Green Economy and Climate Change Act Alert

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The Green Economy and Climate Change Act, 2024: Risks and Opportunities for Businesses in Zambia

Introduction

On 20th December 2024, the Green Economy and Climate Change Act, 2024 (Act No. 18 of 2024) was assented into Law by His Excellency, the Republican President Mr. Hakainde Hichilema. The Act is a landmark legislation aimed at promoting sustainable development and addressing climate change in Zambia. The Act is yet to be operationalized through a Statutory Instrument by the Minister of Green Economy and Environment and this article outlines the key provisions of the Act and explores the related risks and opportunities for businesses.

The Act's coverage is broad as it aims to address various aspects such as climate change adaptation, mitigation, and the establishment of a green economy and climate change fund. A key area of focus of the Act is the development of Carbon Markets.

Key provisions and related Risks and Opportunities

1. **Responsibilities of the Department of Green Economy and Climate Change to administer the Act (Sections 4-5)**

   a. Key provisions:

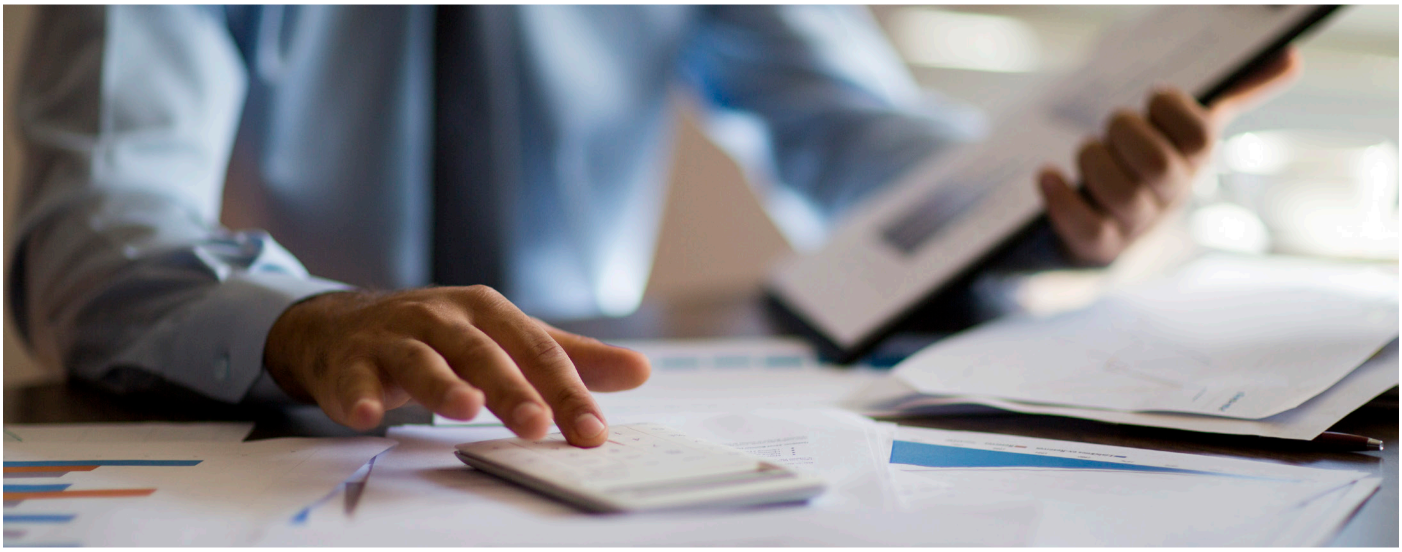
   The Department of Green Economy and Climate Change, in the Ministry of Green Economy and Environment, is responsible for the administration of this Act.

   The functions of the Department are to do all things that are necessary to achieve low carbon, climate resilience and a green economy.

   b. Risks:

   Regulatory compliance: Businesses will need to interact with a new regulatory body, which may increase administrative burdens and costs to ensure compliance with new guidelines and standards.

   Further, the Act specifies that "Persons" and "Sectors", not just businesses will need to comply with the emission standards set by the Minister through statutory instruments (Section 16). Non-compliance can result in substantial fines or imprisonment. All persons and identified sectors will need to capture and report on their greenhouse gas emissions.



c. Opportunities:

i. **Technical support:** Businesses can access technical support and guidance from the department to help implement green initiatives effectively.

ii. **Data:** For businesses, this is an opportunity to embrace their own data transformation journey.

iii. **Partnerships:** There is potential for businesses to partner with the department on pilot projects and innovations in green technologies, which can lead to new business opportunities and advancements.

2. Establishment of Green Economy and Climate Change Council and Technical Committee (Sections 6-9)

a. Key provisions:

i. **Formation of a council and technical committee to guide policy and approve projects.** The Council established under the Green Economy and Climate Change Act, 2024, will be chaired by the Vice-President and vice-chaired by the Minister of Green Economy and Climate Change. It will include ministers from key sectors such as finance, agriculture, energy, lands, water development, justice, mines, wildlife, fisheries, technology, and local government.

The Secretary to the Cabinet will serve as an ex officio member. The Technical Committee shall advise the Council on matters relating to green economy and climate change as provided under the Act.

b. Risks:

i. **Policy adherence:** Businesses may need to adhere to new policies and decisions made by the Council and Technical Committee, which could require changes in business practices.

ii. **Approval processes:** The process of getting project approvals may be complex and time-consuming, potentially causing delays.

iii. **Lack of transparency:** The process might be perceived as lacking in transparency if the criterion for project selection is not laid out plainly and in advance of the decisions of the Technical Committee or Director.

iv. **Inefficient and bureaucratic processes:** There are many iterative steps between the Project Developer and various levels of the Department and payments of fees along the way for the Project Developer, leading to the prospective issuance of the carbon credits certificate of authorisation.

The authority on what is acceptable is the Ministry's as well as the iterative steps with the Director who plays an extremely pivotal role in enabling this journey. The process requires a well-run machine with profound levels of integrity between the Parties throughout the process and a need for transparency around decision making and provision of clear timely guidance.

As with most bureaucratic processes, the incorporation of all the aforementioned values will need to be evaluated in practice. There is a risk that the process of applying and obtaining a certificate of authorisation could be subject to inefficiencies and bureaucracy.

c. Opportunities:

i. **Policy influence:** Businesses have the opportunity to participate in stakeholder consultations and influence policy decisions, ensuring that their interests are considered.

ii. **Collaboration:** Collaboration with the Council and Technical Committee on large-scale green economy projects can lead to significant business growth and innovation.

iii. **Continuous improvement:** As proposals for carbon projects are submitted, the Ministry must continuously ensure ongoing learning and improvement within its operations. This knowledge should be accessible to Project Developers. This process is distinct from merely issuing feedback; it will involve enhancing processes and sharing insights. While the Ministry will capture most of the learning, it is equally important for Project Developers to provide valuable lessons to the Ministry objectively and without fear of repercussions. Therefore, an intermediary may be better suited to manage these learning outcomes.

3. Adaptation and Mitigation Plans (Sections 10-13)

a. Key provisions: Requirement to develop National Adaptation and Mitigation Plans which will be reviewed every five years. A key provision in this section of the Act is the development of a sector emission reduction plan.

b. Risks:

i. **Compliance costs:** Developing and implementing sector-specific emission reduction plans may incur significant costs for businesses.

ii. **Regular updates:** Businesses will need to regularly review and update their practices to meet adaptation and mitigation targets, which can be resource intensive.

c. Opportunities:

i. **Sustainability leadership:** By developing robust adaptation and mitigation strategies, businesses can position themselves as leaders in sustainability, enhancing their reputation and market position.

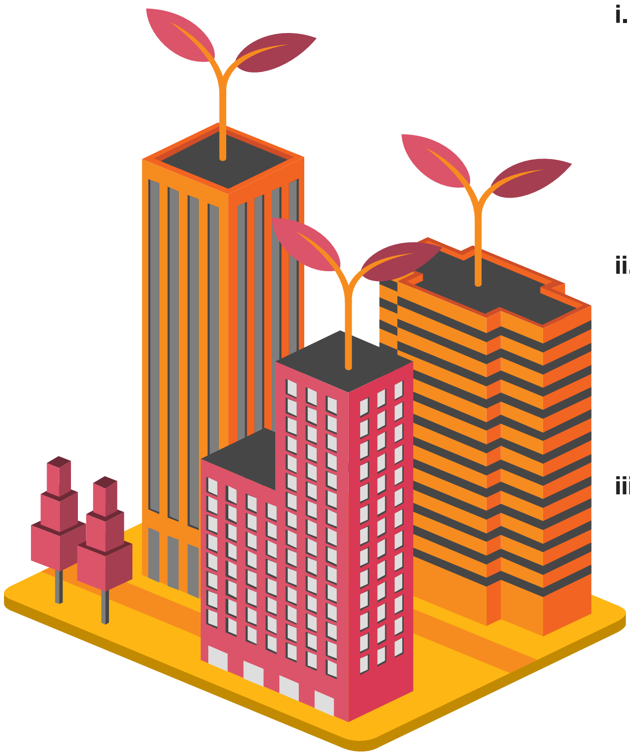
ii. **Funding support:** There is potential for businesses to receive funding and support for projects that align with national adaptation and mitigation plans, reducing financial burdens.

4. Greenhouse Gas (GHG) Emissions Management (Sections 14-18)

a. Key provisions:

Introduction of a Greenhouse Gas Inventory Management System and emission standards. According to the Act, the following sectors are required to provide data and information to the Department for the Greenhouse Gas Inventory Management System: forestry, energy, agriculture, livestock, industrial processes and product use, waste, and any other sector determined by the Minister of Green Economy and Environment.

This section of the Act also requires anyone who emits greenhouse gases to keep and maintain an inventory of greenhouse gas-related information in a prescribed manner and form.



b. Risks:

i. **Monitoring costs:** Businesses, particularly those in the sectors noted above, will need to invest in systems to monitor, report, and verify greenhouse gas emissions, which can be costly.

ii. **Penalties:** Non-compliance with the Act's provisions can result in penalties, legal actions, and reputational damage.

iii. **Reliability of GHG data and ability to report timeously and consistently:** The GHG data management system will need to be tried and tested and then continuously adaptable to the ever-changing regulatory landscape and international standards around sustainability reporting. Additionally, the requirement to report GHG data in this manner may impose a financial burden on all stakeholders to implement systems capable of capturing the necessary information.

iv. **A digital transformation requiring a transitional period:** The reporting requirement around this new Act must be, as much as possible, digital and factor in the user experience into its design and implementation.

c. Opportunities:

i. **Transparency:** Compliance with the Greenhouse Gas Inventory Management System can enhance transparency and credibility, attracting environmentally conscious investors and stakeholders.

ii. **Recognition:** Businesses that successfully reduce emissions and improve environmental performance can gain recognition and competitive advantage in the market.

iii. **Private sector participation and agile implementation:** The private sector has the opportunity to participate in the design and implementation of a user-centered GHG inventory management system.

5. **Carbon Stock Management and Carbon Markets (Sections 19-28)**

a. Key provisions:

Includes regulations for carbon credit generation and trading. According to this section of the Act, the ownership of carbon is vested in the President, on behalf of the Republic, until transferred or assigned under this Act or under any other written law and a person shall not trade in carbon without a certificate of authorisation issued under this Act.

b. Risks:

i. **Regulatory compliance:** Businesses will need to obtain authorisation and registration to participate in carbon credit generation and trading, which can be a complex process.

ii. **Carbon incentives for local enterprises:** Apart from aiming to benefit the communities where carbon sequestration occurs, the Act falls short in providing sufficient incentives for local private sector participation.

c. Opportunities:

i. **Revenue generation:** Businesses can generate revenue through carbon credit trading and participation in carbon markets, creating new income streams.

ii. **Offset projects:** Investing in carbon offset projects can help businesses meet emission reduction targets and generate additional income, while also contributing to environmental sustainability.

“ Establishment of a fund to finance climate change actions and support research.

6. **Establishment of the Green Economy and Climate Change Fund (Sections 34-37)**

a. Key provisions:

Establishment of a fund to finance climate change actions and support research. The Fund will consist of monies that may come from parliamentary appropriations, grants and donations (with Ministerial approval), levies from carbon credit transactions, funds vested in or accruing to the Fund, and payments under any other written law. The Fund may be used for financing climate change projects, maintaining the Integrated Measuring Reporting and Verification System, capacity development, research and data collection, providing grants and loans for climate change research and innovation, and other matters related to promoting the Green Economy and Climate Change.

b. Risks:

i. **Competitive funding:** Businesses may face competition when applying for funding, and not all projects may receive financial support.

ii. **Accountability:** Funded projects will have accountability and reporting requirements, which can add to administrative burdens.

c. Opportunities:

i. **Financial support:** Access to financial support for green projects, research, and capacity development can help businesses implement sustainable practices without bearing the full financial burden.

ii. **Innovation:** The establishment of the Fund will encourage businesses to innovate and develop new technologies and practices that support low-carbon and climate-resilient development.

7. **General provisions (Sections 38-47)**

a. Key provisions:

Guidelines for appeals, climate change education, incentives, and penalties for non-compliance. The ministry responsible for education will integrate climate change education and research into the national curriculum in consultation with the Director. Additionally, the Minister of Finance may provide incentives for those implementing adaptation and mitigation measures related to the Act.

b. Risks:

   i. Penalties: The Act includes various penalties to be levied for non-compliance with key provisions of the Act. A general penalty also applies for any person who commits an offence under this Act for which no penalty has been provided is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.
   ii. Educational integration: Persons and businesses will need to integrate climate change education and awareness into their operations, which may require additional resources.
   iii. Incentives: There are insufficient incentives for businesses to benefit from. Additionally, more efforts should be directed towards promoting and encouraging the right behaviors rather than imposing penalties.

c. Opportunities:

   i. Incentives: Businesses that actively engage in climate action and sustainability initiatives can take advantage of incentives that may be availed by the Minister of Finance as recommended in the Act.
   ii. Reputation: Adhering to the Act's provisions can enhance corporate reputation and market competitiveness, attracting customers and investors who value sustainability.

Conclusion

The Green Economy and Climate Change Act, 2024, presents both risks and opportunities for people and businesses alike in Zambia. By understanding and mitigating the risks while leveraging the opportunities, businesses can contribute to the country's sustainable development goals and enhance their own resilience and competitiveness.

The Act is a welcome introduction to our regulatory landscape. However, its implementation will need sound governance, transparency, integrity of action and decision-making. Its efficacy remains to be demonstrated before Zambians' can attest to the benefits and contributions to global GHG emission reduction or avoidance.

The Act is meant to drive impact and give more benefits to Zambians however it could also be perceived to create a higher barrier of entry for local Project Developers. Whilst the government needs to enable the right regulatory environment, it is important that the private sector plays a significant role in governance, systems design/implementation and reporting. There is more work to be done to innovate around incentives that will attract various stakeholders to participate in climate change adaptation and mitigation activities.

We look forward to the various statutory instruments that will be issued to operationalize the Act.

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Please feel free to reach out to your usual PwC contact or any of our experts listed herein should you wish to discuss this or any matter.

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