
THE BUSINESS REGULATORY ACT, 2014

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Application and categorisation of licensing system

PART II

REGULATING BUSINESS ACTIVITIES

4. General principles and interventions for regulating business
5. Conditions for imposition of licensing
6. Procedure for imposition of new policy or law
7. Approval of framework by Business Regulatory Review Agency
8. E-registry and control numbers
9. Regulatory services centre and regulatory clearance
10. Single licensing system
11. Mechanisms for operationalisation of single licensing system

PART III

THE BUSINESS REGULATORY REVIEW COMMITTEE

12. Establishment of Business Regulatory Review Committee
13. Powers of Committee

PART IV

THE BUSINESS REGULATORY REVIEW AGENCY

14. Establishment of Business Regulatory Review Agency
15. Director and other staff
16. Functions of Business Regulatory Review Agency

PART V

GENERAL PROVISIONS

17. Appeals
18. Regulations
19. Savings and transitional provisions

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 3 of 2014

Date of Assent: 21st March, 2014

An Act to provide for an efficient, cost effective and accessible business licensing system; provide a set of principles and interventions to guide regulatory agencies when regulating and licensing business activities in accordance with a law under their mandate; provide for the classification of, and criteria for, licensing; establish an e-registry and assign a control number for laws regulating business; provide for the establishment of regulatory services centers, regulatory clearance systems and a single licensing system for business in each sector or group of businesses in a sector; establish the Business Regulatory Review Committee and the Business Regulatory Review Agency and provide for their functions and powers; and provide for matters connected with, or incidental to, the foregoing.

[24th March, 2014

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Business Regulatory Act, 2014.
2. In this Act, unless the context otherwise requires
“ business ” includes any enterprise, corporate or non-corporate, trade, profession or occupation registered under the Companies Act or Registration of Business Names Act, 2011;

Short title

Interpretation

Cap. 388

Act No. 16
of 2011

“Business Regulatory Review Agency” means the Business Regulatory Review Agency established under section *fourteen*;

“certificate” means a document issued to a person or business by a regulatory agency after a registration process;

“Committee” means the Business Regulatory Review Committee established under section *twelve*;

“e-registry” means the electronic registry established under section *eight*;

“licence” means an authorisation granted to a business, after meeting a set of legal criteria, as a tool to fulfill legitimate regulatory purposes such as—

(a) protection of public health and safety;

(b) protection, conservation and preservation of the environment;

(c) national security; and

(d) allocation of scarce national resources;

excluding any authorisation used to manage competition or to generate revenue for a regulating agency or public body;

“licensing” means a process to obtain and issue a licence, permit, certificate or authorisation;

“local authority” means a city, municipal or district council established under the Local Government Act;

“medium business enterprise” means any business enterprise whose total investment, excluding land and buildings, annual turnover and the number of persons employed by the enterprise does not exceed a prescribed numerical value;

“micro business enterprise” means any business enterprise whose total investment, excluding land and buildings, annual turnover and the number of persons employed by the enterprise, does not exceed a prescribed numerical value;

“Patents and Companies Registration Agency” means the Patents and Companies Registration Agency established under the Patents and Companies Registration Agency Act, 2010;

“permit” means a permission granted to a business to carry out any action related to, or which impacts on, the business’s core activity as stated in a licence or certificate which is required for a particular activity without the necessity of a licence or certificate;

Cap. 281

Act No. 15
of 2010

- “ public body ” means the Government, any Ministry or Department of the Government, a local authority, parastatal, board, council, authority, commission or other body appointed by the Government, or established by or under any written law, excluding a professional association or body;
- “ Registrar ” means the person appointed as Registrar under the Patents and Companies Registration Agency Act, 2010; Act No. 15 of 2010
- “ registration ” means a process of registering, certifying or listing a business or a person with a regulatory agency, in order to enable that business or person to legitimately start up a business, activity or practice or work in a certain field, as required under any written law, and includes registration for purposes of obtaining data or statistics, and “ registration process ” shall be construed accordingly;
- “ regulate business activity ” means the control or regulation of activities undertaken or to be undertaken by a business, and includes licensing, obtaining regulatory requirements or imposing any form of fee, levy, charge or any other regulatory requirement necessary for a business to carry out any commercial, manufacturing, construction or infrastructure development, trading, industrial, hospitality and tourism, agricultural, mining, financial, research, communication, technological, transport, hiring, energy, consultancy, professional or other business activity in a sector or with respect to specific commodities or products, and “ regulating business activity ” or “ regulation of business activity ” shall be construed accordingly;
- “ regulatory agency ” means any person or body, except a professional body, which, by law, is empowered to regulate business activity in any sector and includes a Minister;
- “ regulatory clearance system ” means a mechanism, electronic or manual, for supporting licensing in order to achieve a one-stop clearance system for regulatory requirements and a single licensing system for regulating business activity;
- “ regulatory framework ” means a legal system for regulating business activity;
- “ regulatory requirement ” means any documentation, registration particulars, data, statistics, vital statistics, standards, specifications, certifications, notifications or other information required for licensing to enable persons to start up business, continue doing business or cease to do business under the relevant law regulating that business;

“regulatory service” means the rendering of decentralised services by a local authority or the Patents and Companies Registration Agency, or both undertaking the services jointly with regulatory agencies, so as to ensure efficient licensing under the relevant laws regulating that business sector or group of business by—

- (a) providing an accessible and less burdensome system for clearing regulatory requirements;
- (b) issuing data or other information on registered businesses that are required to be licensed; and
- (c) ensuring effective liaison and coordination amongst regulatory agencies;

“regulatory services centre” means a one-stop unit established by the Patents and Companies Registration Agency or a local authority, or both undertaking the services jointly with other relevant regulatory agencies, to provide for an efficient regulatory clearance system and single licensing system;

“sector” means a business sector of the economy;

“single licensing system” means a licensing system designed to facilitate compliance with multiple licensing requirements by multiple regulatory bodies through a single regulatory point or a regulatory service centre; and

“small business enterprise” means any business enterprise whose total investment, excluding land and buildings, annual turnover and the number of persons employed by the enterprise, does not exceed the prescribed numerical value.

Application
and
categorisation
of licensing
system

3. (1) Notwithstanding any other law, this Act applies to all regulatory agencies.

(2) Notwithstanding any other law, this Act applies to the regulation of business activity, subject to the terms and conditions for applying and issuing any licence, permit, certificate or authorisation under the relevant law regulating that business.

(3) For the avoidance of doubt, this Act shall be complementary to any law regulating business and that law shall continue to regulate that business subject to the procedures and criteria for licensing, principles and interventions provided under this Act.

(4) After the commencement of this Act, the following shall be the categorisation of the licensing system:

- (a) licence, which shall be valid in all areas under the jurisdiction of a local authority and shall—

- (i) be issued on minimum proof of qualifications necessary to ensure the competency of the proprietor;
- (ii) enable the start up of business for a core activity;
- (iii) be renewable as specified in the written law;
- (iv) attract a fee calculated on the value placed on the licence, as may be prescribed, after taking into account the legal criteria for issue of the licence; and
- (v) be issued on such terms and conditions as may be prescribed;

(b) permit, which may—

- (i) not be valid in all areas under the jurisdiction of a local authority;
- (ii) be a one-off issue or used to authorise various or particular kinds of business activities or multiple activities connected to the core activity under a licence or certificate after start up of a business;
- (iii) be or not be renewable;
- (iv) attract a fee or charge for processing and issuing the permit, which charge may be imposed annually or after a prescribed period or until the permit is revoked; and
- (v) be issued on such terms and conditions as may be prescribed;

(c) certificate, which—

- (i) may or may not be valid in all areas under the jurisdiction of a local authority;
- (ii) is a one-off issue;
- (iii) may attract a fee or charge for the certificate, which may be imposed as a one-off charge, annually or after a prescribed period on the holder, until the certificate is revoked; and

(d) authorisation, which—

- (i) shall be in letter form;
- (ii) may or may not be valid in all areas under the jurisdiction of a local authority; and
- (iii) is a one-off issue, where a fee or charge may not be imposed.

PART II

REGULATING BUSINESS ACTIVITIES

General principles and interventions for regulating business

4. (1) Notwithstanding any other law and subject to section *three*, the regulation of business activity shall be governed by the principles and interventions specified under subsections (2) and (3).

(2) Licensing shall be based on the following principles, which shall be taken into account when developing licensing systems or applying and interpreting licensing provisions under any other written law:

(a) licensing shall be for the purpose of regulating business for a clearly defined public policy goal or objective that cannot be better achieved through other means;

(b) a law shall specify clear criteria when an application for a licence, permit, certificate or authorisation may be granted or rejected, or when a licence, permit, certificate or authorisation may be suspended, amended, transferred or revoked, and shall provide a procedure for appeals;

(c) a permit or certificate shall be valid for at least three years, unless it is for a specific short term purpose or the regulatory agency has compelling reasons to reduce this period;

(d) a licence shall be valid throughout the country;

(e) licences shall be valid for unlimited periods, except when periodic review of qualifications and criteria are necessary to fulfill regulatory objectives;

(f) procedures for regulating business activity shall be simplified, to the greatest extent possible, taking into account the sector, the turnover or expected turnover of the business, the number or optimal number of employees of the business and nature and extent of the business;

(g) a fee, levy or charge payable in respect of a licence, permit or certificate shall be minimal, clearly fixed and imposed for the sole purpose of defraying administrative costs of licensing, except for a licence issued for high value or scarce national resources or which is aimed at protecting the environment, public health, safety and security;

- (h) regulatory agencies shall exchange regulatory requirements through the use of a regulatory clearance system, and shall not duplicate information requests on businesses;
- (i) public bodies shall endeavour to use e-governance in licensing and obtain regulatory requirements from another regulatory agency which has already collected those requirements; and
- (j) licensing shall not be continued for more than five years without an evaluation being done of its effectiveness in achieving the public policy goal or objective for which it was intended.

(3) The following interventions apply to licensing and business regulation:

- (a) regulatory agencies shall, at all times, endeavour to use regulatory services centres to regulate business activity;
- (b) regulatory agencies shall, as far as is possible, use a single licensing system for licensing business activity;
- (c) micro, small and medium business enterprises shall be regulated in a manner that encourages growth and graduation from a lower business size to a higher one;
- (d) regulatory requirements for micro, small and medium business enterprises shall be minimised to the greatest extent possible;
- (e) a regulation that imposes the least burden necessary for doing business and that provides the least administrative burden on the regulatory agency shall be preferred; and
- (f) a regulatory agency shall respond to an application for licensing as early as possible but not later than within the prescribed period after the application is lodged and, if no response is given on the last day of the prescribed period, the application shall be deemed to be approved and the licence, permit, certificate or authorisation shall be deemed to have been duly issued.

5. (1) Without prejudice to the principles and interventions set out in section *four*, a public body shall only establish a licensing system to fulfill legitimate regulatory purposes or if it is the most effective and efficient means of protecting a clearly defined risk to—

Conditions
for
imposition
of
licensing

- (i) public health;
- (ii) public safety or national security;
- (iii) environmental protection, conservation and preservation;
- (iv) consumer protection; and
- (v) upholding of standards for goods, food, drugs and services;

(2) A licensing system shall only be established under subsection (1) if it—

- (a) does not unnecessarily burden business enterprises to which it is applied or proposed to apply;
- (b) does not overly add to the administrative cost of the public body or regulatory agency concerned;
- (c) is not overly bureaucratic or cumbersome; and
- (d) has the input of the relevant stakeholders.

Procedure
for
imposition
of new
policy or
law

6. (1) A public body shall only submit to Cabinet for approval a policy or proposed law to regulate business activity if the policy or proposed law has the prior approval of the Business Regulatory Review Agency.

(2) A public body that intends to introduce any policy or proposed law for regulating business activity shall—

(a) give notice, in writing, of that intention to the Business Regulatory Review Agency, at least two months prior to submitting it to Cabinet;

(b) hold public consultations for at least thirty days with—

- (i) persons or proprietors of business enterprises who shall be affected by the proposed regulatory framework;
- (ii) persons or proprietors of business enterprises who shall benefit from the proposed regulatory framework;
- (iii) regulatory agencies and other public officers who will implement the proposed regulatory framework; and
- (iv) all other relevant stakeholders which are not included under subparagraphs (i) to (iii); and

(c) perform a regulatory impact assessment, analysing—

- (i) the problem that is being addressed by the policy or proposed law;
- (ii) why Government action is needed to correct the problem;
- (iii) the objectives of the policy or proposed law;

- (iv) which options, for dealing with the problem, have been considered and why the policy or proposed law is the best approach, including who is affected by the problem and who is likely to be affected by the solution;
- (v) whether the benefits justify the costs, and what are the likely costs for business and consumers including a calculation of new administrative burdens and the impacts on market entry and exit; and
- (vi) how the policy or proposed law will be implemented.

(3) A public body or regulatory agency shall, after consultations are concluded and a regulatory impact assessment is performed, under subsection (2), submit to the Business Regulatory Review Agency, a report on the results of the consultations and the regulatory impact assessment.

7. (1) The Business Regulatory Review Agency shall, on receipt of the report referred to in section *six*, examine the report in order to determine whether the proposed regulatory framework or any measure under that framework is necessary or justified.

Approval of
framework
by Business
Regulatory
Review
Agency

(2) The Business Regulatory Review Agency shall not approve any proposed regulatory framework unless that framework complies with sections *four* and *five*.

(3) The Business Regulatory Review Agency shall, within fourteen days of receipt of the report referred to in section *six*, communicate its decision, in writing, including the reasons for the decision, to the relevant public body.

(4) A public body aggrieved by a decision of the Business Regulatory Review Agency may appeal to the Committee against the decision.

8. (1) There shall be established an electronic registry, which shall be a centralised database and online transaction platform holding information on licences, permits, certificates, authorisations and regulations, including the formalities businesses have to comply with in order to obtain a licence, permit, certificate or authorisation and capable of facilitating the processing of applications online.

E-registry
and
control
numbers

- (2) The electronic registry shall, in particular, contain—
- (a) texts of relevant laws and subsidiary legislation on business regulation and licensing;
 - (b) name or title of the business licence;
 - (c) licence period or validity;
 - (d) licence fees;
 - (e) downloadable application; and
 - (f) contacts of issuing agencies;

- (3) The Committee shall ensure that the e-register is—
- (a) accessible on the internet and is free of charge; and
 - (b) available for inspection and search by proprietors of business enterprises and members of the public, without charge.

(4) The Business Regulatory Review Agency shall be responsible for maintaining the e-registry and shall ensure that the e-registry is updated on a continuous basis.

- (5) The e-registry shall provide—
- (a) positive legal security and certainty by ensuring that only those business regulation licences, permits, certificates and authorisations published in the e-registry, have legal effect, validity and enforceability as far as business activities are concerned; and
 - (b) easy access to exhaustive information about business regulation and licensing.

(6) An Act of Parliament or statutory instrument published in the e-registry shall be assigned a control number by the Business Regulatory Review Agency that shall be displayed with the electronic version of the Act of Parliament or statutory instrument.

(7) Where a law regulating business activity requires the utilisation of a form, a control number issued by the Business Regulatory Review Agency shall be displayed on the electronic version of the form in the e-registry, which form shall be designed so as to capture information and data that can easily be captured into an electronic database.

Regulatory
services
centres and
regulatory
clearance

9. (1) The Patents and Companies Registration Agency shall, in liaison with other regulatory agencies, establish regulatory services centres in the premises of the local authority or such other premises in a Province as is convenient for regulatory clearance and implementation of a single licensing system for businesses in a sector or group of businesses in a sector.