

THE COMPANIES BILL, 2017

MEMORANDUM

The object of this Bill is to—

- (a) promote the development of the economy by encouraging entrepreneurship, enterprise efficiency, flexibility and simplicity in the formation and maintenance of companies;
- (b) provide for the incorporation, categorisation, management and administration of different types of companies;
- (c) provide the procedure for the approval of company names, change of name and conversion of companies;
- (d) provide for shareholders' rights and obligations, the conduct of meetings and the passing of resolutions by shareholders;
- (e) encourage transparency and high standards of corporate governance by providing for the functions and obligations of company secretaries and directors;
- (f) provide for issue of shares, share capital requirements, procedures for alteration and reduction of share capital and disclosure requirements of companies;
- (g) provide for the public issue of shares, the issue and registration of charges and debentures;
- (h) incorporate financial reporting provisions, maintenance of accounting records, and access to financial information of companies;
- (i) provide for amalgamations;
- (j) provide for the registration of foreign companies doing business in Zambia;
- (k) provide for the deregistration of companies;
- (l) repeal and replace the Companies Act, 1994; and
- (m) provide for matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

N.A.B. 10 2017
11th July, 2017

THE COMPANIES BILL, 2017

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

Section

1. Short title
2. Application of Act
3. Interpretation
4. Definition in other laws
5. Superiority of Act

PART II

INCORPORATION AND REGISTRATION OF COMPANIES

6. Types of companies to be incorporated
7. Public companies
8. Private companies
9. Private companies limited by shares
10. Companies limited by guarantee
11. Private unlimited companies
12. Application for incorporation
13. Declaration of compliance
14. Certificate of incorporation and share capital
15. Certificate to be evidence of incorporation
16. Legal status of registered company
17. Contractual effect of incorporation
18. Display of certificate of incorporation
19. Rejection of application for incorporation
20. Pre-incorporation contracts
21. Register of Companies and Register of Beneficial Owners

PART III

CORPORATE CAPACITY AND ADMINISTRATION

22. Capacity, powers and rights of a company
23. Validity of acts
24. Presumption of knowledge
25. Articles of association
26. Effect of articles of association
27. Amendment of articles of association

N.A.B. 10, 2017

-
28. Registered office and change of registered office
 29. Publication of name of company
 30. Records kept at company's registered office
 31. Register of directors and secretaries
 32. Seal of company and execution of documents
 33. Common seal for use abroad
 34. Service of documents on company
 35. Services of documents by company

PART IV

COMPANY NAME AND CHANGE OF NAME

36. Company name to end with PLC or Ltd
37. Application to omit or dispense with " Limited " in name of company limited by guarantee
38. Revocation of approval to dispense with "Limited"
39. Clearance and approval of proposed name
40. Rejection of application to approval of name
41. Reservation of company name
42. Change of name
43. Registrar may direct change of name
44. Document with incorrect name not void
45. Liability where company name incorrectly stated
46. Publication of change of company name prior to public notices
47. Legal effect of change of name

PART V

CONVERSION OF COMPANIES

48. Conversion of private company limited by shares into company limited by guarantee
49. Conversion of private company limited by shares into unlimited company
50. Conversion of company limited by guarantee into company limited by shares or unlimited company
51. Conversion of unlimited company into private limited company
52. Conversion of public company into private company limited by shares
53. Conversion of private company limited by shares into public company
54. Process of conversion
55. Imposition of penalty by Registrar for non-compliance

PART VI**MEETINGS AND RESOLUTIONS**

- 56. Types of meetings
- 57. Annual general meeting
- 58. Business to be transacted at annual general meeting
- 59. Extraordinary general meeting
- 60. Class meetings
- 61. Requisition of general meeting
- 62. Entitlement to receive notice of meetings
- 63. Length of notice for convening meeting
- 64. Meeting by order of Court
- 65. Place of meetings
- 66. Attendance at meetings
- 67. Conduct of meetings and voting
- 68. Chairperson's declaration as to result of vote
- 69. Right to demand poll
- 70. Voting on a poll
- 71. Proxies
- 72. Representation of corporates and unincorporated associations at meetings
- 73. Circulation of members' resolutions and supporting circulars
- 74. Circulation of members' statements
- 75. Refusal to circulate members' statements
- 76. Reference to ordinary, extraordinary, and special resolutions in other documents
- 77. Written resolutions for private companies
- 78. Lodgement of resolutions
- 79. Date of certain resolutions
- 80. Minutes of proceedings of meetings
- 81. Inspection of minute books

PART VII**CORPORATE GOVERNANCE**

- 82. Company secretary
- 83. Responsibilities of company secretary
- 84. Appointment of corporate as company secretary
- 85. Appointment of directors
- 86. Powers and duties of directors
- 87. Limitations on powers of directors
- 88. Delegating powers of board
- 89. Board committees

-
- 90. Number of directors falling below prescribed minimum
 - 91. Residential requirements of directors
 - 92. Qualifications of director
 - 93. Disqualification by court from holding office of director
 - 94. Consent before appointment as director
 - 95. First and subsequent directors
 - 96. Appointment of directors by Court
 - 97. Alternate directors
 - 98. Removal of director from office
 - 99. Vacancy in office of director and the filing up of casual vacancy
 - 100. Notice of change of directorship and particulars
 - 101. Executive director
 - 102. Acts done in dual capacity as director and secretary
 - 103. Loans to directors by company
 - 104. Directors to comply with Act and articles
 - 105. General responsibilities of directors
 - 106. Fiduciary duties of directors
 - 107. Duty to avoid conflict of interest
 - 108. Meaning of 'interest'
 - 109. Duty not to accept third party benefits
 - 110. Disclosure of interest of director
 - 111. Avoidance of transaction in which director has interest
 - 112. Effect of avoiding transaction on *bona fide* purchase
 - 113. Use of information
 - 114. Disclosure of interest in shares issued, acquired or disposed of by director
 - 115. Restrictions on director regarding disposal of shares
 - 116. Director's liability on share dealing
 - 117. Exception for companies dealing in securities
 - 118. Remuneration for directors
 - 119. Approval of other distributions by special resolution
 - 120. Liability of director for breach of duty
 - 121. Validity of decisions by executive officer
 - 122. Liability and indemnity with regard to decisions made *bona fide*

PART VIII

SHAREHOLDERS' RIGHTS AND OBLIGATIONS

- 123. Declaration in respect of beneficial interest in share
- 124. Beneficial ownership of shares