

*Supplement to the Republic of Zambia Government
Gazette dated the 16th April, 2010*

[No. 1 of 2010 1

GOVERNMENT OF ZAMBIA

ACT

Date of Assent: 12th April, 2010

**An Act to amend the Zambia Development Agency
Act, 2006**

[16th April, 2010

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Zambia Development Agency (Amendment) Act, 2010, and shall be read as one with the Zambia Development Agency Act, 2006, in this Act referred to as principal Act.

Short title
Act No. 11
of 2006

2. The principal Act is amended by the insertion immediately after section *eleven* of the following new section:

Insertion of
new section
11A

11A. Where any judgment order is obtained against the Agency, no execution, attachment or process of any nature, shall be issued against the Agency or against any property of the Agency, but the Agency shall cause to be paid out of its revenues such amount as may, by the judgment order, be awarded against the Agency to the person entitled to such amount.

Immunity
from
execution of
judgments
against
Agency
assets

3. The principal Act is amended by the repeal of Part X and the substitution therefor of the following new Part:

Repeal and
replacement
of Part X

PART X

LICENCES, PERMITS AND CERTIFICATES OF REGISTRATION

6A. (1) A person who wishes to—

- (a) develop any premises as a multi-facility economic zone;
- (b) operate a business enterprise in a multi-facility economic zone;
- (c) invest in any business enterprise; or
- (d) register a micro or small business enterprise;

Application
for licence,
permit or
certificate of
registration

shall apply to the Board for a licence, permit or certificate of registration, as the case may be, in the prescribed manner and form, upon payment of the prescribed fee.

(2) The Board shall, within thirty days of receipt of an application under subsection (1), approve or reject the application.

(3) Where the Board rejects an application under subsection (2), it shall within seven days of its decision, inform the applicant accordingly and give the reasons therefor.

69. The Board shall, in considering an application for a licence, permit or certificate of registration under section *sixty-eight*, have regard to—

Consideration of application for licence, permit or certificate of registration

- (a) the need to promote economic development and growth in Zambia;
- (b) the extent to which the proposed investment will lead to the creation of employment opportunities and the development of human resources;
- (c) the degree to which the project is export oriented;
- (d) the impact the proposed investment is likely to have on the environment and, where necessary, the measures proposed to deal with an adverse environmental consequence in accordance with the Environmental Protection and Pollution Control Act;
- (e) the possibility of the transfer of technology; and
- (f) any other considerations that the Board considers appropriate.

Cap. 204

70. (1) The Board shall, where it approves an application under section *sixty-eight*, issue on such terms and conditions as it may determine—

Issue of licence, permit or certificate of registration

- (a) a licence to develop premises as a multi-facility economic zone;
- (b) a permit to operate a business enterprise in a multi-facility economic zone; or
- (c) a certificate of registration as an investor or a micro or small business enterprise.

(2) Subject to section *seventy-six*, a licence, permit or certificate of registration is valid for a period of ten years from the date of issue.

71. The Board may vary or amend any condition of a licence, permit or certificate of registration—

Variation or amendment of licence, permit or certificate of registration

(a) where there are changes relating to the investment, after consultation with the holder of the licence, permit or certificate of registration; or

(b) on an application by the holder of the licence, permit or certificate of registration, to vary the terms and conditions of the licence, permit or certificate of registration.

72. (1) Where a holder of a licence, permit or certificate of registration decides not to continue with any business to which the licence, permit or certificate of registration relates, the holder shall notify the Board in writing and shall agree with the Board on the terms and conditions of the surrender of the licence, permit or certificate of registration with particular reference to anything done or any benefit obtained under the licence, permit or certificate of registration.

Surrender of licence, permit or certificate of registration

(2) Where a licence, permit or certificate of registration is surrendered under subsection (1), the licence, permit or certificate of registration shall lapse or be cancelled and the holder of the licence, permit or certificate of registration shall cease to be entitled to any benefits obtainable under the licence, permit or certificate of registration.

73. A holder of a licence, permit or certificate of registration shall not assign, cede or otherwise transfer the licence, permit or certificate of registration to any other person without the prior approval of the Board.

Prohibition to assign, cede or transfer licence, permit or certificate of registration

74. (1) A holder of a licence, permit or certificate of registration may apply for the renewal of the licence, permit or certificate of registration, in the prescribed manner and form, upon payment of the prescribed fee.

Renewal of licence, permit or certificate of registration

(2) The Board shall, where an applicant is not in breach of any provision of this Act or condition of a licence, permit or certificate of registration, renew the licence, permit or certificate of registration.

Suspension
or revocation
of licence,
permit or
certificate of
registration

75. (1) The Board may suspend or revoke a licence, permit or certificate of registration, after due investigation, where the holder of the licence, permit or certificate of registration is given an opportunity to be heard, if the holder—

- (a) obtained the licence, permit or certificate of registration by fraud, misrepresentation or any false or misleading statement;
- (b) assigns, cedes or otherwise transfers the licence, permit or certificate of registration to another person without the prior approval of the Board;
- (c) fails without reasonable explanation to implement the investment described in the licence, permit or certificate of registration within the period stipulated or any extension in respect of any initial period stipulated;
- (d) breaches or fails to comply with any terms or conditions of the licence, permit or certificate of registration; or
- (e) is convicted of an offence under this Act or any other law.

(2) The Board shall, before taking any action under subsection (1), notify the holder of its intention to suspend or revoke the licence, permit or certificate of registration and the reasons therefor, and call upon the holder to show cause, within such reasonable period as may be specified in the notice, why the licence, permit or certificate of registration should not be suspended or revoked.

(3) If, on the expiration of the period specified in the notice given under subsection (2), and after considering any representations made by the holder of the licence, permit or certificate of registration, the Board is satisfied for any reason in subsection (1), that the licence, permit or certificate of registration should be suspended or revoked, the Board may, by notice in writing to the investor, suspend or revoke the licence, permit or certificate of registration.

(4) The Board shall not suspend or revoke a licence, permit or certificate of registration where a holder takes remedial measures to the satisfaction of the Board, within such period as the Board may specify.

(5) Where a licence, permit or certificate of registration is suspended or revoked, the holder of the licence, permit or certificate of registration shall cease to be entitled to the rights or benefits conferred under this Act with effect from the date of the suspension or revocation and—

(a) in the case of a suspension, for the period of the suspension; and

(b) in the case of a revocation, shall surrender the licence, permit or certificate of registration to the Agency forthwith.

76. (1) The Board shall maintain or cause to be maintained a Register of—

(a) persons to whom licences, permits or certificates of registration have been issued and the particulars of those persons;

(b) the conditions attached to each licence, permit or certificate of registration;

(c) any amendments, suspensions or revocations of licences, permits or certificates of registration and the reasons for such decisions; and

(d) any renewal of licences, permits or certificates of registration.

(2) The Register referred to under subsection (1) shall be open for inspection by members of the public, at all reasonable times, at the offices of the Agency, upon payment of a prescribed fee.

77. Where this Act requires the payment of a fee or any document, licence, permit or certificate of registration to be issued or received, such payment, issuance or receipt may be done electronically, where applicable.

4. The principal Act is amended by the repeal of section *eighty-three*.

5. The Third Schedule to the principal Act is amended in paragraph 2—

Register of licences, permits and certificates of registration

Electronic submissions, payments, etc.

Repeal of section 83

Amendment of Third Schedule

(a) by the insertion immediately after sub-paragraph (7) of the following new sub-paragraph:

(8) Where a member is for any reason unable to attend the meeting of the Board, a member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.; and

(b) by the renumbering of sub-paragraphs (8) and (9) as (9) and (10), respectively.
