



## WHAT HAS ZFE DONE FOR US LATELY?



ZFE Executive Director Mr. Harrington Chibanda front row, third from right with the Medical Stores Limited senior staff at the end of a recent in-house training on administration of discipline.

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We are often asked about the Federation's relevance to the employer, especially when it is time to pay annual subscription. In some cases, we consider the question rather unfair because of having provided direct services to the member for several years. Yet, we still have to justify our relevance simply because the member's contact person has left the entity without explaining our support to their successor.

In other cases, we know the question is justified because we have had little interaction with some members. This is the theme of this special edition newsletter. In this newsletter, we outline our main activities thus far in the year.

For those members who feel unattended to, we express our sincerest regrets. Secretariat has a small staff compliment, with an average of one staff to more than 45 members. Secretariat is in Lusaka and has a limited budget, whereas our membership is spread out across the country and our activities are frequently international. Secretariat cannot understand all the issues in the various economic sectors that comprise our membership without *your* advising us. We there-

fore urge you to contact us whenever you need industrial relations or operational sustainability support. Contact us when there is an issue of concern you believe should inform our lobbying strategy. We may not be able to provide the support ourselves, but we can find someone in our networks who can or at least advise on the next action to take.

The work of an employers' organization is like an iceberg: you only see its tip above water. As much as we report in our periodical newsletters and our annual report, there is so much we cannot publicize in order to protect the confidentiality of the member's issue. We therefore rely on you our members who have been directly or indirectly assisted by the Federation to spread the word in your networks. And if the contact person is leaving the member employer, please remember to pass the baton onto your successor!

*Grace Samui, AHCZ, ACI Arb Counsel*

# GOOD NEWS FOR SOYBEAN GROWERS...

The depressed local market for soybeans growers and its effects down the agro-supply chain have not gone unnoticed by the Federation.

ZFE and the Employers' Federation of Pakistan recently signed a Memorandum of Understanding to becoming reciprocal partners and to extend all support, cooperation, and assistance to each other for the overall benefit of the entrepreneurs in both the countries. One issue of cooperation that is already gathering momentum is the interest of Pakistani purchasers in Zambian soybeans.



farmers with Pakistani buyers and facilitate the smooth export of the commodity. We urge all large, medium and small-scale soybean growers to get in touch with the Secretariat.

ZFE's role is to connect Zambian



## REFORMULATING THE FEDERATION'S STRATEGIC DIRECTION

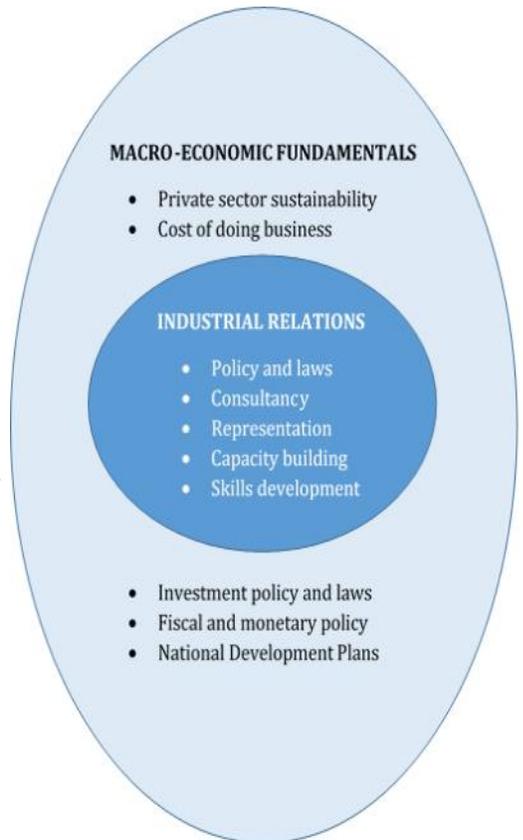


Our current Strategic Plan for the period 2013-2017 is coming to an end. The Board, Management and some members met on July 17 and 18 in Chisamba to discuss how to proceed in the next planning period. The event was sponsored and resourced by the Dutch Employers Cooperation Program.

The main topic of discussion was the Federation's continuing relevance to its members and the country at large. It was agreed that its core focus should remain industrial relations. Its peripheral work as a private sector lobbyist should also continue, in partnership with its member sector organizations. This partnership creates a powerful lobbying mechanism with the sector organization providing the expertise and the Federation providing the national and international networks.

Work on the next strategic plan is still ongoing. Any suggests from our members on how we can improve our relevance are most welcome!

*Did you know that ZFE is so much more than an industrial relations representative? The Industrial and Labor Relations Act Cap 269 and our Constitution also mandate us to represent and promote employers' interests. That is why we are widely recognized as a key stakeholder representative in the operational sustainability of the private sector in Zambia.*



## WHAT *HAS* THE ZFE SECRETARIAT BEEN DOING?

We cannot itemize it all, but the work we have done and continue to do includes the following.

1. **Law reforms:** participation in the labor law and social security reforms through the Tripartite Consultative Labor Council and its Technical Committees. Lobbying for more balanced provisions that support the intended objectives without overburdening employers.
2. **Court cases:** three Court cases to date. One successfully concluded at mediation; two pending trial.
3. **Capacity building:** several in-house capacity-building workshops in administration of discipline and understanding Zambia's labor laws.
4. **Disciplinary action:** background advice on undertaking disciplinary action; formulating and reviewing disciplinary codes; chairing disciplinary hearings.
5. **Collective bargaining:** background advice that has prevented deadlock on such issues as the age limit for 'dependents'; chairing collective bargaining sessions; capacity building on modern methods of sustaining the relationship between employer and trade unions; advice on joint industrial council formation.
6. **Conditions of service review and formulation:** for members and non-members; for profit and non-profit entities; for international entities that want to maintain their corporate culture while ensuring compliance with local labor laws.
7. **HR policy formulation:** redundancy; alternative dispute resolution; leave; grievance handling; fraternization; anti-corruption; codes of conduct.
8. **Protecting members against overzealous Governmental action:** redundancy; unwarranted interference. We intervened to remind the Government to follow the law and procedure.
9. **International events:** 106<sup>th</sup> session of the International Labor Conference (ILC) held in Geneva from June 5-16, 2017 under the theme "Building a future with decent work". ZFE was represented by the President Mr. Wesley Chishimba and Executive Director Mr. Harrington Chibanda; ZESCO, Sanlam, DBZ, NAPSA, Copperbelt University, WCFCB and Bank of Zambia. For more details on the ILC visit [www.ilo.org](http://www.ilo.org). Direct involvement in the development of the forthcoming SADC Private Sector Forum Labour Laws Compendium. The Compendium is intended to provide an accurate snapshot of the labor laws in the region for potential and actual investors.
10. **Projects:** including against child labor in agriculture and the Zambia Business Disability Network.
11. **Miscellaneous advice:** general legal compliance including registration and license conditions; immigration permits; legal thresholds for unionization; performance management.
12. **Lobbying for an enabling operating environment for the private sector:** every opportunity we get! See for instance our submissions to the Let's Work Partnership Program. ⇒



*Choose you representative wisely!*

*Section 91 of the Industrial and Labor Relations Act Cap 269 empowers the Federation to represent its members in the Industrial Relations Division of the High Court of Zambia. As industrial relations specialists, we have the inside track on the complexities of labor laws and industrial relations practice.*

## LWP JOB CREATION ACTION PLAN

On June 13, 2017, the World Bank Group, International Labor Organization and other cooperating partners launched the *Zambia Jobs in Value Chains: Opportunities in Agribusiness* and *Jobs Diagnostic Zambia* reports as part of the Let's Work Partnership (LWP) Program. The reports put forth for discussion, a framework for priority actions on Zambia's jobs agenda. The launch was officiated by the Secretary to the Cabinet Dr. Roland Msiska and attended by various Government Ministries, international aid organizations, and private sector representatives; and the labor movement.

The LWP reports focus on creating jobs in Zambia in the poultry and aquaculture sectors. These sectors were targeted because of the large percentage of the poor population engaged in agriculture, the expected increase in demand for chicken and fish (relatively cheap protein) as the population increases, and the potential for creating more jobs through a value chain that includes everything from stock feed to grocers.

The policy framework for implementing the Jobs Action Plan was the subject of panel discussions at the launch. The Action Plan Matrix had three Pillars that the discussants were asked to analyze from different perspectives. The Pillars were:

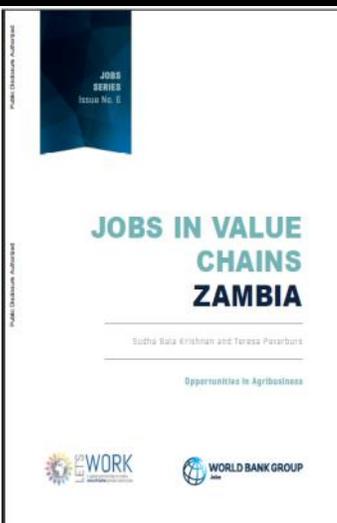
- **Pillar 1: Macroeconomic and regulatory policies (fundamentals)** - monetary and fiscal policy, job-friendly tax policies, electricity supply and affordability, etc.;
- **Pillar 2: Strengthening labor supply and skills policies (supply)** - expanded access to education for low income households and girls; improved quality and market relevance of technical and vocational education programs; improved extension services, etc.; and
- **Pillar 3: Sectoral and regional policies to create jobs (demand)** - define priority sectors with high jobs potential (as per the Industrialization and Job Creation Strategy (IJCS) 2013), etc.

ZFE was requested to contribute to the discussion on priority areas for action; and how the LWP could best support the proposed policy framework for jobs. We gave very frank and detailed submissions. In our view, the Jobs Action Plan Matrix largely re-stated what the private sector has been lobbying for since the Zambia Private Sector Alliance Advocacy Agenda was launched in 2014. Each of the Pillars and their sub-items corresponded with some aspect of the continued call for a more favorable operating environment—calls that have been essentially ignored by the Government. The biggest challenge has always been the lack of consultation. Take for instance **Pillar 1** on job-friendly tax policies. Corporate tax, income tax, VAT, customs duties, road tolls, Council business levies, skills development levy, tourism levy, service charge... The number of taxes imposed on the private sector is excessive. Worse still, some do not even have allowance for rebates where the employer is directly providing the service the tax is intended for, such as in-house training against the arbitrary skills development levy.

**Pillar 3** on priority sectors of the IJCS 2013 is undermined by the Government itself. It has listed agriculture, tourism, construction and manufacturing as the priority sectors. Yet its high taxation, failure to pay contractors on time and monetary policies have grave consequences for local investors trying to survive in those sectors.

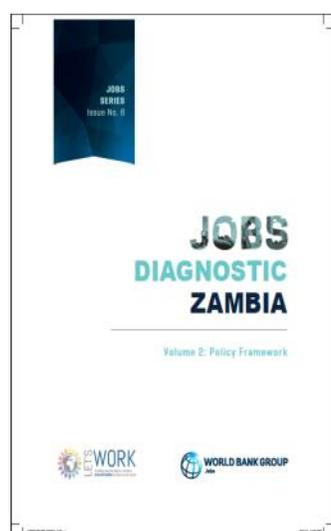
We acknowledged that the picture was not completely dismal. Some progress is being made here and there, such as the Rural Electrification Authority expanding the electricity grid, the Business Regulatory Review Agency rationalizing permits in some activities such as borehole drilling, and the Government finally opening up the space for bio-fuel production. It was also encouraging that Dr. Roland Msiska was considering linking the Jobs Action Plan Matrix to the implementation framework of the 7NDP. We nonetheless reminded the Government that private sector is the source of the much-needed jobs. It is therefore being ignored at their own peril.

Our submissions made considerable impact on the LWP Program's staff. We were asked to provide greater detail and make suggestions on how the Matrix could be improved. For those, we relied upon our network of agricultural, energy and skills development specialists. This was a true testament to how our members and partners can contribute their expertise through us to make an impact.



<https://openknowledge.worldbank.org/handle/10986/27007>

*The LWP Jobs Action Plan Matrix largely re-stated what the private sector has been lobbying for since the Zambia Private Sector Alliance Advocacy Agenda was launched in 2014.*



<https://openknowledge.worldbank.org/handle/10986/27008>



## Downloads

# THE REVAMPED ADVISORY NOTE: *ZFE Q & A*

It has been a while since we last released an advisory note on an industrial relations matter of general interest. So much has happened since then in our employment laws, that we decided to revamp the series. We therefore introduce to you the *ZFE Q & A*, where we discuss a topical issue we have either noticed ourselves or had brought to our attention by our members.

As with the advisory notes, the *Q&As* will be available on our website in the 'downloads' section. The *Q&As* you can expect within the next few weeks include:

- ***Guidance on the award of costs in industrial relations litigation*** — Based on a concern from ZACCI about rampant litigation by aggrieved former employees who lose and yet are not condemned with costs.
- ***What does the State of Threatened Emergency mean for employers?***
- ***How can we navigate the statutory charges in the tourism and hospitality sector?*** - Based on the plethora of charges recently imposed through the Tourism and Hospitality Act 2015 and Skills Development Levy Act 2016;
- ***Is attestation of contracts really necessary?*** - Based on a recent Supreme Court decision that substantially watered down the requirement for attestation; and reported continuing attempts by Labor Officers to impose their preferences for conditions of service through the attestation process and employees challenging an unattested contract;
- ***Can we reject the resignation of an employee who has a pending disciplinary charge?***
- ***What is a section 35 transfer of an employee?*** - Based on the misunderstandings that arise in a change of shareholding;
- ***How can we validly terminate written contracts of employment?*** – Based on conflicting judgments on the application of the amended section 36 of the Employment Act;
- ***How do the Pension Benefits provisions of the amended Republican Constitution work?*** - Based on the alleged 'right' to gratuity; and the confusion over retention on payroll pending 'payment' of the pension benefit.

We can only produce sound and relevant *Q&As* with your support. Please therefore let us know if you have any issues of general interest that might benefit from a *Q&A*. Please also provide any recent judgments you are aware of that might impact on industrial relations. To that end, we make this specific request:

### REQUEST FOR JUDGMENTS ON RECENTLY AMENDED LABOR LAWS

Dear Esteemed Member,

We frequently encounter considerable misunderstanding among the social partners in industrial relations (Government, labor and employers) and in the Courts on the interpretation of three pieces of recently amended labor legislation:

1. the Pension Benefits provisions of Part XIV of the amended Constitution, in light of the alleged 'right to gratuity' and retention on payroll even when a third party pension scheme is responsible for delays in 'payment' of the pension;
2. the scope of application of the 2011 Minimum Wages Orders, in light of the 'no less favorable than' requirement coupled with 'does not apply' and 'do not negotiate with'; and
3. the application of the amended section 36 of the Employment Act in light of the antecedent jurisprudence on the distinction among wrongful, unlawful and unfair dismissal / termination.

As much as several tools of statutory interpretation have assisted, there is no substitute for a reasoned judgment of a superior Court for added weight. For instance, for those of you who have utilized it, you will appreciate how the *Chilanga Cement v Kasote Singogo* case makes short shrift of any attempt to apply Part IV of the Employment Act to written contracts. It has proved invaluable in cases of application of section 26B of the Employment Act to redundancy under written contracts.

If you have any judgment from High Court and above that covers the listed amendments even from a general perspective, we would be deeply obliged for a copy. If it has already been uploaded on the internet, you can send us the link instead.

Please email me at [legal@zfe.co.zm](mailto:legal@zfe.co.zm).

Much appreciated!

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## WHO WE ARE...

ZFE is a statutory, non-political, non-profit and voluntary federation of employers and employers' associations. Its existence as a body corporate is continued under the Industrial and Labor Relations Act Cap 269 of the Laws of Zambia.

ZFE's membership encompasses all sectors of the Zambian economy from agriculture to mining to manufacturing to retail, hospitality and civil society. Its members operate in the private sector, parastatal and quasi-governmental, and non-profit sectors. Its members are local companies, international conglomerates, and international non-governmental organizations. Its membership currently stands at over 400 employers.

ZFE's mission is the promotion and protection of employers' interests in industrial relations and operational sustainability. It is by law one of the social partners in industrial relations dialogue in the tripartite of Government, the labor movement and employers. In this position, ZFE represents its members at all levels: individually; jointly as a whole or sectorally; and internationally. ZFE is the preeminent representative in industrial relations as it has influence from the District Labor Office to the National Assembly and Cabinet, to SADC and COMESA, and to the International Labor Organization, World Bank, and other international organizations. ZFE also leverages its position and expertise to undertake industrial relations consultancy work for non-member employing entities.

Samples of our work are available in the 'downloads' section of our website [www.zfe.co.zm](http://www.zfe.co.zm).

If you are an employer and not yet a member, please consider joining us. Contact the Secretariat for further information on us, our work, and on the procedure to become a member. You are never too small or too big to benefit.

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## SO - WHAT'S NEXT?

That is up to you our member. We have our standard services but are always open to new ways we can serve you better. Please just remember that your subscription does not cover everything. We are non-profit. Still, we must be sustainable.

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## BY THE WAY...

Do you have old newspapers in good condition that you no longer need? Reduce the clutter (and fire hazard) by donating those old newspapers to the Lusaka Animal Welfare Society (LAWS). They use them to line the floors of the kennels.

LAWS are located at Sadzu Road, Next to Levy Junction, Lusaka; +260-966-005-297.

Please also visit <http://www.lawszambia.org> to see other ways you can help. And kindly spare something whenever you see their donation boxes in various shops.

How we treat our pets is a reflection of who we are.

Thank you.