Agency grants an application under subsection (2), issue the applicant with a certificate of registration in a prescribed form.

(5) The Minister may, on the recommendation of the Agency, by statutory instrument prescribe—

(a) the terms and conditions attached to the grant, modification, transfer or revocation of registration of a pesticide or toxic substance; and

(b) any other matter necessary for the registration under this section.

Amendment of section 66

19. Section 66 of the principal Act is amended by the—

(a) insertion of the following new paragraph immediately after paragraph (h):

(i) enforce environmental standards on equipment used for application of a pesticide and toxic substance; and;

(b) renumbering of paragraph (i) as paragraph (j).

Amendment of section 90

20. Section 90 of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

(3) The Agency shall keep and maintain copies and information documents contained in the registry in physical or electronic form and the registry shall be open for inspection to members of the public during normal office hours.

Amendment of section 105

21. Section 105 (2) of the principal Act is amended by the deletion of paragraph (g) and the substitution therefor of the following:

(g) remove any waste or refuse deposited on the land or aquatic environment specified in the order and dispose of the same in accordance with the provisions of the order and the Solid Waste Regulation and Management Act, 2018;

Act No. 20 of 2018

Repeal and replacement of section 111

22. The principal Act is amended by the repeal of section 111 and the substitution therefor of the following:

Minimum penalty, protection, repairs and cost orders

111. (1) A court that convicts a person of an offence under this Act shall not impose a penalty lower than half of the maximum penalty provided for the commission of the offence under this Act.

(2) A court may, in addition to any other penalty imposed on a person convicted of an offence under this Act—

(a) order the person to take and pay for measures to avoid, remedy or mitigate any adverse effect arising from, or likely to arise from, the offence; and

(b) if the person fails to comply with an order under paragraph (a), issue an order allowing the Director-General to take those measures and requiring the person to pay the Agency costs in so doing.

23. Section 112 of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following: Amendment of section 112

(1) A person who is aggrieved with a decision made or direction given by the Agency under this Act, other than a decision or direction of the Board, may apply to the Board for a review of that decision or direction.

24. Section 113 (5) of the principal Act is amended by the deletion of the words “an appeal” and the substitution therefor of the words “a review application”. Amendment of section 113

25. The principal Act is amended by the repeal of section 115 and the substitution therefor of the following: Repeal and replacement of section 115

115. (1) The Minister shall, where the Minister receives an appeal under this Act, consider the appeal and may— Consideration of appeal by Minister

(a) allow the appeal wholly or in part;

(b) dismiss the appeal; or

(c) refer the appeal back to the Board with a request for consideration or further consideration of some fact or issue.

(2) The Minister shall, in determining an appeal, have regard to—

(a) the purpose of the Act and the principles set out in section 6;

(b) relevant environment policies, guidelines and standards published by the Agency; or

(c) the findings and recommendations of the person conducting the inquiry, except that the Minister shall not be bound by those findings and recommendations.

(3) The decision of the Minister shall —

(a) be, in writing, in a prescribed written notice;

(b) set out the reasons for the decision; and

(c) be delivered to the applicant and to the Agency.

Amendment
of section
117

26. Section 117 of the principal Act is amended in the marginal note by the deletion of the words “hazardous waste materials, chemicals” and the substitution therefor of the words “environmental impact assessment”.

Amendment
of section
132

27. Section 132 (1) of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

(1) Despite the provisions of this Act, an inspector may, where that inspector is satisfied that a person has committed an offence or where a person has admitted to the commission of an offence, for which the penalty does not exceed five hundred thousand penalty units under this Act, summarily demand the payment of a fine which does not exceed the maximum fine provided for the offence.

Amendment
of First
Schedule

28. The First Schedule to the principal Act is amended in paragraph 1(4) by the deletion of the word “six” and the substitution therefor of the word “four”.
