

LEGAL ALERT

COMMENCEMENT OF THE TRADEMARKS ACT NO.11 OF 2023



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Commencement of the Trademarks Act No.11 of 2023 – 8 Key Features

On 31 December 2025, the Trademarks Act No. 11 of 2023 (the “new Trademarks Act” or “the “Act”) came into force pursuant to Statutory Instrument No. 86 of 2025. The new Trademarks Act repeals and replaces the Trademarks Act, Chapter 401 of the Laws of Zambia, which has governed trademark protection since 1958. The enactment of the new Trademarks Act marks a significant modernisation of Zambia’s trademark regime. Among its key reforms, the new Act introduces statutory protection for service marks, gives domestic effect to the Madrid Protocol, and strengthens trademark enforcement mechanisms. Collectively, these developments align Zambia’s trademark system more closely with contemporary international standards and best practices.

We highlight below, the 8 key features of the new Trademarks Act:

1. Expansion of Registrable Subject Matter

The new Trademarks Act broadens the scope of intellectual property rights protection by introducing protection for service marks, collective marks, well-known and geographical indications. It also explicitly permits the registration of non-traditional trademarks, provided they satisfy the requisite criteria for distinctiveness and registrability. With the introduction of geographical indications under the Act, Section 133 of the Act requires the Patents and Companies Registration Agency (PACRA) to keep a register for both trademarks and geographical indications.

2. Duration of Registration

Under section 43 of the Act, a registered trademark shall be valid for a period of 10 years from the date of filing the application for registration of that trademark, as opposed to 7 years previously provided for in the old Act. The subsequent renewal period has also been adjusted downward to 10 years, from 14 years as provided under the repealed Act.

3. Geographical Indications

Section 95 of the Act now provides a legal framework for the protection of registered Geographical Indications (GIs). Eligibility to apply for registration is granted to producers operating within a specified geographical region or to any competent authority overseeing GIs. Notably, the new Act sets strict limitations on registrability, precluding protection for indications that utilise generic terms, violate public policy, or lack protection in their country of origin. Furthermore, registration will be denied if the product’s reputation or quality is not fundamentally linked to its geographical source, or if the indication is misleading regarding the goods’ true place of origin.

4. Trademark Agents

Section 116 of the new Act establishes the regulatory framework for the registration of Trademark Agents, introducing more stringent criteria compared to the repealed Act. Notably,



Section 116(2) stipulates that legal practitioners seeking registration as TAs must possess at least 5 years of professional practice. Alternatively, the Act permits the registration of any individual who successfully completes a qualifying examination approved by the Registrar of PACRA.

5. Intellectual Property Journal

The new Act renames the Trademarks Journal to the Intellectual Property Journal. The Journal is meant to be published periodically for purposes of advertising intellectual property applications and other matters such as registration of trademarks and geographical indications; the acceptance of registration of trademarks and geographical indications; proposed amendments to the rules, and cancellation of registration of trademarks among other things.

6. Domestication

Another noteworthy development is that the new Act has domesticated the Paris Convention for the Protection of Industrial Property (1883), the Madrid Protocol relating to the International Registration of Marks, and the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, as well as any other relevant international treaty or convention to which the Republic is a State Party. This progressive reform enables rights arising under these instruments to be directly recognised and enforced under Zambian law, firmly integrating Zambia into the international trademark protection framework.

7. Registration of Trademarks

Further, the new system introduces the efficiency of multi-class applications and the registration of a series of classes for a single trademark through a single filing. The regime further permits joint applications for a single mark by two or more users connected in the course of trade, granting such proprietors rights of use as though the registration were held by a single person. These reforms streamline the registration process, reduce administrative burden, and provide greater commercial flexibility for rights holders.

8. Border Measures

There is an introduction of robust border enforcement mechanisms to safeguard trademark integrity in the new Act. Under these provisions, a proprietor or licensee may apply to the Commissioner General of the Zambia Revenue Authority to intervene where there is a reasonable suspicion that counterfeit goods are being imported or exported. Upon approval of the application and satisfaction of the statutory requirements, the Commissioner General is empowered to direct the seizure and detention of the suspect consignments. However, section 109(2) of the Act expressly excludes goods in transit from the scope of these measures, creating a potential enforcement gap that may be exploited by infringers.

Conclusion

In conclusion, the enactment of the new Trademarks Act denotes a long-overdue and significant modernization of the country's trademark framework. While the substantive provisions of the Act are now in force, including the introduction of service marks, multi-class filings, and recognition of international rights under the Madrid Protocol, the practical implementation of certain new features will depend on the publication of the accompanying Regulations. Trademark proprietors are therefore, advised to review and adapt their filing strategies proactively, positioning themselves to fully leverage the enhanced protections and procedural efficiencies as soon as the Regulations are operational.

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