

## Zambia

### EIA profile

**Updated to:** 20 January 2020

#### Overview ESIA procedure

As a first step of the E(S)IA procedure in Zambia, ZEMA takes a screening decision based on a project brief. While for some projects the project brief provides the necessary information, for others a full E(S)IA is required. For those projects a scoping stage follows where the Terms of References for the E(S)IA report are determined. The subsequent impact assessment stage results in the E(S)IA report which is reviewed internally and externally. Thereafter, ZEMA takes a decision on the issuance of an environmental authorization for the project. Compliance monitoring follows.

The main documents that are outputs of the E(S)IA procedure are thus: Environmental Project Brief (Screening), Terms of Reference (Scoping), E(S)IA report, Environmental Authorization licence.

#### Screening

##### Screening process

Screening is required and it is undertaken by ZEMA. The proponent is required to submit an Environmental Project Brief (EPB) based on the list of projects provided under Schedule One and Two contained in the EIA regulations of 1997. Submission is upon payment of review fees prescribed in schedule 5 of the EIA regulation. Upon receiving the EPB, ZEMA requests comments from an authorising agency (the competent authority such as government ministry, local authority under which the project falls). Based on the comments made by the authorising agency, ZEMA either gives an environmental clearance or makes a request for a full E(S)IA. If the project is approved (environmental clearance issued), ZEMA communicates its decision to the approving authority. If a full E(S)IA is required, the decision to submit the full E(S)IA is relayed in writing to the proponent.

##### *Sensitive areas*

There are provisions for sensitive areas in the EIA regulations of 1997. Projects located in or near sensitive areas are listed in the 'others' category of schedule one of the regulation. Additionally, the Zambia Wildlife Authority also has its own E(S)IA guidelines to review developments in protected areas, and the National Heritage Conservation Commission has developed E(S)IA guidelines for developments near heritage sites.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997

Chapman K and B Walmsley (2003). Zambia Country Report. Southern Africa Institute for Environmental Assessment.

#### Contents of the starting document

The starting document is the EPB. It should contain:

- (a) site description;
- (b) objectives, project nature and alternatives;
- (c) main activities during site preparation, construction and implementation;
- (d) materials to be used;
- (e) products and by-products of project;
- (f) noise level, heat and radioactive emissions, from normal and emergency operations;
- (g) expected socio-economic impacts, number of people that the project will resettle or employ, directly, during construction and operation etc;
- (h) expected environmental impact;
- (i) expected effects on bio-diversity, natural lands and geographical resources; and
- (j) description of mitigation measures and monitoring programmes to be implemented.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997

### **Timeline Screening**

Within 40 days of receiving the project brief, ZEMA is required to communicate the screening decision.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997

### **Scoping**

#### **Scoping process**

Scoping is a mandatory requirement. Scoping involves the development of a Terms of Reference. The proponent is required to organize a public consultation process and involve government agencies, local authorities, non governmental organisations and community based organisations as well as other interested and affected parties to help determine the scope of E(S)IA. It is a requirement to consider issues contained in the third schedule of the EIA regulation (1997). The draft ToR prepared is reviewed by ZEMA for acceptability. If unacceptable, the developer with the help of ZEMA prepares the final ToR for use in the E(S)IA drafting and review.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997

#### **Contents of the scoping document**

A general list of issues to be considered in the ToR is given under the third schedule of the EIA regulation of 1997. These include:

- (a) Ecological considerations (biodiversity and sustainability);
- (b) socio-ecological and cultural considerations;
- (c) landscape;
- (d) water; and
- (e) air quality.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

### **Timeline scoping**

5 days

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

## **Assessment**

### **Assessment process**

Once the ToR have been approved, the assessment process begins with the approval, by ZEMA, of the names and qualification of persons entrusted to do the impact study. A scoping to identify the main issues follows. The approved team undertakes a baseline study after which impacts are predicted and ranked in order of importance. The team then seeks the views of the public and considers them, identifies mitigation measures and compares alternatives based on economic, socio-cultural and environmental gains and costs.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

### **Contents of the EIA report**

In addition to an executive summary, stating the main findings and recommendations (signed by every individual person involved in its preparation), an E(S)IA is required to contain a description of:

- (a) the project;
- (b) the proposed site and reasons for rejecting alternative sites;
- (c) the raw material inputs and their potential environmental effects;
- (d) the technology and processes to be used;
- (e) the products and by-products of the project;
- (f) the environmental effects of project, and reasonable alternatives, including the direct, indirect cumulative, short-term and long-term effects;
- (g) the socioeconomic impacts of the project such as resettlement of the affected people;

(h) an impact management plan; and

(i) an indication of whether the environment of any neighbouring state is likely to be affected.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 11).

### Accreditation of consultants

There is no formal registration or certification system for environmental assessment practitioners in Zambia. However, the names of the consultants have to be included in the Terms of Reference for the E(S)IA and submitted to ZEMA for approval. There are no legal requirements for environmental consultants to be independent of the proponent.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 9) Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

## Review

### Review process

Review is both internal by a ZEMA committee and external in which case comments on the E(S)IA report are sought from stakeholders including; relevant ministries, local government units, para-statal, NGOs, CBOs, interested and affected parties.

Review begins when the proponent submits the completed E(S)IA report to ZEMA. ZEMA then transmits a single copy of the report to the authorising agency for comments. Additionally, the ZEMA distributes copies of the report to other stakeholders for their comments. Media such as newspapers and radio may be used to inform these stakeholders of the possibilities of accessing and making comments on the E(S)IA report. ZEMA considers the EIS and all comments in taking a final decision. On the basis of this information ZEMA may decide to hold a public hearing. ZEMA also uses E(S)IA sector guidelines as review criteria.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 14).

### Review expertise

External parties from various disciplines as determined by ZEMA check the E(S)IA report. The law provides for opportunities for participation of the affected public and other stakeholders during public hearing. During such meetings, ZEMA may request the presence of a relevant external person (such as experts) to make comments or clarify some contentious aspects. However, the extent of impartiality is not clear.

### Timeline Review

65 days

source

ECZ (2005) What you need to know about the Environmental Protection and Pollution Control Act.

## **Decision making**

### **Integration of ESIA into decision-making**

On the basis of the EIS, the public hearing report (if applicable) and the review process, ZEMA decides if an Environmental Authorization is granted for a project. An Environmental Authorization has to be obtained from ZEMA before a developer can commence with activities that are mentioned in Schedule One and Two of the EIA regulations of 1997. No licence for the execution of a project that is subject to E(S)IA can be granted unless ZEMA has approved it.

ZEMA can attach conditions to the Appendix of any authorisation licence, permit, or permission issued to the developer based on the impact management plan as described in the EIS. The conditions must contain a work programme with a schedule for the implementation of the conditions.

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

### **Decision justification**

Decisions are justified and given in form of a decision letter. The conditions for approval or rejection are also included in the writing.

The law provides for decision of the ZEMA to be justified and communicated to all parties concerned including the affected public in writing.

source

ECZ (2009) What you need to know about the Environmental Protection and Pollution Control Act.

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 23).

### **Timeline decision-making**

30 days if there is public hearing and if not, 20 days.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 23).

### **Possibilities for appeal**

Any person who is not satisfied with ZEMA's decision regarding the Environmental Authorization can make an appeal. Appeals can be made to the minister. Appeals against the decision of the minister can be made to the high court.

source

## **Follow-up**

### **Compliance monitoring**

Monitoring of the impacts of the project after commencement is required under the EIA regulation 1997 and the EMA 2011. Monitoring is based on conditions of approval and is addressed in the E(S)IA report in which case a monitoring plan is required. The proponent is also required to issue an impact management plan as part of the E(S)IA report. Additionally, the proponent has to conduct an environmental audit of the project within a period of between 12-36 months after the completion of the project. Furthermore, ZEMA may also ask the proponent to undertake an environmental audit (which mostly focuses on the compliance with the conditions of the authorization) at any time. In this case an audit report is required on the basis of which ZEMA can require further actions.

The EMA 2011 requires the proponent, besides conducting environmental audits, to keep accurate records and to submit annual report to ZEMA which describe the extent to which the project conforms with the E(S)IA.

The EIA regulations of 1997 as well as the EMA of 2011 also provide for external monitoring by an inspector. The inspector is expected to investigate the implementation of any conditions or measures taken to limit adverse impacts.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 28)  
Environmental Management Act 2011, Section 101.

### **Non-compliance penalties**

According to the EIA regulations of 1997, suspension and/ or cancellation of E(S)IA approval/ licence is possible. It is an offence not to; (i) prepare and submit a project brief or E(S)IA report to the ZEMA where required; (ii) fraudulently make a false statement in a project brief or E(S)IA report or alter an E(S)IA report (iii) fail to abide by the conditions attached to the E(S)IA licence (iv) make a false statement in an environmental audit. Any such offender is liable, upon conviction, to a fine not exceeding one hundred thousand Kwacha or to imprisonment for a period not exceeding three years or to both.

The EMA of 2011 gives provisions which deviate from the ones in the EIA regulations of 1997. It states that a person who (a) fails to undertake an EIA, (b) fails to prepare a project brief; (c) makes a false statement on the EIA report, is liable to a fine not exceeding seven hundred thousand penalty units or imprisonment for a period not exceeding seven years.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 (regulation 34)  
Environmental Management Act of 2011, Part XI.

## **Stakeholder engagement**

### **Public participation requirements for ESIA process stages**

There are provisions for public participation under the EIA regulation of 1997. The public can participate during scoping, E(S)IA report preparation, and in reviewing the contents of the E(S)IA report. It is not formally required in the screening phase when the project brief is reviewed. However, it is still advised for larger and/or contentious projects.

Moreover, the EMA of 2011 provides for a public review of documents and for public hearings on any document under public review.

The EIA regulations of 1997 determine that the proponent shall take all measures necessary to seek the opinion of the affected people before the EIS is submitted.

During the review process, ZEMA may organise or require the proponent to organise public hearings in the locality of the proposed area if there are unresolved contentious issues. Any person may attend a public hearing and make presentations. ZEMA determines the procedures for the presentations at the public hearings. ZEMA appoints a chair of the public hearing who has to write a report on of its outcome and submit it to ZEMA afterwards.

Comments are made in written form. Comments during the EIA report review stage can be sent to ZEMA (previously ECZ) directly while those in public hearings are recorded by an appointed person of ZEMA who at the end of the public hearing prepares a report for ZEMA.

The EIS has to contain minutes of all public meeting that were held, a list of registered interested and affected parties and the main issues that have been raised during consultation. It has to be mentioned where each main concern has been addressed in the EIS. Moreover, under the EIA regulations of 1997, the comments made by interested and affected parties and the public hearing report (if applicable) shall serve as basic information for the decision on the EIS approval.

According to the EIA regulation, the public have to pay a certain for accessing any public document.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

Regulation 36

### **Timeline for public comments**

The public has 20 days to comment on the EIS.

source

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

### **Access to information**

According to the EIA guidelines of 1997 any project brief, environmental impact statement, terms of reference, public comments, report of the person presiding at a public hearing, decision letter or any other information submitted to ZEMA are public documents. The documents are registered under ZEMA who upon request may avail this information to the public.

Moreover, the EMA determines that applications for licences and a list of the licences shall be kept at the environmental information registry, which is accessible for the public.

Information for ToR is disseminated in an E(S)IA forum convened by the proponent. During draft E(S)IA report review, the proponent is required to publicize the intended project in the mass media, in

comprehensible language, and hold meetings with the affected communities to present information and obtain views. Additionally, ZEMA after receiving the final E(S)IA report is required to place copies of it in public buildings near the proposed project.

If a public hearing is required, a notice thereof shall be published three times a week for two consecutive weeks in the national newspaper. This has to be done at least 15 days prior to the public hearing.

source

ECZ (2005) What you need to know about the Environmental Protection and Pollution Control Act.

## **ESIA practice**

### **Central ESIA database**

The EMA (2011) promulgates that an environmental information registry shall be created and maintained. Among other documents, the applications for environmental licences and the a list of each licence shall be kept there. These documents shall be accessible for public viewing.

### **Professional bodies**

- [Zambia Network for Environmental Educators and Practitioners \(ZNEEP\)](#): The overall principle of ZANEEP is to promote, create and contribute to quality environmental education practices and awareness to enhance protection, conservation and sustainable use of the environment.
- [Impact Assessment Association of Zambia \(IAAZ\)](#)

## **Background information**

### **History of ESIA**

The Environmental Protection and Pollution Control Act (EPPCA) of 1990 created the legal basis for EIA. Specific regulations to outline the process and procedure for EIA were adopted in 1997. In 2017, ZEMA made several amendments to the EIA regulations and submitted the revised regulation to the Ministry of Justice. These are still to be approved by the Ministry of Justice. Until that time, the EIA regulations of 1997 remain in force.

source

Chapman K and B Walmsley (2003). Zambia Country Report. Southern Africa Institute for Environmental Assessment Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

## **Legal framework**

### **Enabling law**

The Environmental Management Act 2011. The EMA was amended in 2012 and in 2013.

source



- Links to [Environmental Management Acts](#) on the website of ZEMA

### **National detailed regulation**

Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations of 1997.

source

- Link to [Environmental Regulations](#) on the website of ZEMA

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

### **Guidelines**

A general guideline for E(S)IA is provided as Fourth Schedule of the EIA regulation, 1997.

On the sector level, guidelines exist for the energy, fisheries, forestry sectors and for social impact assessment. Guidelines on mining are under development. Some authorizing agencies have also developed their own E(S)IA guidelines. For instance the Zambia Wildlife Authority formulated its own E(S)IA guidelines to review developments in protected areas, and the National Heritage Conservation Commission created E(S)IA guidelines for developments near heritage sites. The Road Development Agency developed a procedures manual for environmental and social management in the roads sector which includes guidance on E(S)IAs.

source

Chapman K and B Walmsley (2003). Zambia Country Report. Southern Africa Institute for Environmental Assessment Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

### **Scope of application**

All activities (public, privates, national foreign) as prescribed under schedule one and two of the EIA regulation.

source

ECZ (2005) What you need to know about the Environmental Protection and Pollution Control Act.

## **Institutional setting**

### **Central ESIA authority**

The Zambian Environmental Management Agency (ZEMA) is the central authority for E(S)IA in Zambia. It is a statutory body set up under the Ministry of Tourism, Environment and Natural Resources. It has an E(S)IA Unit that operates under its Pollution Control Inspectorate. ZEMA is the new name for the previous Environmental Council of Zambia (ECZ) as the Environmental Management Act (EMA), No 12 of 2011 determines.

According to the EMA, ZEMA is the main environmental institution in Zambia and the lead agency for matters on E(S)IA. The Agency is empowered by EMA to identify projects, plans and policies that are subject to E(S)IA and to review E(S)IA's and SEA's. It is furthermore expected that new regulations

under the EMA will make ZEMA responsible for facilitating the E(S)IA process, as was the task of the Environmental Council of Zambia before. ZEMA further provides the following services on E(S)IA:

- Reviewing project briefs, ToR, Environmental Impact Statement (EIS) and decision-making
- Disclosing the EIS to the public through the media
- Holding public meetings to discuss the EIS
- Monitoring
- Compliance audits
- Administering E(S)IA regulations

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

#### **Other key (governmental) parties**

Besides ZEMA, a number of government agencies and sector ministries are involved in environmental management. Some of them have their own environmental unit, e.g. the Road Development Agency or the Ministry of Mines and Minerals Development. Typically, project briefs and E(S)IA reports are submitted to these authorising agencies first. They then comment on them before they forward it to ZEMA.

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

#### **(De)centralisation of mandates**

Decision making is decentralised vertically and horizontally. The EIA regulations of 1997 stipulate that the ECZ (now ZEMA) may delegate any of its functions to the Director or any other officer of the ECZ, a local authority or any other relevant agency. Furthermore, Government institutions and agencies with environmental units in place can support ZEMA during the screening and review process. Currently, ZEMA has three regional offices in Ndola, Livingstone, Chirundu and Chipata districts with delegated ESIA mandates.

source

Walmsley B. & Patel S., 2012. SADC Environmental Legislation Handbook 2012. Development Bank of Southern Africa, Noordhoek, South Africa.

#### **Payment system**

The proponent is required to pay a fee for both the project brief and the full E(S)IA. The fees are prescribed under the fifth schedule to the E(S)IA regulations of 1997. They are paid to ZEMA.

source

ECZ (2005) What you need to know about the Environmental Protection and Pollution Control Act.

**Contact**

Zambia Environmental Management Authority (ZEMA)

Corner of Church and Suez Roads

P.O Box 35131, Lusaka

Website: [www.zema.org.zm](http://www.zema.org.zm)

E-mail: [info@zema.org.zm](mailto:info@zema.org.zm) / [ecz@necz.org.zm](mailto:ecz@necz.org.zm)

Tel: +260 211 254023 / 59

Fax: +260 211 254164

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