

**THE LAND (PERPETUAL SUCCESSION)
(AMENDMENT) BILL, 2020**

MEMORANDUM

The object of this Bill is to amend the Land (Perpetual Succession) Act, so as to—

- (a) provide for the maintenance of records relating to beneficial ownership and due diligence in the registration of a trust;
and
- (b) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

A BILL

ENTITLED

An Act to amend the Land (Perpetual Succession) Act.

ENACTED by the Parliament of Zambia

Enactment

1. This Act may be cited as the Land (Perpetual Succession (Amendment) Act, 2020, and shall be read as one with the Land (Perpetual Succession) Act, in this Act referred to as the principal 5 Act.

Short title

Cap. 186

2. The principal Act is amended by the insertion of the following new section immediately after section 1:

Insertion of section 1A

1A. In this Act, unless the context otherwise requires—
“beneficial ownership” has the meaning assigned to the words
10 in the Companies Act, 2017; and

Interpretation

Act No. 10
of 2017

“reporting entity” has the meaning assigned to the words in
the Financial Intelligence Centre Act, 2010.

Act No. 46
of 2010

3. The principal Act is amended by the repeal of section 4 and the substitution therefor of the following:

Repeal and replacement of section 4

15 4. (1) A person may apply to the Minister for a certificate of incorporation of a trust of a community, body or association of persons.

Application for certificate of incorporation

(2) An application made under subsection (1) shall be accompanied by—

20 (a) the nature of the community or the objects of the body or association of persons, and the rules and regulations of the same, together with the date of, and parties to, every deed, will or other instrument, if any, creating, constituting or regulating the same;

- (b) a statement and short description of the land, or interest in land, which at the date of application is possessed by, or belonging to, or held on behalf of, that community, body or association of persons;
- (c) the names, residences and addresses of the trustees of that community, body or association of persons; 5
- (d) certified copies of an identity document of the trustees;
- (e) the proposed title of the corporate body, of which title the words “trust” and “registered” shall form part;
- (f) the proposed device of the common seal;
- (g) the regulations for the custody and use of the common seal; 10
- (h) a statement of beneficial ownership which shall state, in respect of each beneficial owner—
- (i) the full names;
- (ii) the date of birth; 15
- (iii) the nationality;
- (iv) the country of residence;
- (v) the residential address; and
- (vi) any other particulars as may be prescribed;
- (i) a declaration by an applicant that the particulars stated 20 under paragraph (h) have been submitted to the Registrar with the knowledge of the individuals to whom the particulars relate; and
- (j) a declaration stating that the requirements of the Act relating to registration have been complied with. 25
- (3) A declaration under subsection (3)(j) shall be made in the prescribed manner and form by a—
- (a) legal practitioner holding a valid practicing certificate who was engaged in the formation of the trust; or
- (b) person named, as a trustee, in the application for 30 registration.
- (4) The Minister may accept the declaration under subsection (3)(j) as *prima facie* evidence of compliance with the requirements of this Act.
- (5) A person who makes a declaration under subsection (3)(j), 35 without having reasonable grounds for believing that the requirements of this Act have been complied with, commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

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4. Section 5 of the principal Act is amended by the—
- (a) insertion of figure “(1)” between”5” and “Before”;
- (b) deletion of the words ‘five years’ and the substitution therefor of the words ‘one year’; and
- 5 (c) insertion of the following new subsection:
- (2) A return made under subsection (1) shall be in the prescribed manner and form.
- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two
- 10 hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
5. The principal Act is amended by the insertion of the following new section immediately after section 12:
- 15 **13.** (1) A governing body of a trust of a community, body or association of persons under this Act shall ensure compliance with regulatory requirements for the prevention and combating of money laundering and financing of terrorism or proliferation or any other serious offence.
- (2) Despite any provisions on confidentiality, a governing body
- 20 of a trust shall provide—
- (a) the Minister or a competent authority any information relating to a registration under this Act; or
- (b) on the request of a reporting entity and an supervisory
- 25 authority under the Financial Intelligence Act, 2010, information on the beneficial ownership and assets of a trust.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding two
- 30 hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
6. The principal Act is amended by the repeal of the Schedule.
- Repeal of Schedule

