

GOVERNMENT OF ZAMBIA

ACT

No. 19 of 2011

Date of Assent: 12th April, 2011

**An Act to amend the Ionising Radiation Protection Act,
2005.**

[15th April, 2011]

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Ionising Radiation Protection (Amendment) Act, 2011, and shall be read as one with the Ionising Radiation Protection Act, 2005, in this Act referred to as the principal Act.

Short title
Act No. 16
of 2005

2. Section *two* of the principal Act is amended by—
(a) the insertion, in the appropriate place, of the following new definitions:

Amendment
of section 2

“licence” means an ionising radiation licence issued under section *twenty-two*; and

“licensee” means a holder of an ionising radiation licence;; and

(b) the deletion of the definition “authorisation”.

3. The principal Act is amended by the repeal of Part IV and the substitution therefor of the following Part:

Repeal and
replacement
of Part IV

PART IV
IONISING RADIATION LICENCE

Application
for ionising
radiation
licence

21. (1) A person who intends to import, process, mine, export, possess, transport, use, dispose of, or undertake any other activity relating to radioactive material or any other source of harmful ionising radiation shall apply to the Board for an ionising radiation licence in the prescribed manner and form upon payment of the prescribed fee.

- (2) The Board shall reject an application for a licence if
- (a) the applicant fails to comply with any prescribed condition precedent to the issue of the licence;
 - (b) any licence formerly issued to the applicant under this Act has been revoked by the Board; or
 - (c) the applicant has been convicted of an offence under this Act.

(3) The Board shall, where it rejects an application under subsection (2), within thirty days of the rejection, inform the applicant accordingly and give the reasons therefor.

Issue of
licence

22. (1) The Board shall, within sixty days of receipt of an application under section *twenty-one* and where an applicant meets the requirements of this Act, issue the applicant with a licence.

(2) A licence issued under subsection (1) shall be in the prescribed form and contain such terms and conditions as may be prescribed.

(3) The terms and conditions referred to in subsection (2) may be specific or take the form of general requirements to meet prescribed standards or codes of practice published pursuant to this Act, or standards or codes of practice published by internationally recognised bodies, including the International Commission on Radiological Protection and the International Atomic Energy Agency or any combination of such conditions.

Responsi-
bilities of
licensee

23. (1) A licensee shall display a copy of the licence in a prominent place at the licensee's place of business.

(2) A licensee shall ensure that any operation, condition of storage, transport, disposal or other practice shall not result, directly or indirectly, in exposure to ionising radiation in such an amount as is likely to cause harmful effects to the public, the employees, other workers or the environment, or to any property.

(3) An owner or a user of radioactive material or source of harmful ionising radiation for which the person does not hold a valid licence shall be answerable for any harmful effects arising from the possession, storage, transport, use or disposal of such radioactive material or source of harmful ionising radiation, and such answerability shall continue with regard to the material after it is seized, impounded, stored or disposed of by the Executive Director or any radiation safety officer.

(4) The radiation safety requirements prescribed by this Act—

(a) do not extend to patients undergoing medical diagnosis or treatment by exposure to radiation by, or under, the supervision of an authorised health practitioner if such diagnosis or treatment is in accordance with an approved code of practice established by the relevant medical professional body; and

(b) apply to the safety of medical and technical staff working with the radioactive material or source of harmful ionising radiation and to the protection of all other persons, other than the patient undergoing medical diagnosis or treatment.

(5) A licensee shall appoint a competent person as a radiation protection officer, who shall work with the Secretariat to ensure compliance with this Act.

(6) Where a physical or mental disability appears—

(a) in a person, which medical opinion competent in the field of biological effects ascribe to ionising radiation exposure, it shall be presumed that the disability arose due to radiation exposure; and

(b) in a person that could have arisen either from radiation or from other causes in the course of duty, the following criteria shall be applied to discern the cause of such disability, if:

(i) a disability of a nature known to be caused either by ionising radiation or that can arise from other possible causes appears in the person for whom a personal radiation exposure record exists, indicating that exposure in excess of recommended dose limits have occurred in the person as a result of such radiation exposure; or

- (ii) a disability of a nature known to be caused either by ionising radiation or that can arise from other possible causes appears in the person for whom a personal exposure record has been maintained to a standard approved by the Board;

it shall be presumed that such disability occurred as a result of such radiation.

(7) A licensee shall, where the licensee intends to decommission an ionising radiation device, at least six months before decommissioning the device, inform the Executive Director of the impending decommissioning and seek the Board's approval concerning how the device will be stored in the interim period pending its final disposal.

(8) For the purposes of paragraph (a) of subsection (4), "authorised health practitioner" means a medical doctor, dental surgeon, radiographer or any other health professional as the Minister may prescribe.

Variation
and
amendment
of licence

24. (1) A licensee may, at any time during the validity of the licence, apply to the Board for variation of the terms and conditions of the licence.

(2) The Board may amend a licence where—

- (a) the amendment is necessary for the protection and safety of the public, the workers or the environment;
- (b) some other person has succeeded to the interest in the licence by substituting the name of the licensee with the name of the successor; or
- (c) the name of the licensee has changed, by substituting the name so changed.

Transfer of
licence

25. (1) A licence shall not be transferred to a third party without the prior approval of the Board.

(2) An application for approval to transfer a licence shall be made to the Board in the prescribed manner and form.

(3) The Board may, within thirty days of receipt of an application under subsection (2), approve or reject the application in accordance with this Act.

Surrender,
suspension
or
cancellation
of licence

26. (1) A licensee shall, where the licensee decides not to continue with the activity to which the licence relates, surrender the licence to the Board on such terms and subject to such conditions as the Board may determine.

(2) Subject to the other provisions of this Act, the Board may suspend or cancel a licence if the licensee— Enforcement
notice

- (a) obtained the licence by fraud or deliberate or negligent submission of false information or statements;
- (b) transfers or otherwise assigns a licence without the prior approval of the Board;
- (c) contravenes this Act or any terms and conditions of the licence; or
- (d) fails, without reasonable cause, to comply with the terms and conditions of an enforcement notice issued under section *twenty-seven*.

(3) The Board shall, before suspending or cancelling a licence in accordance with subsection (2), give written notice to the licensee of its intention to suspend or cancel the licence and shall give the reasons for the intended suspension or cancellation and require the licensee to show cause, within a period of not more than thirty days, why the licence should not be suspended or cancelled.

(4) The Board shall not suspend or cancel a licence under this section if the licensee takes remedial measures to the satisfaction of the Board within the period of thirty days referred to in subsection (3).

(5) The Board shall, if a licensee who is notified under subsection (3) fails to show cause to the satisfaction of the Board, or does not take any remedial measures to the satisfaction of the Board, within the time specified in that subsection, suspend or cancel the licence, and issue the licensee with an order to that effect.

(6) Where a licence is suspended by the Board under this section, the licensee shall take such steps as the Board may direct to ensure that no radiation hazards occur during the period of suspension.

(7) A person who continues to permit the use of radioactive material or other source of harmful radiation while the licence is suspended commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

(8) The Board shall, where it cancels a licence under subsection (5), publish the order of cancellation in a daily newspaper of general circulation in Zambia.

- Enforcement notice **27.**(1) Where the Board has reasonable grounds to believe that a licensee has contravened or is likely to contravene any provision of this Act, or a directive issued by the Board in the performance of the Authority's functions under this Act or any other condition of the licence, the Board shall serve an enforcement notice on that licensee.
- (2) An enforcement notice issued under subsection (1) shall
- (a) state the contravention or the likely contravention of this Act, directive or any other condition of the licence and the matters constituting the contravention or making it likely that the contravention will arise;
 - (b) specify the steps that have to be taken to remedy the contravention or avoid contravention, as the case may be; and
 - (c) specify the effective date of the notice and the time limit within which the steps described under paragraph (b) must be taken.
- (3) The Board, where it considers it necessary for the safety of the public or the workers—
- (a) may require the suspension of any work with radioactive material or other source of harmful ionising radiation and its storage in a safe place or under conditions preventing contamination of the environment or exposure of the public or workers to potentially harmful radiation; and
 - (b) shall require the licensee to take such measures as are necessary to abate the adverse effects, if any, of the failure to comply with the conditions of the licence.
- Register **28.** The Board shall keep and maintain a register of all persons licensed under this Part, in which the Board shall enter such details and particulars as may be prescribed.
- Appeal **29.** (1) A person aggrieved with a decision of the Board under this Part may appeal to the Minister within thirty days of the decision.
- (2) A person aggrieved with a decision of the Minister under subsection (1) may appeal to the High Court within thirty days of the decision.
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