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ZANZIBAR

CHAPTER 27: ZANZIBAR

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27 ZANZIBAR

27.1 Constitutional requirements for environmental protection in the United Republic of Tanzania

Zanzibar is a semi-autonomous state within the United Republic of Tanzania, with its own government comprising a Revolutionary Council and a House of Representatives, answerable to the President of Zanzibar. Being part of the United Republic means that Zanzibar falls under the same Constitution as the Tanzanian mainland and while there are some areas of government that are the sole responsibility of the federal government such as defence, currency, foreign affairs etc., all other matters concerning Zanzibar (e.g. environmental management) are within the exclusive jurisdiction of the Zanzibar Revolutionary Council and its legislative body, the House of Representatives.

The Constitution of the United Republic of Tanzania, 1998 makes a clear link between a healthy environment and the wellbeing of the citizens of the country. Under Article 27 of the Constitution, the public is called upon to ensure that the natural resources of the country are managed properly:

- *“Every person is obliged to safeguard and protect the natural resources of the United Republic, State property and all property jointly owned by the people ...*
- *All persons shall by law be required to safeguard State and communal property, to combat all forms of misappropriation and wastage and to run the economy of the nation assiduously, with the attitude of people who are masters of the fate of their nation”.¹*

Zanzibar is composed of the Zanzibar Archipelago in the Indian Ocean, 25–50 kilometres off the coast of the mainland, and consists of many small islands and two large ones: Unguja (the main island, referred to informally as Zanzibar) and Pemba Island. The capital is Zanzibar City, located on the island of Unguja

¹ Republic of Tanzania, 1998. *The Constitution of the United Republic of Tanzania*. Dar es Salaam: Government of Tanzania.

27.2 Institutional and administrative structure for environmental impact assessment in Zanzibar

27.2.1 The Zanzibar Environmental Management Authority

The Zanzibar Environmental Management Authority (ZEMA) was established under the Zanzibar Environmental Management Act, 2015 and falls under the Second Vice-President's Office. ZEMA's vision is to promote *"sound environmental management for sustainable economic and social benefit for present and future generations"*.²

According to section 15 (1) of the Zanzibar Environmental Management Act, 2015, ZEMA is governed by a Board comprising the following members: the Chairperson, appointed by the President; the Director General; the Director of Environment; and four members appointed by the Minister, of whom two shall be from the private sector and two shall be women.

Under the Zanzibar Environmental Management Act, No. 3 of 2015, the ZEMA has been entrusted with a number of functions to help safeguard the environment. ZEMA can: issue environmental certificates, permits and approvals; undertake environmental monitoring; promote environmental awareness and enforce regulations and standards.

The following sections within ZEMA have a role in exercising the required functions (see Figure 27.1):

- **Administration and Finance:** Deals with human resources within the ZEMA and matters related to financial administration, mobilisation of funds, coordination of cross cutting issues i.e. gender, HIV/AIDS, disability and drugs, preparation of the budget, coordination of training for staff etc..
- **Enforcement and Compliance:** Coordinates the implementation of the Zanzibar Environmental Management Act; manages the implementation of the regulations and ensures compliance with the standards, guidelines and orders relating to environmental conservation; prosecutes and handles the cases related to environmental degradation and pollution, including those related to violations of the Zanzibar Environmental Management Act, of 2015.
- **Environmental Planning and Monitoring:** Conducts environmental monitoring in order to develop better management and protection of the environment. Monitoring includes: biodiversity, marine and terrestrial ecosystems, coastal zone management, natural resources and disposal of waste and wastewater. This section also prepares guidelines and proposes locations for destruction of unfit/out-of-date products.
- **Environmental Impact Assessment (EIA):** Coordinates EIA procedures; issues environmental assessment certificates; helps to build capacity in community, public and private institutions regarding EIA; conducts monitoring to ensure compliance with conditions

² <http://www.minifuss.com/wp/>

attached to the EIA Certificates; and keeps the records of registered EIA/audit experts/firms eligible to conduct EIAs and audits in Zanzibar.

- **Environmental Information and Communication:** Provides information to the community and other stakeholders regarding the roles and responsibilities of the ZEMA; receives and responds to environmental complaints; and operates the Zanzibar Environmental Information Management System.
- **The Office of Authority in Pemba:** The main role of this Office is to oversee the implementation of all the ZEMA responsibilities on Pemba Island. The Pemba Authority will have the same sections, with the same responsibilities as the ZEMA in Unguja.³

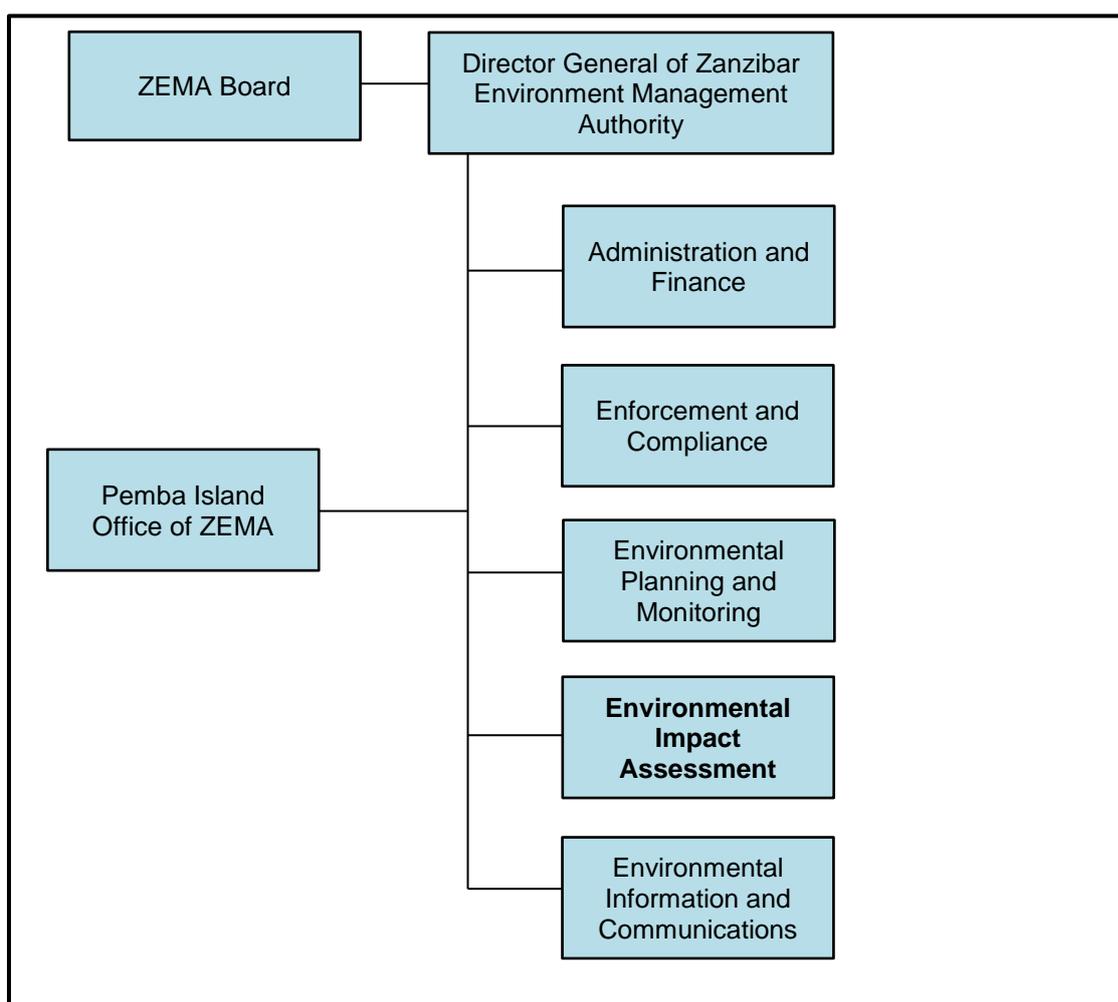


Figure 27.1: Organisational chart of the Zanzibar Environmental Management Authority

Section 22 of the Act sets out the functions of ZEMA as being:

- Undertake and coordinate enforcement of the provisions of the Act;
- Coordinate the EIA process for any activity or investment;
- Coordinate environmental audits;
- Carry out environmental monitoring;

³ <http://www.minifuss.com/wp/>

- Issue environmental certificates, permits or approvals;
- Receive and work on complaints related to the environment;
- Promote environmental education, awareness and dissemination to society and other stakeholders;
- Enforce regulations and ensure compliance with standards, guidelines and orders related to the environment;
- Monitor biodiversity, terrestrial and marine ecosystems, coastal zone, waste disposal and natural resources;
- Any other safeguards related to the environment;
- Prepare and submit to the Minister a comprehensive annual implementation report;
- Operate the digital Zanzibar Environmental Information Management System;
- Raise funds and receive donations, grants, contributions and loans from verified sources; and
- Carry out any other functions in relation to the Act.

Section 23 (1) of the Zanzibar Environmental Management Act highlights the powers of the ZEMA which include:

- Provide directives on the proper actions to be taken for effective environmental management;
- Issue a stop order for any activity to any person who violates the Act;
- Order an immediate closure of any activity found in violation of the Act;
- Impose fees and charges for the granting of environmental certificates, permits and approvals for services and facilities provided by the Authority;
- Change, suspend, or revoke environmental certificates, permits or approvals issued in accordance with the Act;
- Enter into contracts with any person for the purpose of fulfilling the functions of the Authority;
- Seek any environmental information from any person when deemed necessary;
- Seize any property which has been found in violation of any provision of the Act; and
- Arrest any person who has been found in violation of any provision of the Act.

27.2.2 Environmental Advisory Committee

Articles 7-10 of the Act provide for the establishment, mandate and functions of an Environmental Advisory Committee (EAC). This inter-ministerial committee, comprising as a minimum: representatives from institutions such as those responsible for non-renewable natural resources, local government, disaster management, public health and law, as well as the Zanzibar Chamber of Commerce, Industry and Agriculture. The aim of the EAC is to advise the Minister (responsible for the environment) regarding policies, strategies and environmental management plans, as well as to mediate and resolve any disputes between government institutions, private enterprises and the public on environmental matters. The EAC is required to meet on a quarterly basis.

27.2.3 Inter-sectoral coordination

The Act provides for the establishment of an Environmental and Climate Change Unit in each Ministry and Local Government Authority (Arts. 25-26). These Units are to be responsible for coordinating environmental and climate change issues within the respective ministry of local authority, such as mainstreaming norms for climate change adaptation and mitigation into sector policies, plans, programmes, projects and activities.

27.3 Policy and legal framework for EIA

27.3.1 Zanzibar Environmental Policy

The Zanzibar Environmental Policy was published in 2013, replacing the 1992 policy. All economic and development sectors including water, forestry and non-renewable natural resources, tourism, energy, fisheries and marine resources, health, agriculture and livestock, lands, industries, infrastructure, disaster management, and local government are implemented in accordance with the top priorities laid down in the Policy. Other cross cutting sub-sectors considered in the policy include climate change, gender mainstreaming, education, NGOs, private sector, and collaboration with international development partners.

The Policy intends to pave the way for the protection, conservation, restoration and management of Zanzibar's environmental resources, such that their capacity to sustain development and maintain the rich environmental endowment for the present and future generations is not impaired.⁴ With regards to environmental assessment, it states that the government will ensure the incorporation of environmental assessment into procedures for designing and implementing development programmes, plans, policies and projects. The implementation strategies mentioned in the Policy to achieve this goal are:

- Promotion of the application of environmental impact assessment (EIA) and strategic environmental assessment (SEA);
- Strengthening of public awareness on the application of environmental assessment tools;
- Enhancement of monitoring programmes and assessment for the state of the environment.

27.3.2 Vision 2020

The Zanzibar Vision 2020 is a strategic document with a multi-sectoral approach whose overall objective is the transformation of the economy to create a robust, resilient and competitive economy, with a view to eradicating urban and rural poverty. Within the sustainable development paradigm, it is envisaged that Zanzibar of 2020 should be a society that reflects the following six attributes: (i) eradication of abject poverty; (ii) developing a strong, diversified, resilient and competitive agriculture, industry, tourism and other productive socio-economic sectors to cope with the challenges of the changing market and technological conditions in the world economy; (iii) attaining a nation whose way

⁴ <http://www.minifuss.com/wp/>

of life reflects the highest level of ingenuity, self-confidence and self-esteem, culture, resource base and aspirations; (iv) achieving peace, political stability, good governance, integrity, national unity and social cohesion; (v) modernised production and delivery systems of goods and services to meet the basic needs of society and attain international competitiveness in the leading sectors; (vi) attain higher degree of foreign direct investment that will inject sound capital, create full employment and attain a positive balance of trade in the export market.

27.3.3 Climate change policies, plans and programmes

Zanzibar's economy is very dependent on climate, but the climate is changing and recent decades have seen rising temperatures, increased rainfall variability, higher wind speeds and tide levels and extreme weather events, such as droughts and floods. These have resulted in economic costs in terms of GDP, because Zanzibar is not adequately adapted to the current climate change impact.⁵

Thus, in parallel with Tanzania, Zanzibar adopted its own climate change strategy in 2014, the Zanzibar Climate Change Strategy (ZCCS). This document sets out the Vision and objectives, the risks and opportunities and the strategic action plan, and represents the first step towards integrating climate change into development planning. The Vision is to build a climate resilient and sustainable Zanzibar by 2030. The responsibility for climate change action implementation rests with the Environmental and Climate Change Units within each ministry. However, the ZCCS is still relatively new, and while some implementation is planned, there is still a significant need for further clarity regarding priority investments to improve Zanzibar's resilience to climate change and to assist in leveraging and channelling climate finance more strategically, to deliver results on the ground.

To complicate matters, there has been no comprehensive analysis linking the strategic priorities in the Tanzanian mainland's National Climate Change Strategy and the ZCCS to current financing for climate change activities, or to identify where activities are currently resourced and where financing gaps may exist.⁶

27.3.4 Zanzibar Environmental Management Act

The Environmental Management for Sustainable Development Act No. 2 of 1996 was replaced by the Zanzibar Environmental Management Act of 27 March, 2015, which contains better provisions relating to the conservation, protection, enforcement and management of the environment of Zanzibar and related matters. The Act was established to address the environmental management priorities set in the Zanzibar Environmental Policy of 2013. The Act is set out in sixteen parts, with environmental and social impact assessment (ESIA) and strategic environmental assessment (SEA) addressed in Parts IX and X:

Part I	Preliminary provisions
Part II	General environmental obligations

⁵ www.tzdpdg.or.tz/fileadmin/documents/dpg_internal/dpg_working_groups_clusters/cross_cutting_groups/environment_and_natural_resources/Resources/Climate_Change/CC_EVENT/Mrs._Amina_Shaaban.pdf

⁶ documents.worldbank.org/curated/en/853121468312047723/pdf/ACS11581-REVISED-WP-P127165-PUBLIC-Box393246B-ENR-GP-Tanzania-Climate-FINAL.pdf

Part III	Administration and institutional arrangements
Part IV	Environmental emergencies
Part V	Environmental and climate change units
Part VI	Integrated coastal management
Part VII	Management of non-renewable natural resources
Part VIII	Environmental education and research
Part IX	Environmental and social impact assessment
Part X	Strategic environmental assessment
Part XI	Pollution prevention and waste management
Part XII	Conservation of biodiversity and management of water resources
Part XIII	Climate change governance
Part XIV	Financial provisions
Part XV	Offences and penalties
Part XVI	Miscellaneous provisions.

The term ‘environment’ is defined in the Act as being *“the physical surroundings or conditions along with the atmospheric, land and aquatic components that support life and livelihoods and where human beings, flora, fauna and nature co-exist.”*

The Act sets out the obligations of both the state and its citizens in terms of the environment, as well as the fundamental principles which form the basis of the Act. In terms of Art. 3, every person is obliged to protect the environment for the welfare of present and future generations. This includes the obligation to ensure that development plans and activities are implemented in an environmentally sound and sustainable manner (Art. 4).

In turn, the State grants every person the right to a clean, safe and healthy environment, the right to complain to relevant institutions and to bring legal action against persons who cause or are likely to cause harm to the environment. The state is further obligated to take action based on such information (Art. 5).

The following principles are set out in Art. 6 of the Act:

- The precautionary principle;
- The polluter pays principle;
- The principle of ecosystem integrity;
- The principle of public participation in the development of policies, plans and processes for the management of the environment;
- The principle of international cooperation in the management of the environment; and
- The principle of common but differentiated responsibility.

27.3.5 Regulations

EIA Regulations have been drafted in terms of the 2015 Act, but these are not yet in force, thus the 2002 EIA regulations are still applicable.⁷ Nevertheless it is worth noting that Articles 13-16 of the forthcoming EIA Regulations highlight: the ESIA review process in Zanzibar (Art. 13); technical review of the ESIA report (Art. 14); ESIA review meeting (Art. 15); communicating the outcome of the ESIA review meeting (Art. 16); and the decision of the Authority on clearance for an ESIA.⁸

In addition to the regulations referred to above, the following are also pertinent in the context of ESIA in Zanzibar:

- EIA experts regulations (see s. 27.3.11);
- Fees and charges regulations (see s. 27.3.8);
- Disposal of unfit waste products regulations;
- Renewable and non-renewable natural resources (NRNR) regulations, 2011.

27.3.6 Permits and licences

The Zanzibar Environmental Management Act, No. 3 of 2015 states that: “*No person shall undertake any activity which is likely to have a significant impact on the environment without an EIA Certificate issued under this Act. No licensing institution shall issue a licence, permit, certificate, or other form of approval for an activity which is likely to have a significant impact on the environment unless an EIA Certificate has been issued for the activity.*” This considers any development activity, undertaken by any person or institution – including governmental parties.⁹ However, changes in an existing EIA Certificate, transfer of an EIA Certificate, change of name on the EIA Certificate, the surrender of an EIA Certificate and the cancellation of an EIA Certificate are not defined under the ESIA Guidelines and Procedures of 2009 or under the Zanzibar Environmental Management Act, No. 3 of 2015.

A permit is required to excavate or remove non-renewable natural resources (Form 1 of the NRNR Regulations) and a licence is required to transport or sell NRNR (Forms 3 and 4 respectively of the NRNR Regulations). Mineral extraction may also be done under the Zanzibar Regional Administration Act, No. 8. of 2014 under Section 22(1)(d), and the Local Government Authority Act, No. 7 of 2014 which empowers local authorities (Regional, District and Shehia administrations) to issue permits for excavations under Section 26(1).

Environmental clearance for existing projects is a requirement under Section 46 of the Zanzibar Environmental Management Act, No. 3 of 2015. This is done via an Environmental Audit Certificate issued by ZEMA (see s. 27.4.9).

⁷ It is anticipated that the new EIA Regulations will be officially published before the end of 2019 (pers. comm. Ali Issa Badui)

⁸ The terms EIA and ESIA are used interchangeably in Zanzibar and mean the same thing.

⁹ NCEA Country Profile: Zanzibar

Establishment of public facilities such as waste disposal sites, markets, bus stands, slaughterhouses etc. require a number of permits as stipulated by relevant acts and issued by various departments at the Ministry of Lands and / or Zanzibar Urban Municipal Council (ZUMC):

- Town Planning Drawing: required under the Land Tenure Act, No. 12 of 1992 and issued by the Department of Urban and Rural Planning;
- Survey Plan: required under the Land Tenure Act, No. 12 of 1992 and issued by the Department of Surveys and Mapping;
- Rights of Occupancy: required under the Land Tenure Act, No. 12 of 1992 and Title Deeds issued by the Department of Land Administration;
- Right of Way (for roads, water supply, sewage, storm water, electricity transmission lines, pipelines etc.) should be done in coordination with the relevant utilities;
- Building Permit: required under the Municipal Council Act of 1995 and issued by the ZUMC.

A Water Right must be issued by the Zanzibar Water Authority (ZAWA) in terms of Part IV of the Zanzibar Water Act, No. 4 of 2006 to abstract water from natural rivers, lakes and underground aquifers.

A permit is required from ZAWA in terms of the Zanzibar Water Act, No. 4 of 2006 to connect to the municipal water supply system.

In order to connect to the electricity supply system, drawings must be submitted to the Zanzibar Electricity Corporation in terms of the Zanzibar Electricity Corporation Act, No. 3 of 2006.

27.3.7 Offences and penalties

These are set out in Part XV of the Zanzibar Environmental Management Act, 2015 and summarised in Table 27.1 below.

Table 27.1: Offences and penalties

Offence	Penalty
Anyone who denies an authorised officer entry to premises or hinders the execution of their duties and/or provides false information to said officer and/or harasses the officer (Art. 75)	A fine of between 500,000 and 5 million TZS and/or imprisonment for 3 months to 1 year
Anyone who fails to observe a stop order issued in terms of the Act (Art. 76)	A fine of between 2 million and 40 million TZS and/or imprisonment for 1 to 20 years
Anyone who contravenes any of the provisions of the Act where no specific penalty is prescribed (Art. 80)	A fine of between 2 million and 50 million TZS and/or imprisonment for 1 to 25 years

The penalty for repeated or continuous offences in terms of the Act is double the penalties stipulated above. In addition, the business or person who is convicted of any of the offences listed above will have their business permit or licence to practice revoked.

27.3.8 Fees

The proponent needs to pay for the costs of preparing an EIA report, as well as for the EIA review, including any costs involved when ZEMA hires external consultants for this review.¹⁰ The fee schedule is available on request from the ZEMA.

27.3.9 Guidelines

ZEMA's publication 'Environmental Impact Assessment - Guidelines and Procedures' of 2009¹¹ with several Annexes contains very detailed guidelines on screening (methods, report contents), scoping (methods, report contents, ToR requirements), reporting (style and format), review (team, type of information, criteria), monitoring (methods, parameters, results presentation), and other relevant topics. Sector-specific guidelines for four sectors (agriculture, hotel development, aquaculture, and urban development) are available in the Annexes of the EIA Guidelines and Procedures.¹²

Guidelines on SEA are currently (September 2019) in draft.

27.3.10 Environmental standards

Section 50 of the Zanzibar Environmental Management Act, No 3 of 2015 gives powers of the Director of Environment to propose environmental standards to the Zanzibar Bureau of Standards (ZBS) related to noise, water, air, wastewater and in augmenting the quality of environment in general. To date, the ZBS, has adopted ambient and occupational noise standards (ZNS 15:2014 and ZNS 33:2014) but they are not yet being implemented.¹³

Standards have also been developed for ambient air quality (ZNS 20:2014), vehicle exhaust emissions (ZNS 34:2014) and potable drinking water (ZNS 57:2015). All standards can be obtained for a fee from the ZBS.

27.3.11 Certification of consultants

An EIA or environmental audit must be undertaken by experts whose names and qualifications are approved by ZEMA, which keeps a list published on their website. Two forms titled Application for Certification and Registration as Environmental Expert, and Application for Certification and Registration as a Firm of Environmental Experts are obtainable from ZEMA. The following information is required to register as either an individual expert or firm of consultants: contact details, area(s) of specialisation, professional/academic qualifications, experience in EIA/audits and the purpose of the application.

¹⁰ Ibid.

¹¹ A new draft, dated 2018, will soon replace the 2009 Guidelines and Procedures

¹² Ibid.

¹³ World Bank, 2016. ESMF for the Zanzibar Urban Services Project.

27.4 ESIA procedural framework in Zanzibar

To make sure that environmental and social effects of development projects are properly managed, projects require approval by ZEMA before they can be realised. The ESIA process steps are described in sections 27.4.1 to 27.4.8 below and the environmental audit process is described in s. 27.4.9.

27.4.1 Screening

The proponent of any project listed in Annex II of the EIA Guidelines and Procedures document (see Appendix 27-1 of this chapter) must register with ZEMA by submitting an application, together with the feasibility study, business plan or concept note explaining the scope of the project. Based on this information, the ZEMA will make a decision on the level of environmental assessment that needs to be undertaken, and which procedure applies, as follows:

- Direct clearance – for proposed projects with insignificant or no social and environmental impacts (see s. 27.4.2);
- Environment Report – for proposed projects with limited social and environmental impacts (see s. 27.4.3);
- Environmental and Social Impact Assessment – for proposed projects with potential significant social and environmental impacts (see s. 27.4.4);
- Pre-audit – for existing projects with limited social and environmental impacts (see s. 27.4.9);
- Audit – for existing projects with potential significant and environmental impacts (see s. 27.4.9).

Screening will be conducted by ZEMA within 10 working days from the date of registration and a screening statement will be produced within a further 10 days. Thus the entire screening stage takes 20 working days.

27.4.2 Direct clearance

Direct Clearance will be granted to any person or company whose activity or project has been proven to cause an insignificant or no impact on the biophysical or social environment. In this case, no assessment is required. However the following procedural steps apply to this category of project:

1. **Registration:** A proponent must register his or her project or activity with ZEMA, by filling in the registration forms and submitting them together with a bank pay-in-slip for the registration fee.
2. **Site verification:** This is carried out by ZEMA in order to become familiar with the proposed activity, by physically observing the project area.
3. **Letter of conditions:** The ZEMA will send a letter of conditions to be applied by the proponent during the operation of project.

4. **Submission of the Commitment letter to implement the conditions:** A proponent will have to send back the letter to the ZEMA to accept the letter of conditions.
5. **Issuing a certificate:** After the project proponent has submitted his/her letter, committing him or herself to the conditions, the ZEMA will issue a direct clearance for the project or activity.

27.4.3 Environmental Report

Before any proposed project or activity that is expected to have low or minor impacts on the environment and society is carried out, an Environmental Report (ER) has to be prepared for that project. The Environment Report must be prepared by recognised experts or firms who are authorised to conduct such a study in Zanzibar. The procedures to be followed for an ER are:

1. **Registration:** A proponent must register his or her project with ZEMA by filling in the registration forms and submitting them together with a bank pay-in-slip for the registration fee. The payment shall be determined by ZEMA, taking into consideration the nature and scale of the project.
2. **Select an expert or firm to conduct the Environmental Report:** The ZEMA will send the proponent a list of recognised experts/firms authorised to conduct ER in Zanzibar. From that list, the proponent must select and enter into a contract with one firm to conduct the assessment. Next, the proponent is required to provide written notification to ZEMA on the name of the expert/firm he/she has selected to prepare the ER for the project.
3. **Prepare an Environmental Report:** Once the screening decision is made (see s. 27.4.1 above), the ER will be prepared by the expert or firm selected by the project proponent. During this process, the concerns and comments of affected stakeholders are taken on board.
4. **Submission of ER to ZEMA:** Once the ER study is completed, the proponent, through the selected expert or firm, must submit 6 hard copies and one soft copy of the report to ZEMA for review.
5. **Site verification:** This takes place before the review meeting is held. Its objective is to allow ZEMA officials to familiarise themselves with the project by physically observing the project area. The project proponent will have to pay the fees for the site verification visit as well as for reviewing the documents.
6. **Review of the ER:** The review exercise is carried out by a technical committee, in order to determine the strengths and weakness of the ER.
7. **Decision-making:** The outcome of the review could be ER approval, ER rejection or a request for further information.
8. **Issuing of the Certificate:** In the case where the ER is approved, an Environmental Clearance Certificate will be issued, with conditions attached to it.
9. **Monitoring of the project by ZEMA:** This is conducted by ZEMA in order to ensure compliance and adherence with the approved environmental and social management plan, and to make sure the conditions attached to the Environmental Clearance Certificate are fully complied with.

27.4.4 Environmental and Social Impact Report

Before any project or activity that may have significant impacts on the social or biophysical environment can be carried out, it must undergo an ESIA. The ESIA needs to identify the potential environmental and social impacts of that particular activity and to provide mechanisms to minimise those impacts.

According to the Zanzibar Environmental Management Act of 2015, an EIA must be carried out by recognised experts or firms, authorised to conduct an ESIA in Zanzibar (see also s. 27.3.11).

After the project has been registered and screened (see above) and the environmental consultant(s) has been selected, the procedures for conducting an ESIA are described below:

1. **Scoping:** If the screening indicates that an ESIA is required, scoping will be undertaken by the selected expert or firm. This step is crucial because it determines how the ESIA study will be carried out. It also identifies and takes into consideration major concerns of stakeholders and identifies likely impacts of the project. The scoping exercise establishes the terms of reference (ToR) and boundaries of the ESIA study, which are submitted to the ZEMA for approval.¹⁴ Scoping must be done within 6 months from receipt of the screening statement (referred to in s. 27.4.1 above).
2. **Preparation of the ESIA Report:** The ESIA commences once the ToR have been approved by ZEMA (10 working days). The aim of the study is to describe the nature of the project as well as to analyse the possible environmental and social impacts of the project or activity and identify the mitigation measures to minimise the negative impacts and enhance the benefits. Public consultation should take place during this assessment. The ESIA Report must be completed within 6 months from the date of approval of the scoping report and ToR.
3. **Submission of the ESIA report to ZEMA:** Once the ESIA study is completed, the proponent, through the selected expert or firm, must submit 18 hard copies and one soft copy of the report to the ZEMA for review.
4. **Circulating the report to other stakeholders:** The ZEMA will circulate the EIA Report to the relevant stakeholders to obtain their views and comments (see s. 24.4.5 below). This must be done not more than 5 working days from the date of submission. The stakeholders must submit their views to the ZEMA in writing before the review meeting is held. The comment period shall be between 20-30 working days from the date of ESIA Report submission.
5. **Site verification:** This takes place before the review meeting is held. The objective is to allow the ZEMA officials to become familiar with the project by physically observing the project area, and to confirm what is written in the report. The project proponent will have to pay the fees for site verification, as well as for reviewing the document.
6. **Review of the ESIA Report:** This is conducted to evaluate the strengths and weakness of the ESIA report, based on the review criteria set by ZEMA (see s. 27.4.6 below). The review must take place within 30 days after the comment period has ended.

¹⁴ NCEA Country Profile: Zanzibar

7. **Decision-making:** The outcome of the review could be ESIA approval, ESIA rejection or a request for further information. If further information is required, the request must be sent by ZEMA to the proponent within 5 working days after the review. The proponent has 20 working days following this request to submit the required information.
8. **Issuing of the ESIA Certificate:** If the ESIA Report is accepted, the EIA Certificate will be issued, with conditions attached within 10 days from the completion of the review. The Certificate will be valid for five years.
9. **Monitoring the project by the ZEMA:** This is conducted by the ZEMA in order to ensure compliance and adherence to the approved environmental and social management plan, and to make sure that the conditions attached to the EIA Certificate are fully complied with.

An ESIA Report should include the following elements.

- Description of the proposed activity;
- Description of the environment that could be affected;
- Description of real and practical alternatives;
- Assessment of likely/potential environmental impacts of the activity and alternatives (including direct, indirect, cumulative, short- and long-term effects);
- Assessment of measures to mitigate adverse environmental impacts and enhance environmental benefits of the activity and alternatives;
- Explanation of methodology and data interpretation;
- Citation of available data and documents, and indication of knowledge gaps;
- Lists of affected persons and contacted communities;
- Summary of the above information in Kiswahili (the language most widely understood by the inhabitants of Zanzibar); and
- Any other relevant information as may be prescribed.

The EIA (Procedures) Regulations 2002 contain further requirements for the ESIA Report:

- It should be analytic and specific to the project location;
- Highly significant impacts should be explained in detail, less significant impacts should be briefly mentioned;
- It should be concise and no longer than absolutely necessary - depending on potential environmental problems and project size;
- It should indicate to what extent the selected project option is or is not the best among the various alternatives and how it corresponds with other environmental laws and policies;
- Alternatives and mitigation options discussed in the report should include those to be considered by the ultimate decision-maker;
- It should serve as an assessment of environmental impacts leading to approval or rejection of the project.¹⁵

¹⁵ NCEA Country Profile: Zanzibar

27.4.5 Public consultation

According to the Environmental Management Act, public participation is only required at the draft ESIA report review stage of the process. The EIA (Procedures) Regulations 2002 however, indicate that in appropriate circumstances the ESIA Report may also be subjected to a public hearing designed to gather information for use in decision-making. Public participation during scoping and during preparation of the draft ESIA Report is therefore recommended, but not mandatory.

The ZEMA will ensure that consultation is facilitated after receiving the ESIA Report by doing the following:

- Circulating the ESIA report to relevant government bodies for written comments;
- Notifying the public of the time and place for reviewing the report and submitting written comments; and
- Soliciting written comments from the people who will be affected by the project.

Only written comments can be used by the public to express their opinions on the ESIA Report. These are to be solicited by ZEMA as noted above. Public comments should be taken into account as review criteria for the ESIA Report - hence they are used in approval of the report. Otherwise there are no requirements for justification of approval of the EIA report or the project itself based on public comments.

27.4.6 Review criteria

ZEMA is responsible for reviewing the ESIA Report. Use is made of a review committee, comprising representatives of other authorities and ministries. The review committee is guided in its review by a set of published criteria for evaluating the ESIA Report. The detailed criteria are available on the ZEMA website but the following aspects are covered:

- Description of the development, local environment and baseline conditions;
- Identification and evaluation of key impacts;
- Alternatives, mitigation and commitment;
- Public participation and communication of results.

The end result is an overall assessment of the ESIA Report in terms of its completeness and adequacy for decision-making.

27.4.7 Appeals

Only the project proponent and the relevant licensing institution can appeal a decision on project approval. If the party:

- Disagrees with ZEMA's rejection of the activity; or

- Considers the conditions included in the ESIA certificate unfeasible to such an extent that they are equivalent to a rejection of the activity.¹⁶

If an aggrieved party wants to make use of this option, the following steps should be followed:

- The party who wishes to appeal a decision notifies the ZEMA within seven working days after receipt of the decision;
- ZEMA refers the matter to the Minister for a decision within fourteen working days after submission, including all information compiled during the application process and ZEMA's recommendation;
- The Minister decides whether to approve or reject the proposed activity, and may choose to invite public comments and/or take into consideration other national policies as part of this decision-making process;
- The Minister states reasons for approving or rejecting the activity and shows that the recommendation and information provided by ZEMA has been used in this decision.

If the appellant is dissatisfied with the Minister's decision, further appeal to the Committee of the Revolutionary Council on Environment is possible. This Committee is the highest decision-making body on environmental matters in Zanzibar, and its decision is final.¹⁷

27.4.8 Environmental compliance monitoring

This is conducted by ZEMA in order to ensure compliance and adherence to the approved environmental and social management plan, and to make sure the conditions attached to the ESIA certificate are fully complied with.

27.4.9 Environmental audits

Existing projects need to undergo periodic environmental auditing as follows:

Pre-audit

A Pre-Audit is required for an on-going or proposed project that is expected to have a lower level of impact on environment and society. The Pre-Audit Report must be prepared by a recognised expert or firm who is authorised to conduct such audits in Zanzibar (see s. 24.3.11).

1. **Registration:** A proponent must register his or her project with ZEMA by filling in the registration forms and submitting them together with a bank pay-in-slip for the registration fee. The payment shall be determined by ZEMA taking into consideration the nature and scale of the project.
2. **Selecting an expert or firm to prepare the Pre-Audit:** The ZEMA sends the proponent a list of recognised experts/firms eligible to conduct environmental audits in Zanzibar (see s.

¹⁶ NCEA Country Profile: Zanzibar

¹⁷ Ibid.

- 27.3.11). From that list, the proponent selects and commissions one firm or individual to conduct the Pre-Audit and notify ZEMA of the fact.
3. **Preparation of Pre-Audit Report:** The Pre-Audit Report will be prepared by the expert or firm selected by the project proponent. During this process, the concerns and comments of stakeholders are taken on board.
 4. **Submission of Pre-Audit Report to ZEMA:** Once the Pre-Audit Report study is completed, the proponent, through his/her selected expert or firm, submits 6 hard copies and one soft copy of the report to ZEMA for review.
 5. **Site verification:** This takes place before the review meeting is held. The objective is to familiarise the ZEMA officials with the project by physically observing the project area, and to confirm what is written in the report. The project proponent will have to pay the fees for site verification, as well as for reviewing the document.
 6. **Review of the Pre-Audit Report:** The review exercise is carried out by a selected *ad hoc* technical committee in order to evaluate the strengths and weakness of the Pre-Audit Report.
 7. **Decision-making:** The outcome of the review could be Pre-Audit Report approval, Pre-Audit rejection or a request for further information.
 8. **Issuing of Environmental Clearance Certificate:** If the Pre-Audit Report is accepted, an Environmental Clearance Certificate will be issued with conditions attached with it.
 9. **Monitoring the project by ZEMA:** This is conducted by ZEMA in order to ensure compliance and adherence to the approved environmental and social management plan, and to make sure the conditions attached to the Environmental Clearance Certificate are fully complied with.

Environmental audit

An Environmental Audit must be undertaken for any activity or project listed in Annex II of the EIA Guidelines and Procedures which may be operating without an EIA Certificate and is likely to have significant impacts on environment and society; or for an activity or project which has been operating with an EIA Certificate for a period of five years from the date of commencement of the operation phase. Thereafter, the audit has to be undertaken every 10 years of the project's operation. The proponent is expected to meet all costs of the environmental audit.

The steps to follow in conducting an environmental audit are the same as those listed above for Pre-audit. The format of the environmental audit report shall be same as that for the ESIA report (see s. 27.4.4 above).

27.4.10 Decommissioning and release of environmental performance bond

Under the existing Regulations (2002), an environmental performance bond of 10% of the capital investment of the project must be deposited in the Ministry's account after the project has received the EIA Certificate and prior to commencement of construction or operations. The environmental performance bond is returned on completion of all decommissioning activities to the satisfaction of the

ZEMA. However, a performance bond will no longer be required in terms of the forthcoming EIA Regulations of 2019 (see s. 27.3.5).

27.4.11 Strategic environmental assessment

Articles 48 and 49 of Part X of the Act describe the requirements for strategic environmental assessment (SEA). An SEA is required for all policies, strategies, programmes and plans including oil and gas exploration and production to help ensure the protection of environmental quality and human health, improve the wise and sustainable use of natural resources and apply the precautionary principles to policy and planning instruments. The Director of the Environment is responsible for preparing guidelines for the development of SEA, identifying the major actors in Zanzibar, strengthening communications and awareness regarding the need for SEA for the development of policies, plans, programmes in all sectors (including oil and gas), and to promote regional and international cooperation especially where there may be trans-boundary issues.

Although the Minister may also make regulations for SEA, no regulations or the above-mentioned guidelines have yet been published.

27.5 Other relevant environmental legislation in Zanzibar

Environmental issues cut across a range of sectors; numerous pieces of legislation in Zanzibar have a bearing on the environment and should be considered in EIA decision-making. A summary of the sectors, titles of the legislative instruments and selected Acts, and the purpose of the legislation are provided in Table 27.2.

Table 27.2: Other potentially applicable sectoral requirements

Sector	Primary agency	Title and date of document	Purpose
Coasts, fisheries and marine resources	Ministry of Agriculture, Natural Resources, Livestock and Fisheries: Dept of Fisheries	Zanzibar Fisheries Act, No. 7 of 2010	Repeals the Fisheries Act, 1988 and enacts better provisions related to the administration management and control of the fishing industry in the internal and territorial waters of Zanzibar. Includes the development of management plans, controlled areas, fisheries protection, licensing of fishing operations, conservation measures and other matters.
Transport	Ministry of Works, Communication and Transport	The Road Transport Act, No. 7 of 2003	An Act to provide for the regulation of traffic on roads and of motor vehicles and for other matters related thereto
		Zanzibar Maritime Transport Act, No. 5 of 2006 (principal Act) as amended by the Zanzibar Maritime Transport (Amendment) Act, No. 2 of 2013	Regulates maritime safety and transport.

Sector	Primary agency	Title and date of document	Purpose
		The Zanzibar Maritime Authority Act, No. 3 of 2009	Establishes the Zanzibar Maritime Authority and provide for other matters connected therewith and incidental thereto.
		The Zanzibar Shipping Corporation Act, No. 3 of 2013	An act to establish the Zanzibar Shipping Corporation, its Functions, Powers and other matters connected therewith and incidental thereto.
		The Zanzibar Ports Corporation (Amendment) Act, No. 5 of 2005	An act to provide for the establishment of Zanzibar Ports Corporation
Planning and urban development	Local authorities	Local Government Authority Act, 2014	<p>The Act specifies on establishment of the Local Government Authority structures with their jurisdictional areas, powers and functions. It covers all matters related to the social, economic, and environmental governance within the defined boundaries of the local government authorities. In the context of environment, the Act has emphasized on the local powers prevent and control public nuisance and ensure sustainable management of land and natural resources.</p> <p>Section 26 (1) of the Act specifies general functions of the council which include maintenance of environmental sanitation, promotion of tourism and other investment opportunities available in their areas, keeping record of land and marine transport vehicles and vessels within their jurisdictional areas, control environmental pollution and prevent private nuisance.</p> <p>Others include supervising and ensuring measures to combat epidemic diseases; control extraction of stone, sand, wood, and other forms of natural resources, undertake afforestation and urban forestry initiatives, implement the land use plan, and deal with cross cutting issues of climate change, disaster management, and population issues.</p> <p>Section 63 provides powers to enter any premise and check if the development has been approved with a permit.</p>
		Municipal Council Act, 1995	Building permits for all structures in urban areas are required under this Act.
	Zanzibar Planning Commission	The Zanzibar Planning Commission Act, No. 3 of 2012	An Act to repeal the Zanzibar Planning Commission Act No. 5 of 1989 and enact new a law to provide for the operation of the Zanzibar Planning Commission, its functions, powers and other matters connected thereto
Utilities	Zanzibar Utilities Regulatory Authority	The Zanzibar Utilities Regulatory Authority Act, No. 7 of 2013	An Act to establish and manage the Zanzibar Utilities Regulatory Authority, for the regulation of utility services in the interest of customers and providers of utility services in Zanzibar
	Zanzibar Electricity Corporation	The Zanzibar Electricity Corporation Act, No. 3 of 2006	Establishes the Zanzibar Electricity Corporation and facilitates the generation, transmission, transformation, distribution,

Sector	Primary agency	Title and date of document	Purpose
			supply and use of electricity.
Land, agriculture and forestry	Ministry of Agriculture, Natural Resources, Livestock and Fishing	Animal Resources Management Act, No. 11 of 1999	Provides for the management of domestic animal resources and control in Zanzibar, including the production of animal products and other matters connected therewith
		Plant Protection Act, No. 9 of 1997	An Act to make provisions for preventing the introduction and the spread of the plant pests and other matters connected therewith
		The Forest Resources Management and Conservation Act, No. 10 of 1996	An Act for the sustainable management and conservation of Zanzibar's forest resources and matters related thereto
	Ministry of Land, Housing, Water and Energy	Zanzibar Land Tenure Act, No. 12 of 1992 (as amended)	All natural land within the islands of Zanzibar occupied or unoccupied is declared to be public land and is vested in, and at the disposition of the President, to be held by him, for the use and common benefit, direct or indirect, for the people of Zanzibar. Riparian occupiers along non-navigable waterways are required to accord the right of passage over a strip 10 meters in width on each bank. Compensation is to be paid to the persons or communities concerned, the compensation shall be equal to the fair market value of the land. All affected people whose houses, properties or farm plots are to be demolished or converted should be compensated accordingly.
Conservation of fauna and flora	Zanzibar Nature Conservation Areas Management Unit	The Establishment of Zanzibar Nature Conservation Areas Management Unit Act, No. 10 of 1999	Establish the Zanzibar Nature Conservation Areas Management Unit as a national authority for the management of nature conservation areas in Zanzibar
		See Chapter 24, Tanzania	The laws of Tanzania regarding fauna and flora are applied in Zanzibar
Water resources	Ministry of Land, Housing, Water and Energy: Zanzibar Water Authority	Zanzibar Water Act, No. 4 of 2006	Establishes the Zanzibar Water Authority (ZAWA); determines water ownership, water use and licensing for water abstraction from surface water and groundwater resources. A permit is required under this Act to connect to the municipal water supply system
Oil and gas	Zanzibar Petroleum (Upstream) Regulatory Authority Zanzibar Petroleum Development Corporation	The Oil and Gas (Upstream) Act, No. 6 of 2016	An act to provide for regulation of (Upstream) oil and gas activities, establishment of the Zanzibar Petroleum (Upstream) Regulatory Authority, establishment of the Zanzibar Petroleum Development Corporation, and to secure the accountability of petroleum entities and to provide for other related matters
Tourism	Ministry of Information and Tourism: Tourism Commission	The Zanzibar Hotel and Tourism Act, No. 8 of 1998	Establishes the Zanzibar Hotel and Tourism Institute and other matters connected therewith
		The Zanzibar Tourism Act No. 6 of 2009 amended by the	Repeals the Promotion of Tourism Act, (No. 9 of 1996). The Act sets out the powers and

Sector	Primary agency	Title and date of document	Purpose
		Zanzibar Tourism (Amendment) Act, No. 7 of 2012	functions of the Tourism Commission, tourist operator licensing and obligations including social responsibility.
Cultural heritage	Ministry of Youth, Culture, Art and Sport	The Fund for Preservation of Historical Heritage Act, No. 8 of 2003	Establishes a special fund for the preservation of the historical heritage of Zanzibar
		The Ancient Monuments Preservation Act, No. 11 of 2002	Provides for the preservation of ancient monuments and objects of archaeological, historical or artistic interest
	Stone Town Conservation and Development Authority	The Stone Town Conservation and Development Authority Act, No. 3 of 1994	An act to establish the Stone Town Conservation and Development Authority and other matters connected therewith
Health	Ministry of Health: Environmental Health Unit	Zanzibar Public and Environmental Health Act, No. 11 of 2012	An Act to provide for the protection and management of public and environmental health risks and related matters
		The Zanzibar AIDS Commission Act, No. 3 of 2002	Provide for the establishment of the Zanzibar AIDS Commission and to provide for its structure, functions and powers and matters connected therewith or incidental thereto
		Zanzibar HIV and AIDS Prevention and Management Act, No. 18 of 2013	An Act to provide for the prevention and management of HIV and AIDS in Zanzibar, for the protection and promotion of human rights of persons living with or affected by HIV and AIDS and for related matters.
		Zanzibar Food Security and Nutrition Policy, No. 5 of 2011	Repeals the National Programme for Food Self Sufficient Act No. 3 of 1988.
Employment and labour	Occupational Safety and Health Directorate	Occupational Health and Safety Act, No. 8 of 2005	Repeals the Factories (Safety and Supervision) Decree and makes better provisions for the safety, health and welfare of persons at workplaces and to protect other persons against hazards to safety and health arising out of or in connection with activities at workplaces and to provide for matters connected therewith
	Labour Commission	The Labour Relations Act, No. 1 of 2005	An Act to provide for the regulation of labour relations and dispute resolution between employers and employees and matters related thereto
		The Employment Act, No. 11 of 2005	Repeals the Labour Act No. 3 of 1997 and re-enacts the Employment Act. It entrenches core labour rights, establishes basic employment standards and provides for other matters connected therewith
Gender	Ministry of Empowerment, Elders, Women and Children	No specific laws.	

Appendix 27-1: Projects to be screened for EIA

As per Annex II of the EIA Guidelines and Procedures, 2009.

Agriculture and aquaculture

- a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes, where the area of the development exceeds 50 m².
- b) Water management projects for agriculture, including irrigation and drainage projects, where the area of the works exceeds 50 m².
- c) Intensive livestock installations where the area of floor space exceeds 50 m².
- d) Intensive fish farming where the installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.
- e) All projects involving the reclamation of land from the sea.

Extractive industry

- a) Quarries, open-cast mining and peat mining where the area to be developed exceeds 50 m².
- b) Deep drilling where the area of the works exceeds 50 m², in particular:
 - i. geothermal drilling;
 - ii. drilling for the storage of nuclear waste materials;
 - iii. drilling for water supplies.
- c) Surface industrial installations for the extraction of petroleum and natural gas at any scale.

Energy industry

- a) Industrial installations for the production of electricity at any scale.
- b) Installation for hydroelectric power production at any scale.
- c) Installation of turbines for the harnessing of wind power for energy production either on land or in the sea.

Production and processing factories and industries (where the operational projects cover an area of more than 100 m². Smaller projects are more likely to require an EIA if they are expected to give rise to significant discharge of wastes, emission of pollutants, accidents and operational noise)

- a) Manufacture and assembly of motor vehicles and the manufacture of motor-vehicle engines.
- b) Shipyards, ship-docks and installations for the construction and repair of aircraft.
- c) Manufacture of railway equipment.
- d) Manufacture of cement.
- e) Installations for the production of asbestos and the manufacture of asbestos based products.
- f) Installations for the manufacture of glass including glass fibre.
- g) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, tiles, stoneware and porcelain.

Chemical industry

- a) Treatment of intermediate products and production of chemicals.
- b) Production of pesticides and pharmaceutical products, paints and varnishes, elastomers and peroxides.
- c) Storage facilities for petroleum, petrochemicals and chemical products (at all scales and volumes).

Food industry (if the operational projects cover the site of more than 50 m². Smaller projects are more likely to require an EIA if they are expected to give rise to significant discharge of wastes, emission of pollutants, accidents and operational noise)

- a) Manufacture of vegetables and animal oils and fats.
- b) Packaging and canning of animal and vegetables products.
- c) Manufacture of dairy products.
- d) Brewing and malting.
- e) Confectionery and syrup manufacture.
- f) Installations for the slaughter of animals.
- g) Fish-meal and fish oil factories.
- h) Sugar factories.

Textile, leather, wood and paper industries (if the operational projects cover an area of more than 50 m². Smaller projects are more likely to require an EIA if they are expected to give rise to significant discharge of wastes, emission of pollutants, accidents and operational noise)

- a) Industrial plants for the production of paper and board.
- b) Plants for the treatment (such as washing, bleaching, mercerization) or dyeing of fibres or textiles.
- c) Cellulose processing and production installations.

Infrastructure projects

- a) Industrial estate development projects where the area of the project exceeds 50 m² and accommodates not more than 50 inhabitants.
- b) Urban development projects, including the construction of shopping centres, car parks, sports stadiums, leisure centres and multiplex cinemas of any size.
- c) Construction or extension of airfields (runways and terminal buildings).
- d) Construction of roads of any length and width.
- e) Construction of harbours and port installations of any size.
- f) Inland water way construction (canalisation and flood relief work) of any size.
- g) Dams and other installations designed to hold water or store it on a long-term basis (of any size).
- h) Oil and gas pipeline installations.
- i) Any coastal work to combat erosion and maritime works capable of altering the coast through the construction of e.g. dykes, moles, jetties, other coastal projects.
- j) All waste water treatment plants.
- k) Installations for the disposal of wastes such as incinerators, landfills, large scale composting plants where the area of the development exceeds 50 m² or the installation is within any controlled natural waters.
- l) Storage of scrap (iron, plastics, wood, tin materials).
- m) Installations for the manufacture of the materials or artificial minerals.
- n) Installations for the recovery or destruction of explosive substances.

Tourism development projects

- a) Holiday resort and hotels complexes and associated development projects, where the area of the project exceeds 50 m² on land or in nearshore and shallow water.
- b) Golf courses and associated developments over areas exceeding 50 m².

Acronyms

EAC	Environmental Advisory Committee
EIA	environmental impact assessment
ER	environmental report
ESIA	environmental and social impact assessment
GDP	gross domestic product
NRNR	non-renewable natural resources
SEA	strategic environmental assessment
ToR	terms of reference
TZS	Tanzanian Shillings
ZAWA	Zanzibar Water Authority
ZBS	Zanzibar Bureau of Standards
ZCCS	Zanzibar Climate Change Strategy
ZEMA	Zanzibar Environmental Management Authority
ZEP	Zanzibar Environmental Policy
ZNS	Zanzibar National Standard
ZUMC	Zanzibar Urban Municipal Council

Useful contacts

Department/agency	Ministry	Telephone	Email and Website
Zanzibar Environmental Management Authority	Second Vice-President's Office	+255-24-22-39007	zemaznz@gmail.com zemaznz@yahoo.com