

THE RATIFICATION OF INTERNATIONAL AGREEMENTS
BILL, 2016
MEMORANDUM

The objects of this Bill are to provide for—

- (a) the ratification of international agreements and the domestication process;
and
- (b) matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

**THE RATIFICATION OF INTERNATIONAL
AGREEMENTS BILL, 2016**

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. General responsibility over international agreements
4. Cabinet to consider Cabinet Memorandum
5. Motion for approval of proposal to ratify international agreement in National Assembly
6. Ratification of amendment to, or modification of, international agreement
7. Ratification of protocols to international agreements
8. Depository instruments of ratification
9. Grant of full powers
10. Suspension of operation of, or withdrawal from, international agreement
11. State reports
12. Domestication process
13. Registry of international agreements
14. Annual report
15. Regulations

SCHEDULE

A BILL

ENTITLED

An Act to provide for the ratification of international agreements and the domestication process; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Ratification of International Agreements Act, 2016.

Short title

2. In this Act, unless the context otherwise requires—

Interpretation

5 “Attorney-General ” means the person appointed as such under Article 177 of the Constitution;

Cap. 1

10 “bilateral agreement ” means an agreement concluded between Zambia and any other State or between Zambia and an international organisation that does not require the ratification of the State;

15 “Cabinet ” means the Cabinet provided for in Article 113 of the Constitution;

Cap. 1

20 “domestication ” means giving legal effect to an international agreement or a part of an international agreement, through legislation or any other enforceable means;

“full powers ” means a document designating a person to represent the State in negotiating, adopting or authenticating the text of an international agreement, expressing the consent of the State to be bound by the international agreement, or accomplishing any other act with respect to the international agreement;

“international agreement” means an agreement concluded between States, in written form, and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation, and includes a convention, treaty or 5 protocol, but excludes a bilateral agreement;

“international organisation” means an inter-governmental organisation;

“instrument of ratification” means a document signed by the President, the Minister responsible for foreign affairs or a 10 person with full powers to signify consent, by the State, to be bound by an international agreement;

“ratification” means the act by which the State signifies its consent to be bound by an international agreement, and includes acceptance, approval and accession where the 15 international agreement so provides; and

“Registry” means the Registry of International Agreements established pursuant to section *thirteen*; and

“reservation” means a unilateral statement, however phrased or named, made by the State when signing or ratifying an 20 international agreement whereby the State intends to exclude or modify the application of certain provisions of an international agreement to the State.

General
responsibility
over
international
agreements

3. (1) Where the question of ratification of an international agreement arises, the Minister responsible for the subject matter 25 of the international agreement shall, subject to subsection (2), consider whether it is in the best interests of the State to ratify the international agreement.

(2) The Minister referred to in subsection (1) shall, in determining whether it is in the best interests of the State to ratify 30 an international agreement, consider—

- (a) the object of the international agreement;
- (b) whether existing legislation adequately addresses the object of the international agreement;
- (c) the impact of implementing any measure specified in the 35 international agreement; and
- (d) any legislative measures that may be required to give effect to the international agreement.

(3) Where, in the opinion of the Minister, it is in the best interests of the State to ratify an international agreement, the Minister shall, in consultation with the Attorney-General, initiate the process of ratification by way of a Cabinet Memorandum to the Cabinet
5 seeking approval in principle of a proposal to ratify the international agreement.

(4) The Cabinet Memorandum referred to in subsection (3) shall outline—

10 (a) the objectives and subject matter of the international agreement;

(b) any constitutional implications including

(i) consistency of the international agreement with the Constitution; and

15 (ii) legislation that may need to be amended or enacted;

(c) the national interests which may be affected by the ratification of the international agreement;

(d) obligations imposed on the State by the international agreement;

20 (e) requirements for implementation of the international agreement;

(f) policy considerations;

(g) financial implications;

(h) ministerial responsibility;

25 (i) the date of signature of the international agreement by the State;

(j) the date of entry into force of the international agreement;

(k) the number of States that are party to the international agreement;

30 (l) where the international agreement sought to be ratified permits reservations, any recommendations on reservations, and declarations which have been made by the State or other States; and

35 (m) the proposed text of any reservations that should be entered when ratifying the international agreement in order to safeguard the interests of the State.

Cap. 1

Consideration
of proposal
for
ratification
by Cabinet

4. Cabinet shall consider and approve or disapprove a proposal set out in a Cabinet Memorandum to ratify an international agreement.

Motion for
approval of
proposal to
ratify
international
agreement in
National
Assembly
Cap. 1

5. (1) Where Cabinet approves, in principle, a proposal to ratify an international agreement, with or without any reservations, the Vice-President shall cause to be laid before the National Assembly, a motion for approval of the proposal to ratify the international agreement in accordance with Article 63 of the Constitution. 5

(2) Where the National Assembly approves a motion to ratify an international agreement, with or without any reservations, the Minister responsible for foreign affairs shall cause the preparation of the instrument of ratification which shall include the matters specified in the Schedule. 10

(3) The instrument of ratification referred to in subsection (2) shall, where a reservation is intended, include such reservation, and the reservation shall also be signed by the person signing the instrument of ratification. 15

(4) Where the National Assembly does not approve the ratification of an international agreement, the State shall not ratify the international agreement. 20

Ratification
of
amendment
to, or
modification
of,
international
agreement

6. Where an international agreement ratified under this Part is subsequently amended or modified, the amendment or modification shall be ratified only after compliance with the procedure set out in sections *three, four and five*.

Ratification
of protocols
to
international
agreements

7. Sections *four and five* shall apply, with the necessary modifications, to the ratification of protocols signed under an international agreement. 25

Deposit of
instruments
of ratification

8. (1) An instrument of ratification shall be deposited by the Ministry responsible for foreign affairs at the depositary, and in the manner designated by the international agreement or negotiating States. 30

(2) An original copy of the instrument of ratification shall be filed at the Registry and a copy shall be submitted to the Ministry responsible for justice.

9. The Minister responsible for foreign affairs shall, subject to the direction of the President, prepare credentials for the grant of full powers to any person. Grant of full powers
10. Where the State intends to suspend the operation of an international agreement with respect to the State, or withdraw its consent to be bound by the international agreement, the procedures set out in sections *three, four and five* shall, with the necessary modifications, apply. Suspension of operation of, or withdrawal from, international agreement
11. (1) Where an international agreement provides for the submission of State reports as part of the monitoring mechanism, the Ministry responsible for the subject matter of the international agreement shall prepare and submit the State report within the period specified in the international agreement. State reports
- (2) For purposes of this section, a State report includes any periodic report which the State may be required to submit under an international agreement.
12. (1) Where the National Assembly has approved the ratification of an international agreement in accordance with section *five*, the Ministry responsible for the subject matter of the international agreement shall, where necessary, initiate the domestication process. Domestication of international agreement
- (2) An international agreement may be domesticated by—
- (a) an Act that sets out the international agreement in a schedule;
- (b) setting out salient provisions of the international agreement, in the substantive part of an Act, that will require specific interventions or measures to be undertaken, and annexing the international agreement to the Act;
- (c) rephrasing the terms of the international agreement in an Act and annexing the agreement to the Act;
- (d) adopting, in an Act, the terms of the international agreement in its entirety; or
- (e) the use of any other enforceable means, where applicable.
13. There shall be established and maintained a Registry of International Agreements at the Ministry responsible for foreign affairs which shall— Registry of International Agreements
- (a) be the depository of international agreements to which the State is party;
- (b) contain information on international agreements that have been, and have not been, ratified by the State; and

(c) be the depository of State reports made in accordance with the State reporting obligations under an international agreement.

Annual
report

14. The Ministry responsible for foreign affairs shall cause to be laid before the National Assembly, annually, a report on— 5

(a) international agreements which the State has ratified;

(b) international agreements which are pending ratification;

(c) amendments or modifications to international agreements which have been ratified by the State; and

(d) international agreements in respect of which a suspension of operation or a termination has been requested by the State, or is in effect. 10

Regulations

15. The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

SCHEDULE

(Section 5 (2))

CONTENTS OF INSTRUMENT OF RATIFICATION

An instrument of ratification shall—

- 5 (a) identify the international agreement concerned and the date when it was adopted and open for signature and the type of action the State intends to undertake, consistent with the international agreement (such as ratification, acceptance, approval, accession, or consent to be bound, as the case may be);
- 10 (b) the date of signature by the State;
- 15 (c) contain an unambiguous expression of the will of the Government, acting on behalf of the State, to recognise itself as being bound by the international agreement concerned and to undertake faithfully to observe and implement its provisions;
- 20 (d) indicate the title of the person signing the instrument of ratification. Where the person is acting as the President or Minister responsible for foreign affairs, the title shall indicate that the person is acting in that behalf;
- 25 (e) indicate the date and place where the instrument was issued;
- (f) if required, specify the scope of application of the international agreement;
- (g) if required, contain all mandatory declarations and notifications in accordance with the international agreement; and
- (h) any other requirement that the international agreement or negotiating States may stipulate.
-