THE BUSINESS REGULATORY ACT
NO. 3 OF 2014
SUSTAINABLE PRIVATE SECTOR GROWTH; IS THE PATH REGULATORY POLICY?

Unlocking Zambia’s Potential
ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEE</td>
<td>Business Enabling Environment</td>
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<td>BLRC</td>
<td>Business Licensing Reform Committee</td>
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<td>CEEC</td>
<td>Citizens Economic Empowerment Commission</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>MSMEs</td>
<td>Micro, Small and Medium Enterprises</td>
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<td>PSDRP</td>
<td>Private Sector Development Reform Program</td>
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<td>SIs</td>
<td>Statutory Instruments</td>
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<td>WBG</td>
<td>World Bank Group</td>
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<td>ZDA</td>
<td>Zambian Development Agency</td>
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</tbody>
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THE BUSINESS REGULATORY ACT NO. 3 OF 2014
SUSTAINABLE PRIVATE SECTOR GROWTH; IS THE PATH REGULATORY POLICY?
PMRC’s vision is “Unlocking Zambia’s potential”. We recognize that it is only discussion and debate on social and economic policy issues critical to poverty reduction that ultimately leads to policy reform to support a robust and thriving economy.

We achieve our Vision by:

- Producing high quality, relevant and timely policy analysis, policy monitoring, and reform proposals
- Promoting and encouraging an informed public debate on critical social and economic policy issues.
On 21\textsuperscript{st} March 2014, The Business Regulatory Act No. 3 of 2014 was assented to by the Parliament of Zambia. The major aims of Government as outlined in the Act are:

- To provide an efficient, cost-effective and accessible business licensing system
- To provide a set of principles to guide regulatory agencies when regulating and licensing business activities
- To establish an e-registry and assign a control number for laws regulating business
- To establish regulatory service centres, clearance systems and a single licensing system for business in each sector or group of sectors and
- To establish the Business Regulatory Review Committee and the Business Regulatory Review Agency and provide for their functions and powers.
The Act is sub-divided into five parts:

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<thead>
<tr>
<th>Part</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Part 1</td>
<td>Provides the interpretation of key concepts used within the Act and the application of the Act;</td>
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<td>Part 2</td>
<td>Outlines the principles for licensing, including administrative requirements, fees and timing, the conditions for imposing a license system including consultation and regulatory impact assessment, the need for the establishment of an electronic registry and regulatory service centres, and the requirement for a single licensing system;</td>
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<td>Part 3</td>
<td>Provides for the establishment of The Business Regulatory Review Committee, including requirements for committee members and responsibilities, and the need for an annual action plan, quarterly progress reports and monitoring activities;</td>
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<td>Part 4</td>
<td>Provides for the establishment of The Business Regulatory Review Agency, the members and their functions; and</td>
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<tr>
<td>Part 5</td>
<td>States the general provisions relating to enforcement of the Act including administration of the Committee, disclosure of information, and details for financial accounts and auditing.</td>
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PMRC believes that whilst Government intentions behind the enactment of The Business Regulatory Act are commendable, the Act itself does not sufficiently address the key restrictions and obstacles facing the Zambian business-licensing environment. Further consideration is needed to create clarity for aspects such as the ‘single licensing system’, operation of service centres, and regulatory agency coordination and integration. The requirements outlined in the Act contain a significant degree of ambiguity, with descriptions such as, “as far as possible”, “to the greatest extent possible”, “as early as possible”. These create loopholes that could exempt regulatory agencies from the majority of requirements, and ultimately limit the potential for successful implementation and impact of the Act. Implementation will also be enhanced by the amendment of other existing legislation and policies that reference business licensing, to ensure that timeframes, requirements and costs are in alignment. Finally, implementation
of the Act is dependent on effective stakeholder engagement, sensitisation and capacity building to ensure understanding, buy-in and coordination between Government departments, regulatory authorities and the private sector. Key amendments of this Act and additional action items will need to be undertaken in order to address the root causes inhibiting the business environment in Zambia.

This PMRC Policy Analysis provides an overview of the current status of business licensing in Zambia and the details of The Business Regulatory Act aimed at improving the licensing environment. The analysis considers international guidelines in undertaking business licensing reforms, the potential benefits of undertaking these reforms, and to what extent Zambia has adopted these principles. Finally, the Policy Analysis will consider specific details of the legislation, and make key recommendations for the implementation of The Business Regulatory Act to transform and promote much-needed economic growth and development in Zambia.

**BACKGROUND**

**THE CURRENT BUSINESS LICENSING ENVIRONMENT IN ZAMBIA**

The current scenario of multiple licenses, numerous regulatory agencies, and increasing costs has lead to numerous appeals from the private sector for an efficient, less bureaucratic, and cost-effective business licensing system.

Key factors currently affecting business licensing include:
1. Complications with multiple licenses and agencies;
2. A complex legislative framework;
3. Lack of guidelines for new licenses and alternative revenue generation methods.

**MULTIPLE LICENSES AND AGENCIES**

The benefits of business licensing in terms of regulating business, formalising the economy, providing for the collection of taxes, and ensuring matters such as health and safety and environmental protection, are not disputed. However, the existing mechanism of licensing is concealing these benefits. The majority of firms need multiple licenses to operate, all obtained from different licensing authorities in local, regional or national departments.

An audit completed by The Business Licensing Reform Committee (BLRC) in 2007/8 found that a total of 517 business licenses were affecting business operations in Zambia, covered by 18 Ministries, 72 local authorities and 33 regulatory agencies.
Reviews indicated that nearly half of these did not serve a legitimate purpose. A study undertaken by the Foreign Investment Advisory Service in 2004 noted that some businesses in Zambia needed as many as 54 separate licenses to operate.\textsuperscript{1} Many licenses are also only valid for a period of 12 months, requiring time and cost expenditure on an annual basis for renewal.

This situation is not unique to Zambia. Studies in 2006 found Kenya to have over 1,300 different licenses, managed by 60 government agencies and 175 local governments; Croatia was found to have nearly 1,500 different licenses enforced by 68 regulators;\textsuperscript{2} and a diagnostic in Uganda in 2009 revealed the existence of 354 different licenses, with 45 institutions and 65 guiding laws.\textsuperscript{3}

In Zambia and elsewhere, unnecessary licenses have accumulated over time as new licenses have been introduced without proper assessment or guidelines. The consolidation of these licenses has created additional burdens on the private sector, leading to confusion, reducing capacity to administer licenses, and increasing costs for both regulatory agencies and businesses. The Citizens Economic Empowerment Commission (CEEC) highlighted the consequences of

\textsuperscript{1} Clarke, G.C, Shah, M.K, & Pearson, R.V. (2010), The Business Landscape for MSMEs and Large Businesses in Zambia. Zambia Business Survey

\textsuperscript{2} Investment Climate Advisory Services (2010), Policy Framework Paper on Business Licensing Reform and Simplification. World Bank Group

such requirements; any business approaching CEEC for support is required to have relevant licenses in place. As such, small businesses unable to afford or manage licensing are subsequently unable to access CEEC services for promoting development.  

A study undertaken on the Zambian Business Landscape, 2010 found that business licensing presented a ‘serious obstacle’ for 20% of urban MSMEs. Registered firms included in the study were far more likely than un-registered firms to say that business licensing is a serious problem, suggesting that given the burden of licensing for MSMEs, many firms in the survey did not register or obtain licenses at all. The issue of license fees has also led to various forms of legal and illegal protests in many areas, for instance in Kabwe, Mpulungu and Mufulira, when councils raised license fees.

**COMPLEX LEGISLATIVE FRAMEWORK**

Business licenses are covered by a total of 86 different Acts or Statutory Instruments (SIs) in Zambia.

Depending on the nature of individual business operations, many of these overlap, leading to the requirement for multiple licensing, under a variety of Acts, local governments, and regulatory agencies:

- The Tourism and Hospitality Act No. 23 of 2007 provides for licenses for tourism enterprises, hotels and casinos, each with a different set of requirements;
- The Zambia Wildlife Act No. 12 of 1998 outlines twelve different licenses relating to hunting and the processing, sale, import and export of wild animals and trophies;
- The Trade Licensing Act No. 393 of 1994 provides for eight different licenses, including trading, stalls, agents and manufacturing;
- The Public Health Act No. 295 provides for thirteen licenses relating to restaurants and food safety;
- The Income Tax Act No. 323 provides for seven licenses relating to payment of tax; and
- The Zambian Development Agency (ZDA) requires different licensing for the development or operation of premises as a multi-facility economic zone, the export of prescribed goods and services, the investment in any business enterprise, or the registration of a micro, education, skills training or rural enterprise.

Businesses operating within the tourism, or any other economic sector, will need to understand and engage with such an extensive list of legislation in order to comply with procedures and operate effectively, requiring significant time and effort.

4. Interview with Mr Brian Nakaanda, Research and Documentation Manager, Citizens Economic Empowerment Commission, 28/02/14
LACK OF GUIDELINES AND ALTERNATIVE REVENUE SOURCE

Looking beyond the direct impact of the cost of licenses on the private sector, it is also important to consider why this has evolved to its current, critical state. The existing abundance of licenses is largely due to the lack of guidelines surrounding the introduction of new licenses by regulatory agencies, and knowledge of these guidelines. There is limited control or accountability over fees imposed, and these have often extended beyond the purposes of covering administrative costs. Individuals within the private sector are concerned that the extent of license requirements and length of time for approval is leading to backdoor payments to speed up the process.\(^6\) In addition, it is considered that many regulators are under-funded, leading to increases in the types and amounts of fees to generate revenue. As such, ministries and regulatory bodies often have a direct financial interest in creating new licenses and business fees as these revenues support staff salaries and provide increased opportunities for corruption.\(^7\)

The extent of licenses required, regulatory agencies involved, and legislation with which to comply is significantly impeding the private sector and business development. The complexity of licenses and legislation as well as the lack of efficiency and accountability in the implementation of guidelines, and alternative revenue generation methods, need to be addressed to improve doing business in Zambia.

UNDERSTANDING THE BUSINESS REGULATORY ACT, 2014

The Business Regulatory Act 2014 was enacted in an effort to respond to the major issues affecting the business-licensing environment in Zambia. The Business Regulatory Act aims to provide an over-arching framework and set of standards under which all regulatory agencies need to operate. As noted, the Act contains key elements including requirements for regulatory impact assessments, an electronic registry, regulatory service centres, reporting, and the establishment of The Business Regulatory Review Committee and Agency.

The salient points of the legislation are:

- Public bodies wishing to introduce new licenses are required to hold public consultations and undertake a regulatory impact assessment analysing the need and objectives of the license, in order to avoid the introduction of unnecessary licenses.
- The Act entails the creation of an electronic registry, and the implementation of a centralised database containing the details of all existing, legal licenses.

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\(^6\) Interview with P. Tembo, Advocacy and Policy Officer, Zambia Chamber of Commerce and Industry  
\(^7\) Investment Climate Advisory Services (2010), Policy Framework Paper on Business Licensing Reform and Simplification. World Bank Group
• The Act entails the creation of regional service centres meaning business license applications and enquiries will be routed through all-encompassing centres, or one-stop-shops for each sector. Centres will connect to individuals to regulatory agencies during the application process. This has the intention of avoiding applications being made to a multitude of institutions in different geographical locations, and allowing applications to be presented at individual districts rather than central institutions in Lusaka.

• The Act includes a ‘silence-is-consent’ principle stipulating that licenses will be automatically approved after a prescribed period, in efforts to speed up the application process.

• Quarterly reporting on the quality of business regulation is obligatory as is monitoring of regulatory agencies to ensure compliance with the Act.

• A Business Regulatory Review Committee will be established to advise Government on matters relating to business regulation, licensing, regulatory agencies and business licensing reforms, as well as examine requires for the imposition of licensing by a regulatory agency. The Committee will also be responsible for designing and overseeing action plans for implementation of service centres, as well as reporting and monitoring on regulatory agencies and compliance with the Act.

• A Business Regulatory Review Agency will be established as a secretariat to the Committee, with additional responsibilities of managing the e-registry, approving regulatory frameworks and coordinating and overseeing the implementation of the Committee’s action plan.

HOW DOES THE ACT RESPOND TO KEY ISSUES IN ZAMBIA?

The introduction of The Business Regulatory Agency and Committee, as well as procedures for the introduction of new licenses may ensure that only necessary licenses are introduced and increasing accountability of regulatory authorities. However, the Act does not address the existing multiplicity of licenses, mechanisms of streamlining legislative frameworks are unclear, and the reduction or control over rising costs of licenses is unlikely given the need for additional service centres and the introduction of the Committee and Agency. In addition, the weak terminology surrounding many aspects of the legislation detailed above limits the potential for effective implementation of the Act.
International best practice plays a pivotal role in identifying the reasons behind current weaknesses in Zambia’s business licensing environment, and in enhancing both policy and practice in Zambia.

Review of best practice guidelines allows assessment of The Business Regulatory Act and identification of areas for improvement, focusing on:

- The importance of effective business licensing regimes;
- Key goals and practices in implementing reforms; and
- Potential benefits of reforms identified during monitoring and evaluation.

THE IMPORTANCE OF EFFECTIVE BUSINESS LICENSING REGIMES

The International Finance Corporation’s (IFCs) Business Enabling Environment (BEE) program provided by the World Bank Group (WBG) strongly promotes business licensing reform and simplification. Poor licensing policy has been found to impede healthy competition and the operation of effective markets, unnecessarily raise business costs and consumer prices, generate scope for corruption, and be misused to collect revenues. The IFC program therefore aims to support regulatory reform and encourage modernization in developing countries.

The World Bank produces an annual report, The Doing Business Report, ranking economies around the world in areas of business regulation. The 2014 report illustrates that the economies ranking highest on the ease of doing business are those whose governments have managed to create a regulatory system that facilitates interactions in the marketplace, and protects important public interests without unnecessarily hindering the development of the private sector. In other words, a regulatory system with strong institutions and low transaction costs.

Figure 3 compares data on the costs of establishing a business (calculated as a percentage of income per capita) and World Bank ease of business ratings. In many African countries, higher costs of establishing a business translate into poorer World Bank rankings.

KEY GOALS AND PRACTICES IN IMPLEMENTING REFORMS

The IFC have produced a SmartLessons document ‘Tools for Reforming Permits and Licensing Systems’ to guide business licensing reforms. This document outlines three main goals to consider:

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8 Investment Climate Advisory Services (2010), Policy Framework Paper on Business Licensing Reform and Simplification, World Bank Group
when implementing reforms:
1. Reducing the number and coverage of permits;
2. Simplifying the issuance of permits; and
3. Implementing a training and awareness creation program

The first of these is reducing the number and coverage of permits to only those necessary for undertaking business. Although the question of what is deemed ‘necessary’ may be subject to interpretation, the important point is to undertake a comprehensive review of existing permits and approvals, implementing the ‘guillotine’ approach should state agencies find any license redundant.

The second goal is for the simplification of issuance of permits. As such, reforms should implement a ‘one-stop-shop’ approach, providing a single centre for all license applications. This is accompanied by a ‘silence-is consent’ principle, whereby licenses are automatically approved after a certain period of time if no response is received.

Finally, The IFC document highlights the need for a training and awareness creation program to ensure that government officials are trained to use new procedures, and that entrepreneurs are informed about key changes, understand the improvements made, and can use

Figure 3: World Bank Ease of Doing Business Ranking 2013 Compared to Cost of Establishing a Business (% of income per capita).

Sourced from www.doingbusiness.org
this legal knowledge to defend basic rights.

Additional best practice reforms include creating an electronic registry with a centralised database of licensing requirements, implementing a regulatory impact analysis system, and establishing a monitoring and evaluation system.

**POTENTIAL BENEFITS OF REFORMS IDENTIFIED DURING MONITORING AND EVALUATION**

Monitoring and evaluation of successful implementation of IFC and WBG recommendations has revealed a reduction in the cost and time required for licensing, a reduction in government expenditure; and improved ranking on the ease of doing business assessment, as illustrated in Figure 4.

Business reforms have been found to be particularly important for Micro, Small and Medium Enterprises (MSMEs), as smaller businesses are those most likely to suffer as a result of complex licensing regimes. Simplifying licensing systems also has the benefit of attracting those in the informal sector to register and contribute to the formal sector. However, the translation of these direct, smaller-scale benefits of

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12. Investment Climate Advisory Services in Europe and Central Asia (2011), Investment Climate in Ukraine as Seen by Private Businesses. World Bank Group
reform into large-scale economic growth is not always apparent.

Emphasis has been placed on achieving higher World Bank Ease of Doing Business Rankings. Yet an assessment of the link between ease of doing business rankings and Foreign Direct Income (FDI) inflows found that although in general there is a positive relationship between the two, there is no significant increase in FDI inflows when rankings increase in developing countries.

Although the World Bank ratings clearly have significance around the world, providing a signalling effect with governments, institutions and the media, the report emphasises caution in automatically assuming that results translate into direct economic benefits.15

Further studies reveal no significantly higher revenues, profits per worker or employment for businesses following reforms, and the reduction in licensing fees associated with reforms has been shown to entail a reduction in municipal revenues, resulting in costs to society.16 This is significant in Zambia, as additional funding will likely be required to support proposed service centres and the Regulatory Agency and Committee. Key benefits of reforms are therefore focused on the local, small-scale, and direct level of the private sector.

**HOW DOES THE ACT COMPARE TO BEST PRACTICE GUIDELINES?**

International best practice calls for reducing the number and coverage of permits, simplifying the issuance of permits through a one-stop-shop, and implementing a training and awareness creation program to assist with implementation. The Business Regulatory Act has followed some of these guidelines, in the introduction of an e-registry and centralised database, the implementation of regulatory impact assessments, and stipulations that licenses are automatically approved after a certain period of time. However, realisation of the concept of simplification is lacking, and there is no reference to reducing the number and coverage of permits. Similarly, there is a need to focus on training and awareness creation, and improve definitions of how monitoring and evaluation will operate. Adherence to international guidelines, and the associated potential for achieving benefits detailed above, is further limited by the lack of clarity in the Act, and the potential for exemptions.

Having assessed the current business licensing environment in Zambia, international best practice in implementing business licensing reforms, and how The Business Regulatory Act is responding to these, it is important to consider future steps and recommendations going forwards. The following will consider the importance of effective implementation of the Act, as well as key amendments and additional actions required in order for the Act to add value and improve business licensing in Zambia.

**IMPORTANCE OF EFFECTIVE IMPLEMENTATION**

The successful implementation of legislation and policies is key to achieving potential benefits of reforms. Whilst many countries have taken the right steps towards initiating business regulatory reforms, evidence in some countries points to a disconnect between policy and implementation. As such, reforms are not always translated into social or economic benefits.\(^{17}\)

One study in Ukraine found that whilst legal reforms had been made, the slow pace of law-making together with a simultaneous inconsistency in implementing already enacted legislation, prevented Ukrainian businesses from benefitting from the improved conditions for doing business, and significantly undermined Ukraine’s image in international markets.\(^{18}\)

Similarly in Kenya, research evidence strongly supported the case for implementing single licensing system reforms, and a Cabinet memorandum outlining the reform was drafted in 2000. However, the memorandum was not acted upon immediately, and no private sector voice pushed for the implementation, leading to benefits not being accrued until much later.\(^{19}\)

Although The Business Regulatory Act has now been enacted in Zambia, there remain considerable steps in implementation and achieving the desired goals. These steps represent significant efforts and cost, and require vital support from government and the private sector to implement. Section 19(2) of the Act stipulates that public bodies have two years from the commencement of the Act to comply, allowing for a period of adjustment and development. However, a number of actions will be required in order for the Act to be successful.

These include clarification or amendment of certain sections of the Act as well as activities to support implementation:

- Amendment of definitions around the single licensing system;


\(^{18}\) Investment Climate Advisory Services in Europe and Central Asia (2011), Investment Climate in Ukraine as Seen by Private Businesses. World Bank Group

\(^{19}\)
Amendment of roles of the Agency and Committee in order to avoid duplication with existing bodies;
- Clarity and removal of loopholes in the Act to ensure compliance;
- Review of timeframes, requirements and costs in existing licensing legislation;
- Completion of stakeholder engagement and training to support implementation; and
- Review of business licensing reforms in light of other national development goals.

THE SINGLE LICENSING SYSTEM

One of the motivations behind the Act was to simplify licenses and reduce the number of licenses in existence. The release of the Bill in November 2013 provided no definition of the ‘single licensing system’ referred to in the legislation leading to questions about what exactly this implied. Interviews with the Private Sector Development Reform Program (PSDRP) as well as other private sector organisations indicated that this referred to a single license for each sector, rather than the current system of multiple licenses. However, following Parliament hearings and the release of the Act, the single licensing system has been defined in Section 2 as a ‘single regulatory point or a regulatory service centre’, essentially repeating what has already been defined in the Act as the regulatory service centre. Fundamentally, the Act makes no reference to the need to reduce the number of existing licenses, nor streamline licensing requirements for individual sectors. With single licensing defined simply as a centre, it is difficult to understand what progress is being made towards simplifying licenses within sectors in enacting this Act.

Furthermore, Section 10(1) states that ‘there is hereby established for businesses in each sector or group of businesses in a sector, a single licensing system’. Given the definition of the single licensing system, this indicates that a service centre will be established for each business sector. So theoretically, individual service centres would exist for tourism, mining, manufacturing, agriculture etc...in each district.

However, this suggests a significant duplication of efforts, in management and running costs given the need for separate centres, and in personnel, as many licenses under local authorities, such as fire, health, public health, tax-related etc...are required in each sector. It is therefore unclear if representatives from local authorities would be stationed in individual sector centres or not. Given the lack of alternative revenue generation or funding, it is assumed that licensing costs would need to increase in order to cover these developments.

It is recommended that Section 10(1) be amended to ensure that

all sectors and regulatory agencies are contained within one licensing centre. Clarification is needed on how service centres will function and operate, and how regulatory bodies will be coordinated within this system.

DUPLICATION OF ROLES

The concept of streamlining and harmonising business licensing further needs to be considered when assessing the responsibilities of the Agency and Committee outlined in the Act. Section 11(2) refers to the need for the Agency to undertake inspections of businesses and Section 12(4) refers to the responsibility of the Committee to play an advisory role to Government with regards to business regulation, licensing, the enabling business environment and business licensing reforms generally.

These responsibilities are already addressed by existing institutions. Individual regulatory agencies are required to undertake inspections of businesses, and the Ministry of Commerce is responsible for matters stated under Section 12 (4). Efforts to streamline business licensing should not be impeded by the duplication of roles. The Business Regulatory Act should be limited to its main goals of ensuring efficiency of licensing, with the least additional bureaucracy possible. Furthermore, the concept of an overall Committee should take into consideration existing and future plans for such a structure in other forums. It is important to harmonise efforts and avoid the creation of multiple ‘super committees’ overseeing regulatory and standards practices.20

CLARITY AND REMOVAL OF LOOPHOLES

Further clarification and definition is needed in other sections of the Act as well, in order to avoid repetition of existing problems and close loopholes. For instance, Section 2(c) refers to a three year validity period of licenses, but states that this is valid unless the ‘regulatory agency has compelling reasons to reduce this period’. As no definition is provided for this, it is foreseeable that licenses will not be extended to three-year periods, as this will reduce the collection of fees.

Sections 2(f) and 3(d) state that regulating business activity shall be simplified and regulatory requirements shall be minimised ‘to the greatest extent possible’, leaving the statements open for interpretation by individual regulators. Regulatory agencies are required to use a single licensing system ‘as far as possible’, indicating that not all regulators are required by law to be present in service centres. Only by creating and enforcing strong, clearly defined legislation, will changes be observed.

20. Interview with Mr. Maybin Nsupila, Chief Executive Officer, Zambia Association of Manufacturers, 11/03/2014
It will also be important to include Schedules relating to the specific requirements for monitoring of regulatory agencies and associated penalties for non-compliance, as the current statement is simply to ‘monitor and report on the activities of regulatory agencies’. Monitoring and evaluation will be important to track the reduction in compliance and administrative costs and the success of the reforms. A Schedule of Payments relating to license fees and the tiered approach for different businesses is also required, as is an action plan for implementation measures, including the locations of service centres and finer details of operation such as the possibility of automated systems and construction schedules.

**IMPACTS TO EXISTING LICENSING LEGISLATION**

Currently, licenses are referred to in 86 different Acts\(^\text{21}\) all of which need amending in order to align with The Business Regulatory Act to ensure that timeframes, requirements and costs are in alignment for licensing activities. Parliament has stated that The Business Regulatory Act will not remove authority from regulators over their sectors, and that each agency will continue to determine their own processes. Whilst it is important that regulatory agencies remain independent, they will be required under the new Act to comply with certain procedures and requirements. Without timely action to amend existing legislation and policies and agree on new processes, it will not be possible to achieve the stated aims of the Act.

**THE IMPORTANCE OF STAKEHOLDER ENGAGEMENT AND CAPACITY BUILDING**

The Business Regulatory Act cannot be successful without the buy-in from Government departments, regulatory authorities and the private sector. This however, requires significant stakeholder involvement and consultation to ensure the Act and consequent changes to business licensing are understood. One case study in Norway, the first country to implement WBG business licensing reforms, notes that ‘establishing a climate of cooperation among relevant stakeholders is essential’.\(^\text{22}\) The study goes on to state that ‘it is crucial that public authorities supposed to cooperate have a common understanding of their mutual needs and tasks' and that 'stakeholder involvement should be on a permanent basis'.

The PSDRP document outlines the stakeholder consultation undertaken throughout the development of reforms, consulting 21 Ministries, 8 local governments, 33 regulatory agencies, and 41 business enterpises or organisations.\(^\text{23}\) However, representatives from the

private sector had concerns with the overall engagement throughout the PSDRP process and the introduction of the Act. This especially concerned the involvement of MSMEs in the engagement process, as they contribute a relatively small amount to the economy, and therefore may not be seen as significant players when compared to multi-national organisations. However, MSMEs represent a large proportion of businesses in Zambia. It was also felt that engagement surrounding the introduction of new pieces of legislation such as The Business Regulatory Act should commence at inception stage to allow input into its development, rather than when an Act has reached Parliament. Such consultation should make use of existing structures of committees to ensure relevant and viable inputs into legislation.

The IFC SmartLessons documents highlights the need for a training and awareness creation program around business regulatory reforms, and this ongoing stakeholder consultation needs to be reflected in Zambia as the Act becomes operationalized. This specifically needs to address both how to implement procedures and why it is important to do so, focusing on creating a common understanding between high level, urban and central figures determining laws, and lower level government officials operating in rural, often disconnected areas responsible for implementation. Without the understanding and buy-in of new systems, the reality is that changes will not occur. One interview with a private sector representative pointed to the current lack of knowledge about regulatory impact assessment and the need to undertake relevant and inclusive training on the methodology and concept of impact assessment, both for public and private bodies, for this to be effectively implemented.

**BUSINESS REFORMS IN THE CONTEXT OF NATIONAL DEVELOPMENT**

Finally, as business regulatory reforms are implemented and results assessed, it is important to note that such reforms cannot operate in a silo. Rather, they need to go hand in hand with a variety of other developments in order to achieve economic growth.

Although the Zambian Business Landscape study reported that 20% of urban MSMEs had difficulties with business licensing, access to financing, lack of transport and cost of financing were considered more serious obstacles to business operation, noted by 55%, 39% and 34% of MSMEs included in the

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24. Interview with Y.M. Dodia, Chairperson of Private Sector Development Association, 14/02/14
25. Interview with Mr. Maybin Nsupila, Chief Executive Officer, Zambia Association of Manufacturers, 11/03/2014
27. Interview with Mr. Maybin Nsupila, Chief Executive Officer, Zambia Association of Manufacturers, 11/03/2014
Infrastructure also remains a significant problem for economic development; only 6% of businesses in rural areas and 24% in urban areas are connected to the national grid. Access to water is similarly low, at 27% in rural areas and 30% in urban areas. Low education levels amongst business owners (nearly half had Grade 7 or lower) also impede development.

Issues of tax policy and incentives, procurement procedures, skills development programs and quality and standards control likewise need to be considered in the overall framework of promoting private sector development. Whilst the simplification and reduction in costs of licensing will be beneficial, there are much larger problems that need to be addressed concurrently.

CONCLUSION

The Business Regulatory Act 2014 has been implemented with a goal of providing for more efficient and cost-effective business licensing in order to address the current scenario of multiple licenses, numerous regulatory agencies, and increasing costs, providing a complex and inhibiting environment for the private sector.

The Act and processes leading up to its enactment has aimed to follow best practice guidelines and standards set by the IFC and WBG in implementing business reforms. However, the limitations in the Act outlined during this policy analysis are significantly reducing the potential to achieve potential reform benefits. The Act does not fully embrace the best practice principles recommended by the IFC and WBG, and has no clear definition of how single licensing systems will operate, as well as considerable loopholes exempting regulators from compliance.

The private sector views business reforms as a necessary development in Zambia, yet The Business Regulatory Act is generally weak in its propositions, and the root causes of the existing complex environment of business licensing, including issues of underfunding, have not been fully addressed. The Committee and Regulatory Agency can assist with addressing accountability issues, but only the implementation and subsequent monitoring of new processes and systems will determine the success of the Act in addressing problems. Given the two-year period of implementation, the concern is that little action will be taken to assess compliance with the Act until 2016, limiting the potential to improve business licensing in the near future.

Without consideration of required amendments and further essential action items, as well as additional factors affecting doing business and economic growth in Zambia, it is unlikely that The Business Regulatory Act will succeed in providing an efficient, cost-effective and accessible business licensing system. It is vital
that these aspects be re-visited in light of recommendations contained in this policy analysis and best practice guidelines to ensure that the current complex and inhibiting business environment experienced by the private sector is transformed to promote much-needed economic growth and development in Zambia:

- Review of the definition of the ‘single licensing system’ and its consequences for individual sector service centres to provide greater clarity and ensure reforms are implemented in a practical, feasible manner that reduces administrative efforts and costs;
- Review of key sections of the legislation to ensure compliance with key components is mandatory and loopholes are removed;
- Enhanced communication and coordination between agencies and continued support from government and the private sector to implement policy reforms to ensure implementation and realise benefits;
- Review and revision of existing legislation concerning license procedures to ensure harmonisation of processes and regulations;
- Undertaking of stakeholder consultation and a training and awareness program to ensure reforms are understood and facilitate a climate of cooperation;
- Assessment of the funding situation of regulatory agencies and investigation into alternative revenue-generation measures;
- Continued support from Government and the private sector to implement policy reforms and realise benefits; and
- Consideration of such reforms in light of other policies to address key deficiencies and promote overall private sector growth.
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KEY STAKEHOLDER INTERVIEWS WERE HELD WITH REPRESENTATIVES FROM THE FOLLOWING ORGANISATIONS:

- Citizens Economic Empower Commission (CEEC)
- Private Sector Development Association (PSDA)
- Private Sector Development Reform Programme (PSDRP)
- Zambia Association of Manufacturers (ZAM)
- Zambia Chamber of Commerce and Industry (ZACCI)
- Zambia Information and Communications Technology Authority (ZICTA)
Unlocking Zambia’s Potential
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