GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 48 OF 2021

**The Environmental Management Act**

(Act No. 12 of 2011)

# The Environmental Management (Strategic Environmental Assessment) Regulations, 2021

ARRANGEMENT OF REGULATIONS

*Regulation*


1. Title
2. Interpretation
3. Application
4. Objectives of strategic environmental assessment
5. Notification and screening for strategic environmental assessment
6. Requirement for strategic environmental assessment
7. Strategic environmental assessment
8. Constitution of strategic environmental assessment team
9. Public consultation procedure
10. Validation
11. Preparation and submission of strategic environmental assessment report
12. Consultation with neighbouring countries
13. Decision of Agency
14. Transfer, amendment and replacement of notice of decision
15. Monitoring and evaluation of policy, plan or programme
16. Adoption of policy, pln or programme
17. Register
18. Public documents

19. Guidelines
20. Fees
21. Policies, plans or Programmes authorised prior to commencement of Regulations

SCHEDULES

IN EXERCISE of the powers contained in section 30 of the Environmental Management Act, 2011, and in consultation with the Agency, the following Regulations are made:

Title

1. These Regulations may be cited as the Environmental Management (Strategic Environmental Assessment) Regulations, 2021.

Interpretation

2. In these Regulations unless the context otherwise requires—

"consultation" means the process of formally discussing with the public and stakeholders in the development and review of a policy, plan or programme, and the undertaking of a strategic environmental assessment;

"consultation body" in relation to a strategic environmental assessment means a—

*(a)* relevant sector ministry;

*(b)* relevant Government agency or department;

*(c)* local government authority;

*(d)* traditional authority;

*(e)* relevant civil society and private sector;

*(f)* co operating partner; and

*(g)* academia and research institution;

"draft policy, plan or programme" means a preliminary version of a proposed policy, plan or programme outlining the key elements of a policy, plan or programme;

"environmental assessment" means a systematic examination of a policy, plan, programme or project and includes the use of a tool such as environmental impact assessment and strategic environmental assessment, sustainability assessment and risk assessment;

"mitigation measures" includes engineering works, technological improvements, management measures and other means of preventing, ameliorating or compensating for an adverse environmental impact and loss suffered or likely to be suffered by an individual and a community and for enhancing benefits of a policy, plan or programme;

"natural resources" includes resources of air, land, minerals, water, animals, plants and their aesthetic qualities;

"reasonable alternatives" means alternatives that take into consideration the nature, objectives, scope and geographical extent of a policy, plan or programme and provides a clear framework for mitigation of environmental impacts that may arise from the implementation of a policy, plan or programme;

"register" means the register kept and maintained under regulation 17;

"screening" means a decision making process to determine whether or not a policy, plan or programme requires a strategic environmental assessment;

"scoping" means the determination of the spatial and temporal boundaries and key thematic issues to be addressed in a strategic environmental assessment;

"strategic environmental assessment" has the meaning assigned to the words in the Act;

"strategic environmental assessment statement" means a statement summarising —

*(a)* how environmental and socio economic considerations have been integrated into a policy, plan or programme;

*(b)* the opinions of the public, civil society and designated authorities;

*(c)* the results of transboundary consultations that have been taken into account; and

*(d)* the reasons for choosing a policy, plan or programme as adopted taking into consideration other reasonable alternatives; and

"zone of influence" means the scope over which a policy, plan or programme would have an environmental impact.

Application

3. These Regulations apply to a policy, plan or programme with a possible adverse effect on the environmental management or sustainable management and utilisation of natural resources.

Objectives of strategic environmental assessment

4. The objectives of a strategic environmental assessment conducted in accordance with the Act and these Regulations are to—

*(a)* prioritise and integrate environmental considerations in decision making, development and implementation of a policy, plan or programme;

*(b)* contribute to sound decision making that takes into account environmental sustainability;

*(c)* create an enabling environment for conducting a project environmental impact assessment;

*(d)* establish a mechanism for evaluating the inter linkages of environmental considerations with economic and social aspects relating to a policy, plan or programme;

*(e)* strengthen participatory approaches to enable the public and stakeholders participate in the preparation of a policy, plan, programme or strategic environmental assessment report;

*(f)* delineate the zone of influence of a policy, plan or programme;

*(g)* propose strategic measures to mitigate environmental impacts and enhance opportunities associated with a policy, plan or programme;

*(h)* ensure that a policy, plan or programme proposal is compatible with sustainable environmental planning and management;

*(i)* recognise and evaluate transboundary environmental impact of multi-sectorial developments over specified time and broader geographical scale;

*(j)* contribute to the establishment of contexts and baselines for a future environmental assessment;

*(k)* ensure consistency and coherence, in the development and implementation of a policy, plan or programme; and

*(l)* promote sustainable development.

Notification and screening for strategic environmental assessment

5. (1) A proponent who intends to develop a policy, plan or programme that could have an adverse effect on environmental management or on sustainable management and utilisation of natural resources shall notify the Agency for purposes of screening that policy, plan or programme.

(2) A notice under subregulation (1) shall be accompanied by a draft policy, plan or programme which shall indicate the—

*(a)* nature of a policy, plan or programme;

*(b)* impact of the policy plan or programme on the management, conservation and enhancement of the environment or sustainable management and utilisation of natural resources; and

*(c)* social, economic and health and cultural aspects of the policy, plan or programme.

(3) The Agency shall, within ten days of receipt of the notice under subregulation (1), review a draft policy, plan or programme, taking into consideration the criteria set out in the First Schedule, and determine whether or not the policy, plan or programme is likely to have a significant impact on the environment and natural resources.

(4) The Agency shall, where the Agency determines that a policy, plan or programme is likely to have a significant impact on the environment and natural resources, require a proponent to undertake a strategic environmental assessment and submit a strategic environmental assessment report to the Agency in accordance with the Act and these Regulations.

(5) The Agency shall not object to the implementation of a policy, plan or programme, where the Agency determines that a policy, plan or programme is unlikely to have a significant impact on the environment and natural resources, and inform a proponent of its decision.

Requirement for strategic environmental assessment

6. (1) A proponent shall, for the purposes of a strategic environmental assessment—

*(a)* submit to the Agency for approval the terms of reference for a strategic environmental assessment prepared in the Second Schedule;

*(b)* commence a strategic environmental assessment process at the beginning of the preparation of a policy, plan or programme;

*(c)* comply with the guidelines issued by the Agency when conducting a strategic environmental assessment;

*(d)* conduct public consultation involving Government agencies, local authorities, non governmental organisations, community based organisations and people who may have an interest in, or be affected, by, a policy, plan or programme; and

*(e)* consult the relevant stakeholder and prepare a scoping report in order to determine and establish the spatial and temporal boundaries and key issues to be addressed in a strategic environmental assessment.

(2) A proponent shall prepare the terms of reference to the Agency which shall be accompanied by a scoping report, a list of the proposed experts who shall conduct the strategic environmental assessment and the qualifications of the proposed experts.

(3) The Agency shall, within ten days of receipt of the terms of reference, approve or reject the terms of reference.

(4) The Agency shall, where it rejects the terms of reference, notify the proponent stating the reasons for the rejection.

(5) The Agency may propose amendments to the terms of reference submitted under subregulation (1) *(a)* and notify the proponent of the proposals thereof.

(6) A proponent shall, where the Agency proposes an amendment under subregulation (6), prepare a revised terms of reference within the period specified by the Agency.

Strategic environmental assessment

7. A proponent shall, where the Agency approves the terms of reference under regulation 6, conduct a strategic environmental assessment in accordance with the criteria set out in the Third Schedule.

Constitution of strategic environmental assessment team

8. (1) A proponent shall consult a strategic environmental assessment team for the purpose of considering a strategic environmental assessment which that proponent intends to submit to the Agency.

(2) A strategic environmental assessment team shall have the expertise and competence as set out in the Fourth Schedule.

Public consultation procedure

9. (1) A proponent shall, on completion of conducting a strategic environmental assessment, consult the public on the findings of a strategic environmental assessment for purposes of receiving comments by —

*(a)* affixing copies of a strategic environmental assessment findings, in a conspicuous place; and

*(b)* publishing the findings of a strategic environmental assessment report in a newspaper of general circulation in the Republic and on an electronic platform.

(2) A person who intends to comment on the findings of a strategic environmental assessment under subregulation (1) shall submit comments to a proponent, within thirty days of the date of the affixing or publishing the findings of a strategic environmental assessment.

(3) A proponent shall amend a strategic environmental assessment report taking into account the comments received under subregulation (2).

Validation

10. (1) A proponent shall cause to be held a validation meeting for purposes of validating the matters that were raised during consultations under regulations 6 and 9.

(2) A proponent shall ensure that stakeholders consulted under regulations 6 and 9 and are invited to participate in the validation meeting.

Preparation and submission of strategic environmental assessment report

11. (1) A proponent shall after the consultation under regulation 9 and the validation under regulation 10, prepare and submit to the Agency a draft strategic environmental assessment report containing information stipulated under section 23 (3) of the Act and additional informational set out in the Fourth Schedule.

(2) The report under subregulation (1) shall clearly identify, describe and evaluate the —

*(a)* likely risks and opportunities on the —

(i) environment;

(ii) natural resources;

(iii) health; and

(iv) social and economic effect of the culture of the community in which the policy, plan or programme is to implemented;

*(b)* alternatives or strategic options to the policy, plan or programme, taking into account the objectives and the scope of the policy, plan or programme;

*(c)* current information and best available methods of assessment of environmental matters;

*(d)* contents of, and level of detail in the policy, plan or programme;

*(e)* stage at which the policy, plan or programme is in the decision making process;

*(f)* extent to which duplication or inconsistencies would be avoided in the policy, plan or programme in relation to other policies, plans or programmes;

*(g)* legal implications on other relevant regulatory and organisational frameworks; and

*(h)* public interest.

(3) The Agency shall, within twenty-one days of receipt of the report under subregulation (1), review the report and provide its comments on the report and notify a proponent of its comments thereof.

(4) The Agency may, where the review of the report requires more time than what is provided for under subregulation (3), extend the period to not more than twenty-one days.

(5) A proponent shall incorporate the comments made by the Agency under subregulation (3) and submit to the Agency the final strategic environmental assessment report for confirmation.

(6) The Agency shall, where the Agency confirms a strategic environmental assessment report, notify a proponent of the Agency's decision and request a proponent to submit, on payment of a fee set out in the Sixth Schedule—

*(a)* an electronic copy and twelve hard copies of a final strategic environmental assessment report;

*(b)* a draft policy, plan or programme; and

*(c)* strategic environmental assessment statement.

(7) The Agency shall, within seven days of receipt of a final strategic environmental assessment report under regulation (5), submit an electronic or a hard copy of a strategic environmental assessment report and a draft policy, plan or programme to a consultation body for comments.

(8) A consultation body shall, within forty days of receipt of a strategic environmental assessment report and a draft policy, plan or programme under subregulation (7), make its comments on the report and submit its comment to the Agency.

(9) The Agency shall, where a consultation body fails to make comments within the period specified under subregulation (8), make a decision on a strategic environmental assessment report and draft policy, plan or programme in accordance with regulation 13.

(10) The Agency shall, before making its decision under regulation 13, place a notice on its website and in a newspaper of general circulation in the Republic, once a week for two consecutive weeks, specifying the location where members of the public may access a strategic environmental assessment report and a draft policy, plan or programme.

(11) Members of the public may, within thirty days from the last day of the notification in subregulation (10), submit their comments to the Agency.

Consultation with neighbouring countries

12. (1) The Agency shall, where a policy, plan or programme has transboundary environmental concerns, through the appropriate ministry, transmit a strategic environmental assessment report to the affected neighbouring country for comments.

(2) The Agency shall cause an affected neighbouring country to make its comments on a strategic environmental assessment report within forty days from the day of receipt of that report.

Decision of Agency

13. (1) The Agency shall, in making a decision on a strategic environmental assessment report take into account the comments received under regulations 10 and 10.

(2) The Agency may—

*(a)* approve a strategic environmental assessment report;

*(b)* reject a strategic environmental assessment report; or

*(c)* defer a decision pending clarification of some matters in a strategic environmental assessment report.

(3) The Agency shall, within fifteen days of its decision under subregulation (2), inform the proponent of the decision in Form I set out in the Fifth Schedule.

(4) The Agency may, where the Agency approves a strategic environmental assessment report in accordance with subregulation 2 *(a)*, attach conditions to its approval.

(5) The Agency may, before rejecting a strategic environmental assessment report subregulation 2 (b), require a proponent to make changes to a strategic environmental assessment report and submit that strategic environmental assessment report and draft policy, plan or programme for consideration.

Transfer, amendment and replacement of notice of decision

14. (1) A proponent shall not transfer, amend or replace a strategic environmental assessment decision, under regulation 13 without the prior approval of the Agency.

(2) A proponent who intends to transfer, amend or replace a strategic environmental assessment decision, shall apply to the Agency in the Form II set out in the Fifth Schedule on payment of the fee set out in the Sixth Schedule.

(3) The Agency shall, within thirty days of receipt of an application under subregulation (2) —

*(a)* approve an application, if a proponent meets the requirements of the Act and these Regulations; or

*(b)* reject an application if the proponent does not meet the requirements of the Act and these Regulations.

(4) The Agency shall inform a proponent of its decision under subregulation (3).

(5) A proponent who amends a policy, plan or programme during the course of its implementation shall conduct a strategic environmental assessment in accordance with of these Regulations.

Monitoring and evaluationof policy, plan or programme

15. (1) A proponent shall monitor and evaluate the significant environmental risks and opportunities arising from the implementation of a policy, plan or programme for which a strategic environmental assessment report was approved by the Agency under regulation 13.

(2) A proponent shall comply with subregulation (1) in a manner which enables that proponent to identify any unforeseen adverse effects at an early stage and undertake appropriate remedial measures.

(3) A proponent shall, submit to the Agency an initial monitoring and evaluation report within a period of not more than thirty-six months after the implementation of the policy, plan or programme for which a strategic environmental assessment report was approved by the Agency under regulation 13.

(4) The Agency may, in addition to the monitoring and evaluation report under subregulation (3), request a proponent to submit a further monitoring and evaluation report within the period that the Agency may determine.

(5) The Agency shall review the reports referred under subregulations (3) and (4) and inform a proponent of the Agency's findings on the review.

Adoption of policy,plan or programme

16. (1) A proponent shall adopt a policy, plan or programme to which a strategic environmental assessment report has been approved by the Agency under regulation 13.

(2) A proponent shall, as soon as practicable after the adoption of a policy, plan or programme under subregulation (1), submit to the Agency, a copy of that policy, plan or programme for the information of the Agency.

Registers

17. (1) The Agency shall, for the purposes of a strategic environmental assessment, maintain the following registers:

*(a)* a register of the strategic environmental assessment reports submitted in accordance with these Regulations; and

*(b)* a register of the strategic environmental assessment monitoring and evaluation reports submitted in accordance with these Regulations.

(2) A register shall be kept by the Director-General at the offices of the Agency and shall be open for inspection by members of the public during normal office hours.

Public documents

18. A document submitted under these Regulations for the purpose of a strategic environmental assessment is a public document and is open for inspection by members of the public during normal office hours.

Guidelines

19. The Agency may issue guidelines for the purposes of a strategic environmental assessment.

Fees

20. The fees set out in the Sixth Schedules are payable in respect of the matter specified in that Schedule.

Policies, Plans or Programmes authorised prior to commencement of Regulations

21. A proponent who adopts a policy, plan or programme prior to the publication of these Regulations, which requires a strategic environmental assessment shall, within twenty-four months from the date of the publication of these Regulations, notify the Agency in accordance with regulation 5.

FIRST SCHEDULE
*(Regulation 5 (3) and 7)*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

## CRITERIA FOR DETERMINING LIKELY SIGNIFICANT EFFECTS ON THE ENVIRONMENT

1. The Agency shall, in reviewing a policy, plan or programme, take into consideration the—
   *(a)* the zone of influence;
   *(b)* the degree to which the policy, plan or programme sets a framework for projects and other activities, which include the location, nature, size and operating conditions of a project or the need to allocate resources;
   *(c)* the degree to which a policy, plan or programme influences other policies, plans and programmes;
   *(d)* the impact of the policy, plan or programme on climate change vulnerability;
   *(e)* irreversibility of the likely impacts and risks;
   *(f)* the cumulative impacts of its implementation;
   *(g)* the relevance of the policy, plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
   *(h)* environmental problems relevant to the policy, plan or programme; and
   *(i)* the relevance of a policy, plan or programme for the implementation of the relevant legislation on the environment such as waste management, chemicals, ozone depletion substances or water resources management laws.
2. The Agency shall take into consideration the effects of the project and the area likely to be affected, by the project having regard, in particular, to the—
   *(a)* probability, duration, frequency, intensity and reversibility of the effects;
   *(b)* magnitude and spatial extent of the effects focusing on the geographical area and size of the population likely to be affected;
   *(c)* transboundary nature of the effects;
   *(d)* risks to human health or the environment due to factors such as accidents and environmental emergencies;
   *(e)* cumulative nature of the effects;
   *(f)* value and vulnerability of the area likely to be affected due to—
      (i) special natural characteristics, local communities, archaeological nature or cultural heritage;
      (ii) exceeded environmental quality standards or limit values; or
      (iii) intensive land-use; and
   *(g)* effects on areas or landscapes which have a recognised national, regional or international protection status.

SECOND SCHEDULE
*(Regulation 6 (2)*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

**ISSUES TO BE CONSIDERED WHEN PREPARING TERMS OF REFERENCE**

The following information shall be included in the preparation of the terms of reference:

*(a)* introduction and background of a strategic environmental assessment which shall contain the—

(i) purpose of developing a strategic environmental assessment,the reasons for the a strategic environmental assessment, legal requirements and strategic decisions to be influenced;

(ii) major strategic documents to be considered; and

(iii) spatial extent of the policy, plan or programme;

*(b)* objectives of a strategic environmental assessment;

*(c)* scope and method of works;

*(d)* overview of the policy, institutional and legal framework;

*(e)* overview of key stakeholders, their interests and concerns;

*(f)* description of the scope of the environmental baseline to be prepared in astrategic environmental assessment study;

*g)* identification evaluation and prediction of environment-related risks, constraints and opportunities including linkages with existing policy, plan and programme;

*(h)* recommendations on specific impact identification and evaluation methodologies to be used in astrategic environmental assessment study;

*(i)* analysis of performance indicators;

*(j)* appraisal of the capacities to address environmental and climate-related challenges;

*(k)* proposal of time frames and resources needed for astrategic environmental assessment study;

*(l)* conclusions and recommendations; and

*(m)* following appendices:

(i) a scoping report;

(ii) curriculum vitae of experts;

(iii) list of stakeholders consulted; and

(iv) any other relevant documents such as maps where the project shall be conducted.

THIRD SCHEDULE
*(Regulation 8(2))*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

## EXPERTISE AND COMPETENCE OF STRATEGIC ENVIRONMENTAL ASSESSMENT TEAM

1. A person qualifies to be a team leader if that person has—
   *(a)* proven experience in preparation or review of a strategic environmental assessment reports;
   *(b)* professional qualifications and experience in one of the thematic areas that are relevant for strategic environmental assessment;
   *(c)* knowledge in a strategic environmental assessment process; and
   *(d)* knowledge and experience in the sector policy, plan or programme.

2. A person qualifies to be a thematic area expert or sector expert if that person has—
   *(a)* professional qualifications and experience in the thematic areas that are relevant for a strategic environmental assessment; and
   *(b)* knowledge and experience in the sector policy, plan or programme.

3. A person qualifies to be a stakeholder engagement expert if that person has experience in stakeholder engagements.

FOURTH SCHEDULE
*(Regulation 11(1))*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

## CONTENTS OF A STRATEGIC ENVIRONMENTAL ASSESSMENT REPORT

A strategic environmental assessment report prepared under these Regulations shall include the following information:

*(a)* the title of the report and name of a proponent;

*(b)* a concise non-technical summary describing the study and its outcomes;

*(c)* introduction on the scope and methodology of work;

*(d)* description of a proposed a policy, plan or programme focusing on —

(i) the objective, purpose and rationale;

(ii) alternative options and strategies;

(iii) thematic areas and sectors affected;

(iv) proposed activities for a policy, plan or programme; and

(v) implementation plan and timescale;

*(e)* environmental analysis including—

(i) baseline environmental conditions;

(ii) policy, legal and institutional framework;

(iii) stakeholder engagement activities undertaken;

(iv) identification, evaluation and prediction of impacts including cumulative effects;

(v) alternative options and justification of preferred options; and

(vi) linkages with existing policy, plan or programme;

*(f)* recommendations including changes to proposed policy, plan or programme, mitigation measures and alternatives;

*(g)* integration of climate change vulnerability assessment, adaptation and mitigation actions;

*(h)* relevant appendices such as attendance register and minutes of stakeholders' meetings and topographical maps; and

*(i)* environmental management and monitoring plan outlining the measures and actions to be taken during policy, plan or programme implementation.

FIFTH SCHEDULE
*(Regulation 13 and 14)*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

**NOTICE OF DECISION**

Notice No.: .....

(1) Here insert the full names and address of a proponent

*To* (1).....
.....

(2) Here insert the reference No. of the Notice by proponent

IN THE MATTER OF (2).....you are notified been approved or that your Decision has rejected by the Agency on the following grounds:

*(a)* .....
*(b)* .....
*(c)* .....
*(d)* .....

Dated this .....day of .....20.....

.....
*Director-General*

OFFICIAL STAMP

FORM II
*(Regulation 14(2))*

**The Environmental Management Act, 2011**
(Act No. 12 of 2011)

**The Environmental Management (Strategic Environmental Assessment) Regulations, 2021**

**PART I: PARTICULARS OF PROPONENT**

| |
|---|
| Name of proponent:..... |
| Address.:..... Date of decision..... |
| Telephone number person..... |

**PART II: PARTICULARS OF TRANSFER, AMENDMENT AND REPLACEMENT**

| *No.* | *Details* |
|---|---|
| 1. | |
| 2. | |
| 3. | |

**SUMMARY OF TRANSFER AMENDMENT, REPLACEMENT**

| *Existing(Name of Proponent, Physical Address Etc)* | *Proposed Transfer/Amendment or Replacement* | *Date of Transfer/Amendment or Replacement* | *Reasons for Transfer/Amendment or Replacement* |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**PART III: SUPPORTING DOCUMENTATION**

**Please submit documents, where applicable, to support your application for transfer,amendment, replacement.**

**PART IV: DECLARATION AND SIGNATURE**

I declare that all the information I have stated is correct and truthful to the best of my knowledge and belief.

Particulars of the Applicant

*(a)* Name: .....

*(b)* Designation:
.....

*(c)* Signature: ..... (d) Date: ...../...../..... *(dd/mm/yyyy)*

**FOR OFFICIAL USE ONLY**

Date of Submission: .....

Application No.: .....

Payment Receipt No.:.....

Application Complete (Proceed for Evaluation): .....

Application Deficient (Refer to applicant for additional information): .....

OFFICIAL STAMP

SIXTH SCHEDULE
*(Regulation20)*

**FEES**

**1. Fees for amendment, Transfer and Replacement**

| *Category* | *Fee Unit* |
|---|---|
| Transfer | 10,000 |
| Amendment | 5,000 |
| Replacement | 15,000 |

**2. Review fees for policy, plan and programme**

| *S/N* | *Type of document including amendment* | *Area of Coverage* | *Fee Units* |
|---|---|---|---|
| 1. | Policy | National | 3,333,333.33 |
| 2. | Plan | National | 2,000,000.00 |
| 3. | Programme | National | 2,000,000.00 |

LUSAKA
11th May, 2021
[MWDSEP]

R. M. NAKACHINDA,
*Minister of Water Development Sanitation and Environmental Protection*