ANALYSIS OF THE ENVIRONMENTAL PILLAR OF THE ENVIRONMENTAL SOCIAL AND GOVERNANCE PRINCIPLES IN THE DOMESTIC LAWS OF ZAMBIA

BY

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TABLE OF CONTENTS

CONTENT **PAGE**

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DEDICATION

To my beloved family and loved ones, whose unwavering encouragement, steadfast support, and enduring faith in me have been the foundation upon which this academic journey was built. Your sacrifices, prayers, and words of inspiration gave me the strength to persevere through every challenge. This work is as much yours as it is mine. With deepest gratitude and love.

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ABSTRACT

Environmental, Social, and Governance (ESG) principles have emerged as a globally recognised framework for evaluating corporate sustainability and long-term accountability. The environmental pillar of ESG imposes obligations on corporate entities relating to environmental impact assessment, pollution control, climate-related risk management, greenhouse gas emissions reduction, and environmental disclosure. This research adopts a doctrinal legal method to examine the extent to which Zambia's environmental legal framework domesticates the environmental pillar of ESG principles, with particular reference to the Environmental Management Act No. 12 of 2011 and the Green Economy and Climate Change Act No. 18 of 2024. The research finds that the Companies Act No. 10 of 2017, as the primary instrument of corporate governance in Zambia, does not provide a legal foundation for corporate ESG environmental obligations, as its governance architecture is oriented exclusively toward shareholder value and financial accountability. The EMA domesticates several foundational ESG-related environmental obligations through its provisions on environmental impact assessment, pollution control, and environmental disclosure, but adopts a traditional command-and-control regulatory model that does not address board-level environmental governance, mandatory sustainability reporting, or climate-related financial disclosure. The GECCA marks a significant legislative advancement, introducing binding statutory obligations for greenhouse gas emissions governance, climate resilience planning, environmental disclosure, and director liability for climate-related non-compliance. However, key implementation mechanisms, the Integrated Measuring Reporting and Verification System, the Climate Change Fund, and the Climate Change Register, remain unoperationalised, directly undermining the Act's accountability and disclosure architecture. The research concludes that Zambia's environmental legal framework partially domesticates the environmental pillar of ESG principles, establishing a regulatory foundation for corporate environmental accountability while falling short of a comprehensive ESG governance framework. The research recommends the amendment of the Companies Act No. 10 of 2017 to impose board-level environmental governance obligations and mandatory environmental disclosures on companies in high-impact sectors, the urgent operationalisation of the GECCA's key institutional mechanisms, and the extension of mandatory ESG reporting obligations to unlisted companies in high-impact sectors beyond those currently listed on the Lusaka Securities Exchange.

ABBREVIATIONS

EIA	ENVIRONMENTAL IMPACT ASSESSMENT
EMA	ENVIRONMENTAL MANAGEMENT ACT
GECCA	GREEN ECONOMY AND CLIMATE CHANGE ACT
LuSE	LUSAKA SECURITIES EXCHANGE
SI	STATUTORY INSTRUMENT
UNFCCC	UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE
ZEMA	ZAMBIA ENVIRONMENTAL MANAGEMENT AGENCY

TABLE OF STATUTES AND REGULATIONS

1. The Companies Act No 10 of 2017
2. The Constitution of Zambia (Amendment) Act No. 2 of 2016
3. The Environmental Management Act No. 12 of 2011
4. Environmental Management (Environmental Impact Assessment) Regulations, SI No 3 of 2026
5. The Green Economy and Climate Change Act No 18 of 2024
6. Harmonised Listings Requirements of the Lusaka Stock Exchange (LuSE)
7. The Lusaka Stock Exchange (LUSE) Corporate Governance Code for Listed and Quoted Companies 2005
8. The Paris Agreement
9. United Nations Framework Convention on Climate Change

TABLE OF CASES

1. Climate Action Professionals Zambia v Attorney General [2025/CCZ/0025]
2. James Nyasulu & Others v Konkola Copper Mines and Others (HP 1286 of 2007) [2011]
3. Konkola Copper Mines PLC v Nyasulu and 2000 Others Appeal No. 1/2012
4. Salomon v A Salomon & Co Ltd (1897) A. C. 22

CHAPTER ONE

1.1. Introduction

Over time, growing international awareness of environmental crises and social inequalities reshaped the expectations of corporate responsibility. This shift led to the emergence of the Environmental, Social, and Governance (ESG) principles as a global standard for sustainable business conduct in the early 2000s.[1] ESG principles extend beyond traditional governance by incorporating environmental stewardship and social accountability, encouraging corporate bodies worldwide to internalise sustainable considerations in their strategic decision-making.

Companies have always been the primary drivers of global industrial activity, dominating sectors such as mining, manufacturing, construction, and energy production. However, they also pose some of the most significant risks to environmental integrity, a finite resource. Their activities have significantly contributed to resource depletion, pollution, climate change, and adverse impacts on communities.

Traditionally, environmental law imposed obligations primarily on states to regulate pollution and conserve natural resources. However, the ESG framework extends these obligations to corporate bodies by embedding environmental considerations into their corporate governance and financial decision-making processes, thereby minimising environmental harm, promoting sustainable resource use, and addressing climate change.

The ESG principles provide a comprehensive framework for evaluating a business's ethical behaviour and sustainability performance in addition to traditional financial measures.

The environmental pillar of ESG serves as a critical mechanism for operationalising international and regional environmental obligations domestically. While international instruments such as the Paris Agreement[2] establish binding commitments on states, and regional frameworks such as the SADC Protocol on Environmental Management contextualise these obligations, ESG translates them into actionable corporate practices.

[1] W S Sohn, '*Towards a Sustainable Future: Addressing Climate Change and Promoting Sustainable Development*' (2025) Sustainable Development 1, 5
[2] Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016).

1.2. Background

ESG principles have emerged as an internationally recognised framework for assessing corporate sustainability, ethical conduct, and long-term business responsibility. In recent years, international organisations, including the International Organization for Standardization (ISO), have developed guidance and frameworks aimed at promoting the implementation and standardisation of ESG practices globally

ESG operates as a multidimensional framework for assessing corporate responsibility, sustainability, and ethical impact. It is structured around three core pillars: Environmental (E); which concerns a company's impact on the natural environment. Social (S); which addresses relationships with employees, communities, and stakeholders. Governance (G); which relates to corporate leadership, accountability, and internal controls.[3]

The parameters of the environmental pillar of the ESG Principles include reporting on Climate Change, Carbon Emissions, Greenhouse Gases, Pollution, and Waste Management. However, the practical implementation of these obligations depends heavily on private sector conduct. ESG principles seek to address this gap by requiring companies to measure and disclose environmental impacts, to encourage investment in low-carbon and sustainable activities and to embed climate risk into corporate governance. ESG thus operates as a functional bridge between international environmental commitments and corporate behaviour.[4]

The regulation of companies is mainly grounded in corporate governance principles which emphasise transparency, accountability, fiduciary duties and ethical leadership within business operations. The Companies Act[5] comprehensively covers the corporate governance aspect by providing for enforceable and binding obligations and duties for companies and directors, yet not much consideration is given to the ecological or social obligations set out in various environmental or social laws, as environmental and social obligations have traditionally been treated as peripheral to the core functions of corporate governance. Consequently, corporate bodies have often fulfilled their

[3] UNEP Finance Initiative, *'Who Cares Wins: Connecting Financial Markets to a Changing World'* (2004) 7
[4] E Pollman, '*The Making and Meaning of ESG'* (2024) 14 Harvard Business Law Review 3, 10
[5] The Companies Act No 10 of 2017 (Zambia),

governance requirements without fully integrating environmental or social responsibility into their operational strategies.

In response to climate change, many nations have begun incorporating ESG principles into their domestic laws to require companies, as the primary actors whose activities affect the environment, to report on those activities. Zambia is no exception. It has ratified several international instruments, most notably the Paris Agreement[6] and the United Nations Framework Convention on Climate Change so as to protect and sustain the environment.

In 2011, Zambia replaced the 1990 Environmental Protection and Pollution Control Act with the Environmental Management Act, establishing it as the key legal framework for environmental governance, pollution mitigation, and sustainable resource use. This change represented a major reform of Zambia's environmental laws, highlighting an increasing awareness of the importance of more robust institutional mechanisms to tackle new environmental issues.

The Environmental Management Act[7] introduced more comprehensive provisions on environmental impact assessments, compliance monitoring, and enforcement, aimed at improving accountability among both public and private actors. It also sought to align national environmental management practices with evolving international standards and best practices in sustainable development. Additionally, it broadened the scope of environmental regulation to include modern concepts such as ecosystem protection, biodiversity conservation, and community participation. The Environmental Management Act was subsequently amended in 2023, and the Environmental Impact Assessment (EIA) regulations[8] were revised in 2026, further strengthening the regulatory framework governing corporate environmental conduct.

In 2024, Zambia also enacted the Green Economy and Climate Change Act[9], which highlights strict environmental and social protections. The Act recognises the importance of safeguarding ecosystems and communities against increasing climate risks. It establishes regulatory frameworks that support carbon trading and other market-

[6] Pollman (n 4)
[7] Environmental Management Act (n 6)
[8] Environmental Management (Environmental Impact Assessment) Regulations, SI No 3 of 2026 (Zambia),
[9] The Green Economy and Climate Change Act No 18 of 2024

based methods to cut greenhouse-gas emissions, integrating Zambia into global carbon markets. The Act also emphasises resource efficiency by promoting sustainable consumption and production in key sectors. A key goal is to lower the national carbon footprint through low-carbon technologies and climate-resilient development strategies.

This research therefore examines the extent to which Zambia's environmental legal framework, specifically the Environmental Management Act and the Green Economy and Climate Change Act, domesticates and promotes the environmental pillar of ESG principles within corporate regulation and environmental governance.

1.3. Statement of the Problem

ESG principles have increasingly emerged as an important framework for promoting corporate environmental accountability and sustainable business conduct. In particular, the environmental pillar of ESG emphasises corporate obligations relating to environmental impact assessment, pollution control, climate-related risk management, emissions reduction, and environmental disclosure practices. As the primary instrument of corporate governance in Zambia, the Companies Act No. 10 of 2017 would ordinarily be expected to provide the legal foundation for integrating such obligations into corporate conduct and reporting.

The Companies Act does establish a corporate governance framework of considerable scope. Section 105 imposes a duty on directors to prevent, reduce and manage risks attendant to the business of the company[10], a fiduciary obligation to promote the success of the company[11], and a requirement for financial statements to comply with prescribed accounting standards[12]. It further requires companies to prepare annual reports disclosing the affairs of the company[13] and mandates auditors to report on serious breaches of corporate governance principles or practices by directors[14]. These provisions reflect a governance architecture primarily oriented towards financial performance, shareholder value, and traditional fiduciary accountability. Notably absent from the Act are any express provisions requiring mandatory environmental disclosures, climate-related risk reporting, non-financial sustainability reporting, or enforceable

[10] Section 105(a) of the Companies Act
[11] Section 105(b) of the companies Act
[12] Section 266 of the Companies Act
[13] Section 277 (1)(a) of the Companies Act
[14] Section 259 (3)(b) of the Companies Act

corporate environmental obligations aligned with ESG frameworks. The Act, in its present form, does not impose on companies any obligation to assess, disclose or manage their environmental impact as a distinct corporate governance imperative.

This legislative gap at the level of primary corporate law is significant. Because the Companies Act does not incorporate ESG-structured environmental obligations, the question arises whether Zambia's environmental legislation in particular, the Environmental Management Act and the Green Economy and Climate Change Act steps in to discharge that function by domesticating and promoting the environmental pillar of ESG at the corporate level. This research, therefore, examines the extent to which the environmental pillar of ESG principles is domesticated in Zambia's environmental legislation and considers how ESG-related environmental obligations may be incorporated into the existing legal framework to address the gap left by the Companies Act.

1.4. Objectives

The objectives of this research are to:

1. To establish the conceptual and normative framework of ESG principles, with particular emphasis on the environmental pillar
2. Analyse the extent to which the Environmental Management Act No 12 of 2011 domesticates ESG-related environmental obligations for companies.
3. Analyse the extent to which the Green Economy and Climate Change Act No. 18 of 2024 domesticates ESG-related environmental obligations for companies.
4. Propose legal mechanisms that would effectively incorporate ESG-related environmental obligations into Zambia’s environmental legal framework.

1.5. Research Questions

1. What is the conceptual and normative framework of ESG principles, with particular emphasis on the environmental pillar?
2. To what extent does the Environmental Management Act 2011 domesticate ESG-related environmental obligations for companies?

3. To what extent does the Green Economy and Climate Change Act 2024 domesticate ESG-related environmental obligations for companies?
4. What legal mechanisms can effectively incorporate ESG- related environmental obligations into Zambia's legal framework?

1.6. The Significance of the Study

A sustainable environment is fundamental not only for human well-being but also for a country's economic development and long-term global stability. Healthy ecosystems support essential services such as clean air and water, fertile soils, stable climates, and biodiversity, all of which underpin productive industries and secure livelihoods.[15] Consequently, environmental sustainability has become an increasingly critical concern in both international and domestic legal systems due to the growing impacts of climate change, pollution, deforestation, and environmental degradation.

As corporate activities continue to significantly affect environmental integrity, there is an increasing need for legal frameworks that promote corporate environmental accountability and sustainable business conduct. The environmental pillar of the ESG principles has emerged as an important mechanism for integrating environmental considerations into corporate governance and regulatory systems.

This research is significant because it examines the extent to which Zambia's environmental legal framework, particularly the Environmental Management Act and the Green Economy and Climate Change Act, domesticates and promotes ESG-related environmental obligations for corporate entities. This research may also assist policymakers, legislators, regulators, and corporate stakeholders in identifying gaps in the current legal framework regarding environmental disclosure and corporate environmental accountability.

1.7. Scope of the Study

This study shall primarily focus on the environmental provisions within the Environmental Management Act[16] and the Green Economy and Climate Change Act[17], to determine the extent to which they domesticate the ESG principles. The study shall

[15] Sohn, W.S. (n1)
[16] Environmental Management Act *(n* 6)
[17] The Green Economy and Climate Change Act (n 9)

also assess whether there are sufficient mechanisms to enforce the ESG principles against companies.

1.8. Research Methodology

This research employs the doctrinal legal research method through a desktop study of all relevant primary and secondary legal materials. This method allows for the systematic analysis of Zambia's legal framework, specifically the Environmental Management Act No. 12 of 2011 (EMA) and the Green Economy and Climate Change Act No. 19 of 2024 (GECCA), against the benchmarks of the environmental pillar of the ESG principles. The doctrinal approach is appropriate because the research seeks to identify legal gaps, interpret statutory provisions, and propose legal amendments.

1.9. Literature Review

Elizabeth Pollman conducted research on the making and the meaning of ESG.[18] In her study, she outlines the background and emergence of ESG principles, the evolving and varied uses of ESG, and the future of ESG. Pollman explains that ESG is not a fixed regulatory category but an evolving construct shaped by decades of socially responsible investing, environmental activism, and corporate governance reforms. She argues that ESG gained global traction because it reframed environmental and social issues as financially material considerations, prompting investors and corporations to integrate sustainability into risk assessment and long-term strategy. This conceptual evolution, according to Pollman, has turned ESG into a broad, sometimes contested term, interpreted differently by stakeholders including regulators, investors, civil society groups, and corporate leaders.

In jurisdictions like Zambia aiming to strengthen the environmental aspect of ESG, Pollman’s insights offer vital guidance. Her analysis suggests that without precise legal definitions and clear regulatory standards, ESG risks risk becoming merely symbolic rather than genuinely promoting environmental accountability. She notes a global trend toward formalising ESG through mandatory reporting, standard harmonisation, and enhanced oversight, which could serve as a model for Zambia to incorporate ESG principles into its legal and corporate frameworks. Her observations highlight the

[18] E Pollman, *"The Making and Meaning of ESG",* Vol.14 Harvard Business Law Review, (2024)

importance of coherent regulation, building institutional capacity, and aligning with international best practices to achieve effective ESG integration.

Pollman's work contributes to this study by providing background on ESG principles. This research will go further to offer a more streamlined study of how Zambia has adopted the ESG principles, given its dual legal system, which requires international conventions to be domesticated, and to analyse how the environmental aspects of the ESG principles have been adopted and enforced.

Stephen J Turner conducted an analytical study on Corporate Law, directors' duties and ESG interventions[19]. The Scholar examines the directors' duties, the separate legal personality of corporate bodies, and their limited liability. He argues that these elements are designed to protect shareholders' interests. Turner further argues that directors will only adopt ESG measures that align with commercial success or risk management, and where ESG conflicts with profitability, boards remain difficult to persuade.

Turner's study points a gap worth researching, no study has analysed whether the recently enacted Green Economy and Climate Change Act signals any shift toward integrated ESG governance. This study addresses that gap by assessing the extent to which Zambian national laws have domesticated ESG principles and whether any movement exists toward reimagining the legal construct of the corporation itself.

Railla Veronica D. Puno conducted a study on the integration of social and environmental safeguards in the implementation of the Paris Agreement.[20] The Scholar argues that while the Paris Agreement offers a promising tool for greenhouse-gas mitigation, its success fundamentally depends on the presence of comprehensive social and environmental safeguards. Her analysis highlights the shortcomings of the mechanisms in place before the Paris Agreement, in which mitigation efforts often side lined human rights, community welfare, and ecological integrity in favour of carbon credit generation.

[19] S J Turner, *'Corporate Law, Directors' Duties and ESG Interventions: Analysing Pathways towards Positive Corporate Impacts Relating to ESG Issues*

[20] RV D Puno, '*Integrating Social and Environmental Safeguards in the Implementation of the Paris Agreement's Sustainable Development Mechanism'* (2021) 51(1) *Environmental Law* 205, 210. https://www.jstor.org/stable/27027137

This insight provides a vital conceptual basis for evaluating how countries, including Zambia, might implement the environmental aspect of ESG. It suggests that adopting environmental ESG principles is not merely a matter of policy or corporate commitment but also requires institutional capacity to embed safeguards, respect human rights, and ensure long-term ecological justice.

Namunyola Hildah & Mwange Austin conducted research in which they assessed the Environmental, Social, and Governance in Zambia's Banking Sector. [21] Their study is particularly relevant to this research because it demonstrates the growing recognition and practical application of ESG principles within Zambia's banking sector. The study establishes that ESG considerations are no longer merely international corporate concepts, but are increasingly influencing decision-making within Zambian financial institutions. Significantly, the authors found that banks in Zambia have begun integrating ESG practices, including sustainability reporting, green financing initiatives, governance oversight mechanisms, community engagement programmes, and environmental risk assessments, into their operations. This supports the present research's argument that ESG principles are increasingly embedded in Zambia's institutional and legal framework, thereby necessitating an examination of the extent to which Zambian laws domesticate and promote ESG standards, particularly the environmental pillar.

The Scholars article complements this research by establishing that Zambia is gradually moving toward incorporating ESG principles into its legal and regulatory systems. This research will focus on the extent to which Zambia has domesticated the environmental pillar of the ESG principles into the national laws.

Raphael Mubanga and Kwatu Kwarteng conducted a comparative analysis of the Environmental impact assessment legislation of South Africa and Zambia[22]. Their study examines the legal frameworks governing Environmental Impact Assessment (EIA) processes in both jurisdictions, focusing on procedural requirements, public participation mechanisms, enforcement provisions, and compliance monitoring. The

[21]H Namunyola and A Mwange, '*Assessing Environmental Social Governance in Zambia's Banking Sector*' (2025) *6* African Journal of Commercial Studies *107, 112*

[22] R.O Mubanga and K. Kwarteng, '*A Comparative Evaluation of the Environmental Impact Assessment Legislation of South Africa and Zambia'* (2020) 83 Environmental Impact Assessment Review *106402, 5.*

Scholars establish that despite having in place the Environmental Management Act[23], its EIA framework under the Environmental Management Act contains procedural weaknesses that undermine its effectiveness in preventing environmental harm.

The Scholars' study is relevant to this research because environmental preservation is a major foundation of the Environmental pillar of the ESG principles. This research complements the Scholars' work by shifting the analytical focus from EIA procedures to the broader question of whether the Environmental Management Act domesticates the ESG environmental pillar, particularly following the amendments made to the Environmental Management Act[24] and the enactment of the EIA regulations of 2026[25]

Chawarura, Sibanda, and Mamvura conducted a study assessing the roles of the government, regulators, and investors in ESG Implementation.[26] This study focused on ESG adoption in an African setting and provides a useful comparative lens for assessing the potential and challenges of implementing the environmental pillar of the ESG principles in Zambia.

The study finds that awareness and adoption of ESG principles among investors, regulators, and corporations have steadily increased since the early 2000s. The study outlines how African governments have intervened, particularly after the 2007–2008 global financial crisis, to promote ESG adoption through legislation and regulatory frameworks. The authors caution that much of Africa's ESG implementation relies on "soft law" or non-legislative rules, including, but not limited to, corporate governance codes, listing rules, and voluntary ESG reporting guidelines, rather than hard statutory laws. This reliance on voluntary compliance has constrained the consistency and effectiveness of ESG adoption across sectors, particularly in high-impact sectors such as mining and energy.

Therefore, for Zambia to meaningfully align and promote the environmental pillar of ESG principles, policymakers and regulators might need to go beyond promoting voluntary ESG guidelines: they may have to anchor ESG obligations in statutory law,

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[23] *Environmental Management Act* (n 6)
[24] *Environmental Management Act* (n 6)
[25] Environmental Management (Environmental Impact Assessment) Regulations, (n 15)
[26] W I Chawarura, et al, *'An Assessment of the Roles of the Government, Regulators, and Investors in ESG Implementation in South Africa: A Scoping Review'* (2025) 15(6) Administrative Sciences *220,* 225 . https://doi.org/10.3390/admsci15060220

build institutional capacity (regulatory oversight, reporting standards, monitoring mechanisms), and encourage investor and corporate accountability.

The scholars' study complements this study by offering a comparative perspective, showing how other African countries with structural similarities such as resource dependence, extractive industries, and an emerging economy, have navigated ESG adoption.

Sambo, P. T examines whether the Environmental Management Act (EMA) provides a basis for the growth of an environmental ethos and good environmental governance in Zambia[27]. Sambo critically assesses the EMA's institutional framework, enforcement mechanisms, and public participation provisions, questioning whether the Act has genuinely fostered a culture of environmental responsibility among state actors, corporate entities, and citizens. The scholar finds that while the EMA represents a legislative improvement over its predecessor, significant gaps remain in implementation, enforcement capacity, and the translation of legal provisions into practical environmental governance outcomes. Sambo ultimately expresses cautious skepticism about whether the EMA alone can cultivate the deep-seated environmental ethos necessary for sustainable development in Zambia.

This study is directly relevant to the present research as it provides a critical baseline assessment of the EMA's strengths and weaknesses, which this research builds upon. also, Sambo's focus on "environmental governance" overlaps conceptually with the governance dimension of the ESG environmental pillar. However, Sambo's study predates the amendments to the Environmental Management Act and the EIA regulations of 2026. This research therefore updates and extends Sambo's work by applying the ESG environmental pillar as a contemporary benchmark to both the EMA.

Goo and Lan conducted research on ESG and directors' duties, examining the extent to which directors' legal obligations under company law advance the ESG agenda.[28] Their study argues that it is difficult to advance the ESG agenda using company law, especially in common law legal systems. The scholars establish that directors' duties require directors to prioritise the interests of the company, equated with shareholders'

[27] P T Sambo, '*The Environmental Management Act (2011): A Basis for the Growth of an Environmental Ethos and Good Environmental Governance in Zambia*' in Law, Environment, Africa (Nomos Verlag 2019) 647, 650.
[28] SH Goo and Luh Luh Lan, 'ESG and Director's Duties: Defining and Advancing the Interests of the Company' (2024) 23(2) Journal of Corporate Law Studies 537.

interests as a whole, and that courts have held that this duty does not impose a positive obligation on directors to adopt ESG-focused strategies. Even where directors must take ESG considerations into account, the duty to act in the company's best interests does not compel proactive environmental governance. This finding is directly relevant to this research because Zambia's Companies Act No. 10 of 2017 is a common law instrument in which directors' duties are similarly structured around shareholder interests and financial performance. Goo and Lan's analysis confirms that the structural limitations of company law in domesticating ESG obligations are not unique to Zambia but are a systemic feature of the common law corporate governance model.

1.10. Ethical Issues

The Author does not anticipate any ethical issues to arise, as this research primarily focuses on matters of public law and general environmental regulations. Nonetheless, should any confidential or sensitive information be obtained during the course of the study, the Author will ensure that utmost confidentiality is maintained. Appropriate measures will be taken to safeguard the identity and privacy of any individuals or institutions involved, thereby protecting them from any potential adverse consequences arising from the disclosure of such information.

1.11. Chapter Outline

Chapter One introduces the study, setting out the background, statement of the problem, objectives, research questions, methodology, literature review, and ethical considerations. It establishes the central premise that the Companies Act No. 10 of 2017 does not provide a legal foundation for corporate ESG environmental obligations, directing the inquiry toward Zambia's environmental legislation.

Chapter Two establishes the conceptual and normative framework of ESG principles with particular emphasis on the environmental pillar. It identifies five core components environmental impact assessment, pollution control and prevention, climate-related risk management, greenhouse gas emissions reduction, and environmental disclosure which serve as the analytical benchmark for the subsequent chapters. It further examines the limitations of traditional corporate governance and assesses the existing ESG governance landscape in Zambia.

Chapter Three analyses the extent to which the Environmental Management Act No. 12 of 2011 domesticates ESG-related environmental obligations for companies.

Chapter Four analyses the extent to which the Green Economy and Climate Change Act No. 18 of 2024 domesticates ESG-related environmental obligations for companies.

Chapter Five presents the findings, conclusions, and recommendations, proposing targeted amendments to the domestic laws.

1.12. Conclusion

This Chapter outlines the background, problem statement, objectives, and methodological approach of the study examining the integration of the Environmental pillar of the ESG principles within the Zambian legal framework. The review of preliminary literature highlights both the growing global importance of ESG and the unique challenges associated with its adoption in emerging markets, particularly in regulatory contexts such as Zambia. While the chapter does not yet present findings, it establishes the conceptual foundation and identifies research gaps that justify a comprehensive analysis.

CHAPTER TWO

THE CONCEPTUAL, LEGAL AND REGULATORY FRAMEWORK OF ENVIRONMENTAL SOCIAL AND GOVERNANCE PRINCIPLES WITH PARTICULAR EMPHASIS ON THE ENVIRONMENTAL PILLAR

2.1. Introduction

This Chapter examines the ESG with particular emphasis on the Environmental pillar. It analyses the conceptual framework, and key components of the environmental pillar of the ESG principles. It will outline the international and regional efforts to promote the ESG principles in corporate conduct and environmental regulations.

2.2. Nature and framework of the Environmental, Social and Governance Principles

The ESG principles have emerged as a modern framework for assessing corporate sustainability, accountability and responsible business conduct. Unlike traditional corporate governance models, which primarily focus on profitability and shareholder interests, ESG broadens the scope of corporate responsibility by requiring companies to consider the environmental and social consequences of their operations alongside governance and financial performance. ESG therefore operates not merely as an ethical or voluntary standard, but increasingly as a regulatory and governance framework that influences corporate decision-making, investment strategies, disclosure obligations, and environmental accountability.

The legal significance of ESG lies in its gradual transformation from a voluntary corporate governance model into an emerging framework of regulatory accountability. ESG principles increasingly influence legislative reforms, securities regulation, environmental disclosure obligations, fiduciary duties and corporate governance standards. As a result, ESG now operates not merely as a policy framework but as a mechanism through which environmental and sustainability obligations are integrated into corporate regulation.

2.2.1. The Three Pillars of ESG

The framework is structured around three interrelated pillars, namely Environmental, Social and Governance, each of which addresses a distinct aspect of corporate responsibility and sustainability.

2.2.1.1. Nature and Scope of the Environmental pillar

The Environmental pillar of ESG operates as a regulatory mechanism through which environmental considerations are incorporated into corporate governance, risk management, and disclosure obligations. Unlike traditional environmental regulation, which primarily imposes external compliance obligations through public-law mechanisms, ESG internalises environmental accountability within corporate decision-making structures. The key components of the environmental pillar, which provide the analytical framework for this research, include: environmental impact assessment, requiring companies to identify and evaluate the environmental consequences of their operations before and during implementation; pollution control and prevention, encompassing obligations to manage, reduce and eliminate the discharge of harmful substances into the environment; climate-related risk management, requiring companies to assess and mitigate the financial and operational risks arising from climate change; greenhouse gas emissions reduction, imposing targets and reporting obligations relating to carbon and other emissions; and environmental disclosure, which requires companies to report transparently on their environmental performance, risks, and mitigation strategies in a consistent and verifiable manner.

The Environmental pillar is significant because corporate activities remain the leading contributors to environmental degradation, resource depletion, industrial pollution, and climate change. ESG therefore seeks to ensure that environmental considerations become an integral part of corporate governance and decision-making processes. Modern ESG frameworks increasingly encourage or require, depending on the applicable regulatory framework, corporate entities to disclose climate-related financial risks, greenhouse gas emissions, sustainability targets, and environmental governance structures. The environmental pillar therefore extends beyond substantive environmental protection to include procedural obligations of transparency, disclosure, and accountability. It is against these identifiable components: environmental impact assessment, pollution control, climate-risk management, emissions reduction, and environmental disclosure, that the environmental legislation of Zambia will be assessed in the subsequent chapters of this research.

2.2.1.2. The Social Pillar

The Social pillar of ESG focuses on how the Company impacts its surrounding communities, employees, and other stakeholders. This includes health and safety, fair labour practices, diversity, and inclusion. The goal is to protect and promote the well-being of both internal stakeholders, such as employees, customers, and suppliers, and external ones, such as local communities, indigenous peoples, and vulnerable groups affected by the company's activities.[29] The social pillar is significant as it seeks to ensure that corporations operate in a socially responsible manner and extends to a company's role in fostering positive relations and ensuring social equity.[30]

2.2.1.3. The Governance Pillar

The Governance pillar of the ESG principles focuses on the internal management and structures of companies that govern their operations. This includes aspects such as shareholder rights, board diversity, ethical conduct, risk management, transparency, accountability, fiduciary duties and regulatory compliance.[31]

2.3. The Emergence and Evolution of ESG Principles

Before the establishment of the ESG principles, there were global strides to ensure that countries had a sustainable environment. From as far back as 1970, the United Nations attempted to develop a Code of Conduct for Transnational Corporations in which they would be obligated to report on the ESG impacts; however, the adoption of this code failed as many countries did not subscribe to it.[32] In 2000, the United Nations launched the United Nations Global Impact, which was a voluntary membership scheme that Corporations could subscribe to, which required that they report on the actions that they had adopted relating to ESG issues.[33]Although these initiatives were largely voluntary, they laid the normative foundation for the later development of mandatory sustainability disclosure frameworks and corporate environmental accountability obligations.

[29] R Kvam and C Chesnutt, *Unpacking the 'S' in Environment, Social and Governance (ESG): Potential for SSI Engagement* (Research Report No 1, World Bank 2023

[30] H Namunyola and A Mwange, '*Assessing Environmental Social Governance in Zambia's Banking Sector'* (2025*) 6* African Journal of Commercial Studies

[31] E Pollman, '*The Making and Meaning of ESG'* (2024) 14 Harvard Business Law Review 3, 10

[32] United Nations, *Official Records of the Economic and Social Council* (E/5655, E/C.10/6, 59th Session, Supplement No 12)

[33] United Nations Global Compact, ÚNGC'. www.ungloablcompact.org/ (accessed 7th May 2026).

One of the major conventions was the United Nations Framework Convention on Climate Change (UNFCCC), which was endorsed in 1992 and is the main convention governing environmental sustainability. It aimed at addressing and reducing the adverse impacts of human activities on the climate system.[34]The convention was ratified by 154 countries, including Zambia, and is commonly referred to as the “Earth Summit.” The UNFCCC’s main goal was to stabilise greenhouse gas concentrations in the atmosphere at a safe level and prevent catastrophic human-induced disruptions to the climate system, thereby mitigating the devastating effects of climate change.[35] The convention’s ultimate aim was to ensure a sustainable future for the planet and future generations through reduced gas emissions and enhanced accountability.[36]

In addition to the UNFCCC, the United Nations Conference on Environment and Development (UNCED) further advanced sustainable development principles through the Rio Declaration and Agenda 21. Zambia was among the countries that adopted the Rio Declaration. These instruments encouraged states, corporations, and institutions to adopt environmentally sustainable practices and integrate environmental concerns into economic decision-making.[37]

The Concept of ESG emerged from the growing concerns over environmental degradation, social inequality, and corporate accountability to corporate bodies as the main drivers of industrialisation.[38] The term ESG was first widely used in the United Nations Global Compact Report of 2004 titled “Who Cares Wins”, in 2004, which argued that the integration of environmental, social and governance factors into corporate decisions would contribute to sustainable markets and better outcomes for the environment and society.[39]

Thereafter, ESG principles increasingly evolved from voluntary corporate responsibility initiatives into more structured governance and disclosure frameworks. Investors, financial institutions, regulators, and governments gradually began

[34] United Nations Framework Convention on Climate Change, Article 3.
[35] UNEP Finance Initiative, *‘Who Cares Wins: Connecting Financial Markets to a Changing World’* (2004)
[36] United Nations Framework Convention on Climate Change Article 4
[37] E Pollman, ‘*The Making and Meaning of ESG’* (2024) 14 Harvard Business Law Review 3, 10
[38] UNEP Finance Initiative, *‘Who Cares Wins: Connecting Financial Markets to a Changing World’* (2004)
[39] ibid

recognising that environmental and sustainability risks could materially affect corporate performance, financial stability, and long-term economic growth.

The evolution of ESG, therefore, reflects a gradual shift from voluntary corporate social responsibility initiatives toward structured systems of environmental governance and sustainability accountability. This transition is legally significant because it demonstrates the increasing expectation that corporations must internalise environmental obligations within governance and financial decision-making processes

2.4. Legal Arguments for the Promotion of ESG

2.4.1. Limitations of traditional Corporate governance

The promoters of ESG have argued that traditional corporate governance, as adopted by many common-law countries, Zambia included, focuses primarily on the fiduciary duties of directors to act in the best interests of the company and to maximise shareholder value. This position has historically been reinforced through companies' legislation, which structures corporate accountability around financial performance, shareholder value, and administrative compliance rather than environmental or social responsibility.[40]

In Zambia, the Companies Act No. 10 of 2017[41], serves as the primary instrument of corporate governance. The Act establishes a governance framework in which the board of directors is obligated to manage business risks [42], promote the success of the company,[43] and ensure that financial statements comply with prescribed accounting standards.[44] The annual general meeting, as prescribed by Section 58, is confined to matters of financial performance, including consideration of financial statements, the auditors' report, election of directors, and fixing of remuneration[45]. Furthermore, the annual report, governed by section 277, requires disclosure of the company's affairs, financial statements, the auditors' report, and directors' remuneration, but imposes no obligation to disclose environmental performance, climate-related risks, or sustainability metrics.[46] The auditor is required under section 259(3)(b) to report on

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41 The Companies Act, No 10 of 2017
42 Section 105(a) of the Companies Act, No 10 of 2017
43 Section 106 (b) of the Companies Act, No 10 of 2017
44 Section 266 of the Companies Act, No 10 of 2017
45 Section 58 of the Companies Act, No 10 of 2017
46 Section 277 of the Companies Act, No 10 of 2017

serious breaches of corporate governance principles, but the Act defines no corporate governance principles that encompass environmental obligations.

While the risk management duty in section 105(a) is capable, on a purposive interpretation, of accommodating environmental risks as attendant business risks, this duty is inwardly oriented, it protects the company from loss rather than imposing on the company an obligation to manage or disclose its environmental impact. Similarly, the duty to promote the company's success. Section 106(b) does not expressly require directors to integrate environmental sustainability into corporate strategy, and the Act contains no provision mandating non-financial or sustainability reporting. The corporate governance framework in Part VII of the Companies Act does not recognise the interests of stakeholders other than shareholders, and no provisions addressing ESG and sustainability reporting have been enacted under the Act.

Environmental obligations have always been treated as external constraints imposed by separate statutes rather than internal governance obligations. Turner argues that without binding ESG obligations, company directors will only allow ESG factors to influence their decision-making to the extent that they affect the commercial success of the business.[47] Scholars such as Lynn Stout have criticised shareholder primacy, arguing that corporate law also permits directors to take into account stakeholder interests, including those of communities, employees, and the environment.[48]

This argument was advanced in *James Nyasulu and others v Konkola Copper Mines Plc*, [49]. In this case, KCM had negligently discharged highly acidic effluent in the main waterways, which supplied water to Chingola, with the effect that the health and way of life of Chingola residents were disrupted and the environment was severely polluted. The High Court awarded exemplary and punitive damages to the Claimants, and in awarding the damages, the court emphasised that companies needed to take into consideration human life and the environment.

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[47] S. J. Turner, *'Corporate Law, Directors' Duties and ESG Interventions: Analysing Pathways towards Positive Corporate Impacts Relating to ESG Issues'.*

[48] LStout, *The Shareholder Value Myth: How Putting Shareholders First Harms Investors, Corporations, and the Public* (Berrett-Koehler Publishers 2012)

[49] James Nyasulu and others v Konkola Copper Mines Plc 2007/HP/1286).

The cumulative effect of the Companies Act's traditional orientation is that corporate environmental accountability in Zambia is not grounded in primary corporate legislation. This raises the critical question this research addresses: whether Zambia's environmental legislation, specifically the Environmental Management Act and the Green Economy and Climate Change Act steps in to fill that gap and domesticates the environmental pillar of ESG at the corporate level.

2.4.2. Constitutional right

The Constitutional right argument is based on the provisions of the *Constitution of Zambia*, which provides for environmental protection in Article 255(m).[50] It guarantees people the right to access environmental information, enabling them to preserve, protect, and conserve it. While this right might be framed as an entitlement of citizens and communities, it carries a necessary correlative duty to the people who possess it to facilitate and enable such access. This provision establishes transparency and access to environmental information.

In addition, Article 257(a)(b)(c) of the Constitution also imposes a duty on people to co-operate with state organs, state institutions, and other persons, a duty to not only maintain a clean, safe and healthy environment but also ensure ecological sustainability, protect and safeguard the environment.

Although Article 257 of the Constitution imposes duties on 'persons', the principle of corporate personality established in *Salomon v A Salomon & Co Ltd.*[51] recognises a company as a separate legal person capable of bearing legal rights and obligations. Consequently, companies fall within the constitutional obligation to protect and safeguard the environment. This duty is not passive; it requires positive action. A company fulfils its constitutional duty under Article 256(c) by actively reporting on its activities and demonstrating, through verifiable data, how it is complying with its obligation to safeguard the environment.

2.5. The Framework for Implementing ESG Principles

ESG has evolved over time, reflecting a shift from voluntary ethical considerations to a more structured, measurable system of corporate accountability to include stakeholder

[50] The Constitution of Zambia (Amendment) Act No 2 of 2016
[51] Salomon v A Salomon & Co Ltd (1897) A. C. 22

interests, recognition that corporate activities have broader societal and environmental implications.[52]

The Framework for implementing ESG Principles represents a structured approach developed to guide governments, corporate bodies, and institutions in integrating ESG considerations into their operational, regulatory, and governance systems. The framework provides a set of standards, processes, and measurable indicators that translate ESG principles from abstract concepts into practical and enforceable actions.

At its core, the framework is designed to ensure that ESG is not treated as a voluntary or symbolic commitment but rather as a systematic, measurable component of decision-making.[53] It establishes clear expectations regarding how entities should identify, assess, manage, and report ESG-related risks and impacts. The framework is generally structured around the following key components:

2.5.1. *Reporting and Disclosure*

Disclosure obligations are central to ESG governance because they transform environmental accountability from a purely voluntary expectation to a measurable regulatory obligation capable of scrutiny and legal enforcement. The framework emphasises transparency. Companies are expected to disclose environmental impacts, risks, and mitigation strategies in a consistent and standardised manner. This promotes accountability and allows regulators, investors, and stakeholders to evaluate environmental performance.[54]

2.5.2. *Compliance and Regulatory Alignment*

The framework encourages alignment between ESG practices and existing legal and regulatory requirements. It supports the integration of ESG into domestic legal systems by providing a framework for implementing international environmental obligations at the national and corporate levels.[55]

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52 International Organization for Standardization, *ISO ESG Implementation Framework* (2024)
53 H B Christensen, et al '*Adoption of CSR and ESG Reporting'* (2021) 26 Accounting Research Journal
54 C Deegan, 'The Legitimizing Effect of Social and Environmental Disclosure – A Theoretical Foundation' (2002) 15(3) *Accounting, Auditing and Accountability Journal* pp. 282-311
55 D. Lokuwaduge & K. Heenetigala, *Integrating Environmental, Social and Governance. (ESG) Disclosure for a Sustainable. Development.: An Australian study.* Business Strategy and the Environment. Chichester: 2017 Wiley. Vol. 26. Issue. 4 pp.439-450

2.6. Promotion of the Environmental Social Governance Principles in Zambia

Although the Companies Act does not yet comprehensively provide for ESG reporting, Zambia has fragmented policies, directives and legislation that promote ESG reporting. The Bank of Zambia's 2024-2027 strategic plan emphasises integrating ESG principles within the financial sector. This includes developing a framework to promote compliance with ESG principles through supervisory and regulatory practices.[56] The limitation of the Bank of Zambia's 2024-2027 strategic plan is that it applies only to companies in the financial sector that are governed and supervised by the Bank of Zambia.

The promotion of ESG reporting in Zambia has also increasingly developed through the regulatory framework governing corporate governance, securities regulation and sustainability disclosure obligations applicable to listed companies. The Lusaka Securities Exchange (LuSE), through its Listing Rules and Corporate Governance Code, has progressively incorporated sustainability and governance principles into the reporting obligations of listed issuers. This reflects a broader global transition towards corporate transparency, accountability and sustainable business conduct. The growing importance of ESG reporting has been attributed to increasing stakeholder demand for transparency regarding corporate environmental impacts, governance systems and social responsibility.[57]

The LuSE Listing Rules[58] impose continuing disclosure obligations on listed companies and require issuers to provide annual reports containing material information relevant to shareholders and investors. In furtherance of these obligations, the LuSE Corporate Governance Code[59] encourages listed entities to adopt integrated reporting practices that incorporate environmental, social and governance considerations into corporate reporting frameworks. In this regard, issues relating to the environmental pillar must be treated as a strategic risk rather than peripheral concerns.

The Code promotes principles of ethical leadership, stakeholder engagement, board oversight of sustainability, and environmental responsibility and accountability in

[56] Bank of Zambia, *2024-2027 Bank of Zambia Strategic Plan: Promoting Inclusive and Sustainable Development in a Digitalised World (Policy Document No. 1),* Strategic Plans. Bank of Zambia, Lusaka, Zambia

[57] M.L Chipimo, et al '*Strategic ESG Orientation and Financial Resilience in Emerging Markets*' (2025) SEISENSE Business Review.

[58] *Harmonised Listings Requirements of the Lusaka Stock Exchange* (LuSE)

[59] Rule H(7) of the Lusaka Stock Exchange (LuSE) Corporate Governance Code for Listed and Quoted Companies.ENF CORPORATE (Accessed on 13th May 2026)

corporate decision-making. It also emphasises transparency. Companies are expected to disclose environmental impacts, risks, and mitigation strategies in a consistent and standardised manner. This promotes accountability and allows regulators, investors, and stakeholders to evaluate environmental performance.

The regulatory approach adopted by the LuSE imposes an expectation on listed companies to disclose the extent to which they comply with corporate governance and sustainability principles, while also explaining areas of non-compliance where applicable. This approach aligns with international corporate governance trends that favour transparency and market-based accountability over rigid statutory prescription. The framework, therefore, seeks to encourage issuers to progressively adopt sustainability reporting practices while allowing flexibility in the manner and extent of disclosure.[60]

The limitation with the LuSE reporting obligations on ESG-related matters is that the obligation applies principally to companies listed on the LuSE, including entities listed on both the Main Board and the Alternative Market. As at June 2026, there were only 23 companies listed on the Lusaka Securities Exchange.[61] This leaves thousands of companies without a compelling reason to comply with the reporting. The reporting obligations are particularly significant for companies operating in environmentally and socially sensitive sectors such as mining, energy, banking, telecommunications and manufacturing. This latter group of organizations comprises the largest number of players in the business landscape in Zambia

The current ESG reporting regime in Zambia remains relatively limited in scope when compared to more developed jurisdictions. The LuSE framework does not yet impose mandatory standardised ESG metrics, compulsory climate-related financial disclosures or uniform sustainability reporting templates applicable to all issuers. As such, ESG disclosure in Zambia largely remains guided by principles of voluntary compliance, corporate governance expectations and investor-driven transparency. Nevertheless, many listed companies, particularly multinational corporations and financial

[60] M.L Chipimo, et al, '*Strategic ESG Orientation and Financial Resilience in Emerging Markets'* (2025) SEISENSE Business Review.
[61] [Listed Companies - Lusaka Securities Exchange (LuSE)]() (Accessed on 13th May 2026)

institutions, have increasingly adopted integrated reporting practices consistent with international sustainability standards and investor expectations.

Despite the highlighted efforts, Zambia's ESG reporting framework remains at a developmental stage. The LuSE Listing Rules and Corporate Governance Code have laid an important institutional foundation for the gradual integration of ESG principles into corporate regulation and reporting practices. The framework demonstrates an emerging recognition that corporate performance can no longer be assessed solely on financial profitability, but must also take into account environmental sustainability, social responsibility and sound governance practices. This position is consistent with scholarly observations that ESG reporting has become a central mechanism for promoting sustainable enterprise governance and long-term value creation in both developed and emerging economies.

The Zambian ESG framework presently operates predominantly through soft-law mechanisms, including governance codes, strategic frameworks and listing rules, rather than binding statutory obligations. This raises questions regarding enforceability, regulatory consistency and corporate accountability

2.7. Conclusion

The foregoing discussion demonstrates that ESG principles, particularly the environmental pillar, have evolved into an increasingly influential framework for regulating corporate environmental conduct. The growing integration of ESG obligations into disclosure systems, governance standards and environmental regulation provides an important benchmark against which Zambia's environmental legislation may be assessed.

This chapter has examined the emergence, evolution, and conceptual foundation of ESG principles, with particular emphasis on the environmental pillar. It has been demonstrated that ESG represents a significant shift from traditional corporate governance models toward a more integrated framework that embeds environmental and sustainability considerations within corporate decision-making and regulatory systems. The chapter has further established that the environmental pillar of ESG is not merely aspirational but is structured around identifiable obligations, including environmental risk assessment, mitigation measures, performance monitoring, and disclosure requirements. Through the

ESG implementation framework, these obligations are translated into measurable and enforceable standards that guide both state regulation and corporate conduct.

Importantly, the chapter has shown that ESG serves as a bridge between international environmental commitments and domestic legal systems and provides a structured benchmark for assessing the extent to which national laws domesticate the environmental sustainability principles. The subsequent chapters will evaluate the extent to which the Environmental Management Act of 2011 and the Green Economy and Climate Change Act of 2024 reflect and promote the environmental pillar of ESG principles.

The Zambian ESG framework currently operates predominantly through soft-law mechanisms, including governance codes, strategic frameworks, and listing rules, rather than through binding statutory obligations. This raises fundamental questions regarding enforceability, regulatory consistency and corporate accountability. Critically, neither the LuSE framework nor the Bank of Zambia strategic plan operates as general corporate law applicable to all companies. The primary corporate governance statute, the Companies Act No. 10 of 2017, does not impose ESG obligations on companies, and the soft-law frameworks discussed above apply only to listed companies and regulated financial institutions, respectively, leaving the vast majority of corporate entities operating in Zambia outside any ESG reporting framework. This legislative reality directs the inquiry toward Zambia's environmental legislation. If the Companies Act does not ground corporate environmental accountability, and if the soft-law frameworks are limited in their reach, the question becomes whether the Environmental Management Act and the Green Economy and Climate Change Act discharge the function of domesticating the environmental pillar of ESG at the corporate level, and it is to that question that this research is principally directed.

CHAPTER THREE:

ANALYSIS OF THE EXTENT TO WHICH THE ENVIRONMENTAL MANAGEMENT ACT NO. 12 OF 2011 DOMESTICATES THE ENVIRONMENT PILLAR OF THE ENVIRONMENT, SOCIAL, AND GOVERNANCE PRINCIPLES

3.1. Introduction

This Chapter analyses the extent to which the Environmental Management Act No. 12 of 2011[62] ("the EMA") domesticates ESG-related environmental obligations applicable to companies in Zambia. Building on the conceptual and regulatory framework discussed in the preceding chapters, this Chapter examines whether the Act domesticates the core environmental principles associated with ESG, particularly environmental accountability, sustainability, environmental risk management, pollution prevention, environmental disclosure, and corporate responsibility.

The Act serves as the primary legal framework governing environmental protection and management in Zambia. It establishes institutional structures, regulatory mechanisms, and enforcement procedures to prevent environmental harm and promote sustainable development. However, the extent to which these provisions align with the structured obligations under the ESG framework requires careful examination. This research evaluates the extent to which the Act imposes substantive and procedural obligations on companies and considers whether these obligations align with modern ESG expectations regarding environmental sustainability and corporate environmental accountability.

3.2. Overview and Objectives of the Environmental Management Act No. 12 of 2011

The EMA constitutes the principal environmental legislation governing environmental protection, pollution control, natural resource management, and environmental regulation in Zambia. It repealed and replaced the Environmental Protection and Pollution Control Act and the Natural Resources Conservation Act, establishing a more integrated framework for environmental management.

The long title of the EMA indicates that its purpose is to provide for an integrated environmental management, protection and conservation of the environment, the sustainable management and use of natural resources, and the implementation of international environmental agreements and conventions to which Zambia is a party. The

[62] The Environmental Management Act No 12 of 2011 (The EMA)

EMA further establishes the Zambia Environmental Management Agency (ZEMA) as the primary regulatory authority responsible for environmental protection and enforcement.[63]

Although the EMA does not expressly refer to ESG principles, its provisions reveal a legislative intent to promote environmental sustainability, environmental accountability, pollution prevention, and sustainable development. These objectives substantially correspond with the environmental pillar of ESG, which seeks to ensure that companies internalise environmental obligations within operational and governance structures.[64]

3.3. The Incorporation of ESG-Related Environmental Obligations under the Act

3.3.1. Sustainable Development and Environmental Protection

One of the most significant environmental principles incorporated into the EMA is sustainable development. Sustainable development is a foundational principle of modern environmental governance and requires that economic activities must be pursued in ways that safeguard the environment for present and future generations. The EMA reflects this principle through its emphasis on environmental protection, conservation, prevention of environmental degradation, and sustainable utilisation of natural resources.[65] The incorporation of sustainable development within environmental legislation is particularly important because ESG frameworks similarly seek to balance economic activity with environmental sustainability.

Scholars such as Sophia Areias have argued that environmental governance must incorporate principles of intergenerational equity to ensure that present economic activities do not compromise future generations' ability to meet their own needs.[66] Similarly, P T Sambo observes that sustainable development has evolved into a central principle of international environmental law, increasingly influencing domestic environmental regulation and corporate environmental obligations.[67]

The EMA therefore reflects ESG-related sustainability obligations by recognising, in Section 6, that the environment is a common heritage of present and future generations,

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[63] Section 6 of the EMA

[64] D. Lokuwaduge & K. Heenetigala, *Integrating Environmental, Social and Governance. (ESG) Disclosure for a Sustainable. Development.: An Australian study.* (2017) Business Strategy and the Environment. Chichester: Wiley. Vol. 26. Issue. 4 pp.439-450

[65] Section 6 (k) of the EMA

[66] S.A Areias, '*Striving for a Rapid Transition: How Companies Are Approaching Integrating Respect for Human Rights in Their Climate Action*' (2024) 9(2) Business and Human Rights Journal *334*

[67] P T Sambo, '*The Environmental Management Act (2011): A Basis for the Growth of an Environmental Ethos and Good Environmental Governance in Zambia'* in *Law, Environment, Africa* (Nomos Verlag 2019)

and that it is vital to people's livelihoods and that it should be used sustainably to achieve poverty reduction and socio-economic development. In fulfilling these objectives, it imposes a duty on people to conduct their operations in a manner that minimises environmental harm and promotes environmental protection.[68] The EMA recognises that environmental degradation cannot be treated merely as an incidental externality of economic activity, but must instead form part of regulatory oversight and environmental governance.

However, while the EMA incorporates sustainability principles, it does not expressly require companies to integrate sustainability considerations into corporate governance structures, board oversight mechanisms, or ESG reporting systems. Consequently, the domestication of sustainability obligations under the EMA remains predominantly regulatory rather than governance-oriented.

3.3.2 ***Enviro*nmental Impact Assessment as a Mechanism of ESG Environmental Risk Management**

Environmental risk assessment constitutes one of the central obligations associated with the environmental pillar of ESG. Modern ESG frameworks increasingly require companies to identify, assess, and manage the environmental risks associated with their activities.[69]

The EMA primarily addresses this obligation through the Environmental Impact Assessment (EIA) framework. The purpose of EIAs is to identify, predict and evaluate the environmental and social impacts of a proposed project before it even begins. It also outlines the measures to prevent, reduce or manage the highlighted impacts.[70] Under the EMA, projects likely to have significant environmental effects are required to undergo environmental impact assessment. This requirement is particularly applicable to activities in mining, manufacturing, energy, agriculture, construction, and infrastructure development.[71] The EIAs highlight the environmental impacts of the proposed project and guide planning decisions for project implementation, involving local interest groups, regulatory bodies, and the general public.

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[68] Section 6 of the EMA
[69] E Pollman, '*The Making and Meaning of ESG'* (2024) 14 *Harvard Business Law Review* 3, 10
[70] , A. K Biswas. & S. B. C. Agarwala, (eds.) *Environmental impact assessment for developing countries*.(1992). Oxford: Butterworth-Heinemann.
[71] Section 29 of the EMA

The EMA framework demonstrates inclusivity in its regulatory application by capturing different categories and sizes of business entities, ranging from multinational corporations to small-scale enterprises. The Environmental Management (Environmental Impact Assessment) Regulations[72] categorises projects into different classes depending on the nature, scale and potential environmental impact of the activity, thereby ensuring that environmental obligations are not imposed exclusively on large corporations.

This classification-based approach reflects an understanding that environmental harm may arise from enterprises of varying sizes and that environmental accountability should apply proportionately across the corporate spectrum. In the context of ESG, this broad applicability is significant because it extends principles of environmental responsibility, monitoring and disclosure beyond large multinational entities and embeds sustainability obligations within both large-scale and smaller commercial operations.

Conducting EIAs conforms to the principle of the EMA, which requires that adverse effects be prevented and minimised through long-term integrated planning and the co-ordination, integration and co-operation of efforts that consider the entire environment as a single entity.[73] It also aligns with the Environmental pillar of ESG by requiring companies to anticipate and evaluate environmental risks before undertaking projects. The process further requires companies to develop mitigation measures to prevent or reduce environmental harm.[74]

The significance of the EIAs is that they transform environmental protection from a reactive system of post-damage liability into a preventative regulatory mechanism. This aligns with the precautionary principle in environmental law, which advocates preventive action when activities may cause environmental harm.

The EMA, therefore, substantially domesticates the environmental pillar of ESG through the environmental risk management obligations through the EIA framework. Nevertheless, the framework primarily focuses on regulatory approval and environmental compliance rather than continuous corporate environmental governance and sustainability reporting throughout the lifecycle of corporate operations.

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[72] Environmental Management (Environmental Impact Assessment) Regulations S.I 3 of 2026

[73] Section 6 of the EMA

[74] A. Gilpin, *Environmental Impact Assessment: Cutting edge for the twenty-first century* (1995*).* (p. 182). Cambridge: Cambridge University Press

3.3.3. Pollution Control and Environmental Accountability

Another important environmental-related obligation reflected in the EMA is pollution prevention and environmental accountability. ESG frameworks increasingly require corporations to minimise pollution, reduce emissions, and implement environmentally responsible operational practices.

The EMA imposes statutory obligations prohibiting the discharge of pollutants into the environment in a manner likely to cause environmental harm. It further empowers the ZEMA to regulate emissions, waste management, hazardous substances, and other forms of environmental contamination through licensing, monitoring, and enforcement mechanisms.

The EMA upholds principles such as the Polluter Pays Principle, which places liability on the person who pollutes the environment for the cost of pollution. The payment prescribed by the EMA can either impose civil liability, in which the polluter remedies the damage caused and pays damages to the affected people, or impose criminal liability, in which the polluter is sanctioned with a fine, imprisonment, or both. The criminal liability sanctions pierce the veil of incorporation and attach to the director or manager of the Corporate body as though they had committed the offence, unless they can show that they had put in place measures to prevent the pollution or that the pollution was committed without their knowledge, consent, or connivance.[75]

The significance of pollution control within ESG governance is that it imposes direct environmental responsibility on corporate entities whose operations affect ecosystems and surrounding communities. This position was illustrated in the case of *James Nyasulu and Others v Konkola Copper Mines Plc.*[76] The brief facts are that the Plaintiffs alleged that the Defendant's tailing pipes ruptured, leading to the discharge of effluent, which was high in acidic content, into the Chingola and Mushishima streams. This consequently led to pollution of the water source that feeds the Kafue River, the plaintiff's source of fresh water. After consuming the polluted water, the plaintiffs developed various illnesses and filed a lawsuit against the defendants.

The High Court held that KCM had violated the Chingola community's constitutional right to life through reckless environmental pollution that demonstrated disregard for human,

[75] Section 126 of the EMA
[76] James Nyasulu & Others v Konkola Copper Mines and Others (HP 1286 of 2007) [2011]

animal, and plant life. The High Court found that KCM had acted with impunity and without due regard to the environmental and social consequences of its mining operations, observing that the company appeared to have been shielded from criminal accountability through political influence and financial power. In emphasising the role of the judiciary in environmental protection, the trial judge stated that it was duty-bound to protect vulnerable communities from powerful corporate actors whose conduct endangered public health and the environment.

Consequently, the High Court awarded each of the 2,000 plaintiffs K4 million in general damages and K1 million in punitive damages, amounting to a total award of K10 billion, in order to deter corporations from discharging hazardous substances into the environment without implementing adequate safeguards to prevent harm. The Court further characterised KCM's conduct as a serious failure of corporate responsibility. It stressed that foreign investment could not justify environmental degradation or the violation of constitutionally protected human rights. It reaffirmed that international investors operating in Zambia are required to observe high environmental standards and that economic development must not come at the expense of human dignity, environmental protection, and public welfare.

However, on appeal, the Supreme Court partly set aside the High Court's decision, particularly with respect to the award of damages. The Supreme Court nonetheless affirmed that KCM had breached its duty by discharging highly acidic effluent, which harmed the aquatic environment, infrastructure, and agricultural activities in Chingola. Although the Supreme Court found that the High Court had erred in awarding uniform damages to all the respondents based on limited and non-identical medical reports, and consequently set aside the damages award, it did not reject all the pronouncements of the High Court. Significantly, the Supreme Court upheld the finding that pollution had occurred and that KCM's activities had caused environmental harm to the affected communities.[77]

The case demonstrates that environmental obligations are no longer confined to regulatory compliance alone but increasingly involve broader considerations of corporate accountability and environmental justice. The EMA reinforces this approach by

[77] Konkola Copper Mines PLC v Nyasulu and 2000 Others Appeal No. 1/2012

establishing legal consequences for environmental pollution and environmental degradation.

Despite the strides by the EMA, it remains primarily enforcement-driven. It does not establish mandatory corporate environmental performance metrics or continuous ESG-related environmental disclosure obligations comparable to modern sustainability reporting frameworks.

3.3.4 Environmental Information and Disclosure Obligations

Environmental disclosure constitutes an important aspect of the environmental pillar of ESG. Investors, regulators, and stakeholders increasingly require corporate entities to disclose information relating to environmental impacts, environmental risks, sustainability measures, and climate-related obligations. The EMA incorporates elements of environmental information by providing for public participation, access to environmental information, and regulatory oversight. These provisions align with Article 255 of the Constitution, which guarantees access to environmental information.[78]

The EMA imposes a duty on the licensees to conduct and submit environmental audit reports.[79] The requirement to conduct environmental audits and periodic monitoring promotes disclosure and reflects principles commonly associated with ESG regulation, particularly transparency, corporate accountability, and continuous risk management. Under the EMA, the licence holder is required to submit reports detailing any unforeseen adverse environmental or social effects arising from the project, the mitigation measures undertaken to address such effects, and the extent to which the licence holder is complying with conditions imposed by the ZEMA decision letter. Further, the reporting process requires an assessment of whether the mitigation measures prescribed by ZEMA are effectively reducing or preventing environmental harm and where such measures prove inadequate, the licence holder is expected to recommend alternative corrective measures.

In addition, the EMA mandates ZEMA to maintain a register of audit, monitoring and evaluation reports submitted by licence holders[80]. Significantly, the register is publicly accessible online, thereby reinforcing principles of environmental disclosure and

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[78] The Constitution of Zambia (Amendment) Act No 2 of 2016

[79] Regulation 18 of the Environmental Management (Environmental Impact Assessment) Regulations S.I No. 3 of 2026

[80] Regulation 20 of the Environmental Management (Environmental Impact Assessment) Regulations S.I No. 3 of 2026.

transparency. The maintenance of a publicly accessible register strengthens regulatory oversight by enabling the public, affected communities or interested stakeholders to scrutinise the environmental performance and compliance levels of corporate entities. This aspect of the EMA aligns closely with ESG disclosure standards, which emphasise transparency and stakeholder access to sustainability-related information as essential elements of responsible corporate governance.

John Knox has argued that access to environmental information forms an essential component of environmental governance because it promotes transparency, accountability, and public participation in environmental decision-making.[81] While the EMA promotes access to environmental information within regulatory processes such as EIAs and environmental licensing, it does not establish a comprehensive, mandatory ESG disclosure regime that requires corporations to publish sustainability reports, greenhouse gas emissions data, climate-related risks, or environmental governance structures. Consequently, the disclosure obligations under the EMA remain relatively limited when compared to modern ESG reporting frameworks adopted in some jurisdictions.

3.3.4. Corporate Liability and Enforcement Mechanisms

The effectiveness of ESG-related environmental obligations largely depends on the existence of enforceable liability and regulatory mechanisms. One of the major criticisms historically advanced against voluntary corporate sustainability frameworks is that they often lack effective enforcement mechanisms.

The EMA addresses this concern by establishing offences, penalties, compliance orders, and enforcement powers exercisable by ZEMA against entities that violate environmental obligations. It therefore moves beyond voluntary environmental responsibility by imposing legally binding obligations enforceable through administrative and judicial mechanisms.

Nevertheless, practical challenges relating to enforcement capacity, regulatory monitoring, institutional resources, and corporate compliance continue to affect the effectiveness of environmental regulation in Zambia. As many scholars have observed, the existence of environmental legislation alone does not necessarily guarantee effective environmental governance unless supported by strong enforcement institutions and regulatory capacity. Chipasha Mulenga has argued that, despite the EMA providing for criminal sanctions, the

[81] J.H Knox, *'Human Rights Principles and Climate Change'* in K.R Gray, et al (eds), *The Oxford Handbook of International Climate Change Law* (OUP 2016)

courts as enforcers of the law tend to shy away from enforcing the criminal sanctions aspect of the Act. He referred to the case of James Nyasulu v KCM in which the Courts, despite finding KCM liable, did not impose any criminal sanctions on the company.[82]

Pamela Sambo[83]argues that to ensure comprehensive enforcement, a judiciary requires to be well-informed of the rapidly expanding boundaries of environmental law and law in the field of sustainable development, and sensitive to their role and responsibilities in promoting the rule of law in regard to environmentally friendly development, would play a critical role in the vindication of the public interest in a healthy and secure environment through the interpretation, enhancement and enforcement of environmental law.

3.4. Limitations of the EMA in Incorporating ESG Principles

Although the EMA domesticates several environmental obligations consistent with ESG principles, it remains limited in its ability to fully integrate modern ESG governance frameworks.

Firstly, the EMA primarily adopts a traditional command-and-control regulatory approach focused on pollution prevention and environmental compliance. It does not expressly impose obligations relating to ESG governance structures, sustainability committees, board-level environmental oversight, or integrated sustainability governance within corporate institutions.

Secondly, the EMA does not establish mandatory ESG reporting or climate-related financial disclosure obligations applicable to companies. Modern ESG frameworks increasingly require corporate entities to disclose environmental risks, emissions data, sustainability targets, and climate-related financial impacts. The absence of such obligations demonstrates that the Act was designed primarily as an environmental protection statute rather than a comprehensive ESG governance framework.

Thirdly, the Act does not provide standardised environmental sustainability reporting indicators or measurable ESG performance metrics. This limits consistency in corporate environmental reporting and makes comparative environmental accountability more difficult. The EMA, therefore, reflects only partial domestication of ESG-related environmental obligations. While it substantially domesticates environmental protection,

[82] C. Mulenga, *Precaution over Remediation: Killing the Polluter Pays Principle under Zambia' Mining Regime*
[83] P T Sambo, *'The Environmental Management Act (2011): A Basis for the Growth of an Environmental Ethos and Good Environmental Governance in Zambia'* in Law, Environment, Africa (Nomos Verlag 2019)

pollution control, environmental assessment, and environmental accountability obligations, it does not fully integrate contemporary ESG governance and sustainability disclosure frameworks.

3.5. Conclusion

This Chapter has analysed the extent to which the EMA domesticates ESG-related environmental obligations applicable to corporate entities. The Chapter has demonstrated that although the Act predates the modern expansion of ESG governance frameworks, it incorporates several important environmental obligations commonly associated with the environmental pillar of ESG. The Chapter has established that the Act reflects ESG-related principles through provisions relating to sustainable development, environmental impact assessment, pollution prevention, environmental information access, and enforcement mechanisms. These provisions demonstrate that the Act imposes substantive environmental responsibilities upon corporate entities and recognises the need to regulate the environmental consequences of corporate activity.

However, the Chapter has further demonstrated that the incorporation of ESG principles under the Act remains limited in several respects. The Act primarily adopts a traditional environmental regulatory model centred on compliance and pollution control rather than a comprehensive ESG governance framework based on mandatory sustainability reporting, climate-related disclosures, integrated environmental governance, and continuous corporate environmental accountability.

The Chapter therefore concludes that the EMA substantially domesticates foundational ESG-related environmental obligations but does not fully reflect the broader and evolving environmental governance expectations associated with contemporary ESG frameworks. This limitation has contributed to the increasing need for more specialised climate and sustainability legislation within Zambia's environmental governance framework.

CHAPTER FOUR

ANALYSIS OF THE EXTENT TO WHICH THE GREEN ECONOMY AND CLIMATE CHANGE ACT NO. 18 OF 2024 DOMESTICATES ENVIRONMENTAL SOCIAL GOVERNANCE RELATED ENVIRONMENTAL OBLIGATIONS FOR COMPANIES

4.1. Introduction

This Chapter analyses the extent to which the Green Economy and Climate Change Act No. 18 of 2024 ("the GECCA") domesticates ESG-related environmental obligations applicable to corporate entities in Zambia. The GECCA was enacted in December 2024 and is Zambia's primary climate governance framework. Its enactment reflects the commitment to domesticate Zambia's international climate commitments under the United Nations Framework Convention on Climate Change and the Paris Agreement into binding domestic law, and to establish a regulatory framework that directly engages corporate and sectoral actors in the governance of greenhouse gas emissions, climate resilience, and sustainable development.

Chawarura, Sibanda, and Mamvura have argued that meaningful ESG integration requires progressive anchoring of ESG obligations in statutory law, supported by institutional capacity and enforceable reporting standards, rather than continued reliance on voluntary codes and soft-law mechanisms.[84] Assessed against this standard, the GECCA represents a decisive legislative step toward the formalisation of climate-related ESG obligations within Zambia's national legal framework.

This Chapter adopts a doctrinal approach, interpreting the Act's provisions against the benchmarks of the environmental pillar of ESG identified in Chapter Two, particularly obligations relating to greenhouse gas emission governance, climate risk management, environmental disclosure, and corporate liability for the sectors that emit gases that adversely affect the environment.

4.2. Overview and Objectives of the Green Economy and Climate Change Act No. 18 of 2024

The GECCA is a purposive statute whose long title expressly encompasses climate change adaptation and disaster risk reduction, climate change mitigation, low-emission development, green economy, carbon market regulation, environmental and social

[84] W.I Chawarura, et al *'An Assessment of the Roles of the Government, Regulators, and Investors in ESG Implementation in South Africa: A Scoping Review'* (2025) 15(6) Administrative Sciences 220, 225.

safeguards, and the domestication of Zambia's international climate obligations. This breadth of legislative purpose reflects a holistic understanding of the relationship between economic development, corporate conduct, and climate governance.

Pollman has argued that the defining characteristic of contemporary ESG governance is the shift from aspirational corporate responsibility toward structured, measurable systems of environmental accountability.[85] The GECCA's guiding principles, which include environmental sustainability, the incorporation of low-carbon and green economy measures, climate resilience, and environmental safeguards,[86] reflect this shift. They are not merely aspirations but foundational standards that bind the interpretation and application of every provision in the Act.

Wroth has argued that achieving the environmental pillar of ESG in the face of climate change demands robust legal frameworks and sustained institutional collaboration across sectors.[87] The GECCA directly operationalises this principle within Zambia's constitutional and administrative framework by establishing a multi-tiered governance system comprising the Department of Green Economy and Climate Change (the Department), the Green Economy and Climate Change Council, and the Green Economy and Climate Change Technical Committee, designated as the Nationally Determined Contributions authority.[88] The composition of these committees encompasses various bodies spanning finance, mines, energy, agriculture, lands, and local government.

4.3. Domestication of ESG-Related Environmental Obligations under the Act

4.3.1. Greenhouse Gas Emission Governance and Corporate Accountability

Governance of greenhouse gas emissions is among the most substantive obligations within the environmental pillar of ESG. Modern ESG frameworks require corporate entities to measure, maintain records of, and report on their greenhouse gas emissions as a foundational element of environmental accountability.[89] The GECCA introduces, for the first time in Zambia's legislative history, binding statutory obligations directed at precisely this requirement.

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[85] E Pollman, *'The Making and Meaning of ESG'* (2024) 14 Harvard Business Law Review 3, 10.

[86] Section 3 of the Green Economy and Climate Change Act No 18 of 2024 (GECCA)

[87] L KWroth, *'Achieving Environmental Sustainability in the Face of Climate Change: A Joint Cross-Border Conference on Sustainability'* (2012) 13(3) Vermont Journal of Environmental Law 417

[88] Sections 4 -7 of the Green Economy and Climate Change Act

[89] L K.Wroth, *'Achieving Environmental Sustainability in the Face of Climate Change: A Joint Cross-Border Conference on Sustainability'* (2012) 13(3) Vermont Journal of Environmental Law 417

The GECCA in Section 18 creates a Greenhouse Gas Inventory Management System that serves as a central database for greenhouse gas data and information across specified economic sectors.[90] Persons emitting greenhouse gases are required to maintain inventories of greenhouse gas-related information and submit them to either the Department or ZEMA.[91]

The GECCA further empowers the Minister to prescribe greenhouse gas emission standards by statutory instrument. It imposes substantial financial penalties on legal persons who fail to comply with the prescribed standards, to an extent of not less than two million penalty units but not exceeding three million penalty units.[92]These obligations collectively establish a binding duty to account for greenhouse gas emissions. This is directly aligned with the disclosure and accountability standards contemplated by the environmental pillar of ESG.

Christensen, Hail, and Leuz have argued that the adoption of mandatory sustainability and ESG reporting standards produces measurable improvements in corporate environmental accountability by reducing information asymmetries between companies and their stakeholders.[93] The GECCA's greenhouse gas inventory and reporting obligations create the informational infrastructure necessary for meaningful regulatory oversight and sustainability disclosure that contemporary ESG frameworks require.

The GECCA also requires regulatory bodies to develop sector emission reduction plans and low-carbon strategies into planning cycles, introducing a forward-looking, target-based dimension to greenhouse gas governance.[94] This is significant because ESG frameworks do not merely require historical emissions disclosure; they require companies to demonstrate credible pathways for emission reduction aligned with national climate targets. Sohn has argued that promoting environmental sustainability requires more than reactive environmental management. It demands proactive, integrated

[90] Section 18 of the GECCA
[91] Section 17 of the GECCA
[92] Section 16 (3)(b) of the GECCA
[93] H B Christensen, L Hail and C Leuz*, 'Adoption of CSR and ESG Reporting'* (2021) 26 Accounting Research Journal.
[94] Section 13 of the GECCA

planning that embeds low-carbon strategies into the core of the company's decision-making.[95]

4.3.2. Climate Change Adaptation and Environmental Risk Management

Environmental risk management is a core obligation under the environmental pillar of ESG, requiring corporate entities to continuously identify, assess, and manage environmental risks associated with their activities. In addition to the EMA, the GECCA domesticates this obligation through a framework of climate change adaptation and resilience planning.

Puno has argued that the domestication of climate obligations under the Paris Agreement requires not merely legislative commitment but institutional capacity to embed safeguards and ensure long-term ecological integrity across planning systems.[96] Section 3(b) of the GECCA upholds the guiding principle of mainstreaming climate resilience, climate change, and consideration of all aspects of low-carbon emissions and the green economy.[97] This aligns with the ESG expectation of continuous, lifecycle environmental risk management, rather than a one-time compliance at the project approval stage and represents a meaningful advancement in the statutory articulation of corporate climate obligations.

4.3.3. Environmental Disclosure and Transparency

Transparency and environmental disclosure are foundational to the environmental pillar of ESG. Disclosure obligations serve a dual function: they enable regulatory oversight by providing authorities with the information necessary to assess corporate environmental performance, and they enable accountability by making environmental information available to investors, stakeholders, and affected communities. The GECCA domesticates environmental disclosure obligations through several interconnected mechanisms.

In achieving disclosure, the GECCA similarly to the EMA requires the Department to maintain a publicly accessible climate change register containing information on the green economy and climate change, open for inspection by members of the public.[98]

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95 W S Sohn, *'Towards a Sustainable Future: Addressing Climate Change and Promoting Sustainable Development'* (2025) Sustainable Development 1, 5.
96 R.Veronica & D Puno, *'Integrating Social and Environmental Safeguards in the Implementation of the Paris Agreement's Sustainable Development Mechanism'* (2021) 51(1) Environmental Law 205, 210.
97 Section 3(b) of the GECCA
98 Section 39 of the GECCA

Greenhouse gas emitters are required to maintain and submit inventories of emission-related information through the Integrated Measuring Reporting and Verification System relating to greenhouse gas emissions, mitigation actions and adaptation activities of an entity.[99]

Knox has argued that access to environmental information is an essential component of environmental governance because it promotes transparency, accountability, and public participation in environmental decision-making.[100] The GECCA gives practical expression to this principle through the Climate Change Register's public accessibility which ensures that climate governance activities are subject to ongoing public scrutiny.

Namunyola and Mwange's study of ESG practices in Zambia's banking sector found that financial institutions have begun integrating sustainability reporting and environmental risk assessments into their operations as a response to growing stakeholder demand for environmental transparency.[101] The GECCA's mandatory data-provision obligations create a complementary regulatory environment that supports the expansion of such practices across sectors beyond the financial industry

4.3.4. Corporate and Director Liability and Enforcement

The credibility of an ESG governance framework relies heavily on effective enforcement mechanisms. Turner rightly argues that directors will only internalise ESG obligations if non-compliance results in real legal consequences, especially in climate governance, where compliance costs can be significant and immediate commercial incentives to delay action exist.[102] The GECCA creates a strong enforcement structure.

The GECCA imposes criminal liability on companies who fail to comply with greenhouse gas emission standards, fail to maintain greenhouse gas inventories, or fail to comply with compliance orders issued by the Director.[103] The penalties for legal persons are stricter and substantially higher than those for natural persons, reflecting a deliberate intention of imposing meaningful financial consequences on corporate entities.

[99] Section 17 of the GECCA

[100] H. Namunyola and A. Mwange, *'Assessing Environmental Social Governance in Zambia's Banking Sector'* (2025) 6 African Journal of Commercial Studies 107, 112.

[101] H Namunyola and A Mwange, *'Assessing Environmental Social Governance in Zambia's Banking Sector'* (2025) 6 African Journal of Commercial Studies 107, 112.

[102] S. J. Turner, *'Corporate Law, Directors' Duties and ESG Interventions: Analysing Pathways towards Positive Corporate Impacts Relating to ESG Issues'.*

[103] Section 16(3) of the GECCA

Continuing daily penalties for sustained non-compliance create an ongoing incentive for corporate action rather than a one-time liability that can be absorbed as a cost of doing business.

Section 43 of the GECCA also pierces the corporate veil of a company where an offence is committed with the knowledge, consent, or connivance of a director, manager, or shareholder, thereby making that individual personally liable to the same penalty as the body corporate.[104] This provision has significant implications for ESG governance, as it creates a direct legal incentive for senior corporate officers to personally engage with the climate compliance obligations. Chipasha Mulenga has observed that Zambian courts have historically been reluctant to impose criminal sanctions on corporations for environmental violations, even where liability is clearly established.[105] This tendency poses a practical limitation on the effectiveness of enforcement, and GECCA's enhanced penalty regime and veil-piercing provision may be understood, in part, as a legislative response to the enforcement gaps that Mulenga and others have identified.

4.4. Limitations of the GECCA

The limitations of the GECCA were highlighted in the case of *Climate Action Professionals Zambia v Attorney General*[106] in this matter, the Petitioner, Climate Action Professionals Zambia, petitioned the Constitutional Court alleging that the State had violated Article 257(g) of the Constitution of Zambia by failing to establish and operationalise three key mechanisms under the GECCA, namely the Integrated Measuring, Reporting and Verification (IMRV) System, the Climate Change Fund, and the Climate Change Register. The Petitioner contended that these mechanisms had not been put into operation despite the GECCA having commenced in October 2025, and that this omission constituted a constitutional breach. The Respondent argued that implementation was progressing and that Article 257(g) was of a directive nature, permitting progressive realisation.

The Court dismissed the Petition for want of jurisdiction, holding that while Article 257(g) imposes a general duty on the State to establish and implement climate change mechanisms, the specific mechanisms in question, the IMRV System, Climate Change

[104] Section 43 of the GECCA
[105] C Mulenga, '*Precaution over Remediation: Killing the Polluter Pays Principle under Zambia's Mining Regime*'.
[106] Climate Action Professionals Zambia v Attorney General [2025/CCZ/0025]

Fund, and Climate Change Register were statutory creations of the GECCA and not prescriptions of the Constitution itself. Accordingly, any failure to operationalise them would constitute a potential breach of the GECCA rather than a direct contravention of the Constitution, a matter properly falling within the jurisdiction of the ordinary courts.

The decision is significant for ESG governance discourse in Zambia, as it judicially confirms that the GECCA's key implementation mechanisms remain inoperational and reveals a jurisdictional gap that limits the enforceability of climate obligations through constitutional litigation. The absence of a functioning IMRV System, Climate Change Fund, and Climate Change Register directly undermines the environmental accountability, environmental risk management necessary for meaningful ESG domestication within Zambia's regulatory framework

4.5. The Green Economy and Climate Change Act and the Broader Environmental Legal Framework: A Composite Assessment

Reading the GECCA within the context of Zambia's environmental legal framework as a whole, it is evident that it substantially advances the incorporation of ESG-related environmental obligations beyond what the EMA had previously achieved. The domestication of the Paris Agreement, the introduction of binding greenhouse gas inventory and reporting obligations, the establishment of sector emission reduction planning requirements, collectively represent a legislative commitment to climate-related ESG governance.

Chawarura, Sibanda, and Mamvura's comparative study of ESG implementation in African jurisdictions found that countries with structural similarities to Zambia typically progress through a stage of fragmented, sector-specific regulatory development before achieving more integrated ESG governance frameworks.[107] The GECCA represents precisely this kind of purposive, sector-specific statutory advancement. It does not purport to be a comprehensive ESG statute. Still, it establishes the regulatory infrastructure, emissions governance systems, upon which a more integrated framework can be progressively built.

What remains to be fully achieved, as this study demonstrates, is the translation of these regulatory obligations into mandatory, standardised corporate sustainability reporting

[107] Chawarura, Sibanda and Mamvura (n 1) 225.

accessible to investors and capital markets. Zambia has committed to adopting the ISSB Sustainability Disclosure Standards, and the LuSE Corporate Governance Code already encourages listed companies to integrate ESG considerations into their reporting practices. The GECCA's regulatory architecture provides the substantive environmental governance foundation on which such reporting obligations can be grounded.

4.6. Conclusion

This Chapter has analysed the extent to which the GECCA domesticates ESG-related environmental obligations for corporate entities in Zambia. The analysis demonstrates that the GECCA is a significant and purposive legislative instrument whose provisions are substantially aligned with the core obligations of the environmental pillar of ESG, particularly with respect to greenhouse gas emissions governance, climate risk management, carbon market accountability, community benefit sharing, environmental disclosure, and enforcement.

The Chapter has established that the GECCA creates binding obligations requiring corporate and sectoral actors to account for their greenhouse gas emissions, develop emission reduction plans, and provide environmental information to regulatory systems. These obligations, underpinned by a robust enforcement framework that includes criminal penalties, director liability, and a dedicated climate fund, reflect a legislative commitment to making ESG-related environmental governance enforceable rather than aspirational. While the Act does not yet establish mandatory standardised corporate sustainability reporting for all corporate entities, it provides the regulatory and institutional infrastructure on which such obligations can be developed.

CHAPTER FIVE

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1. Introduction

This Chapter presents the findings, conclusions, and recommendations arising from the preceding analysis. The research set out to examine the extent to which the environmental pillar of the ESG principles is domesticated by Zambia’s national environmental legal framework, with particular reference to the Environmental Management Act No. 12 of 2011 and the Green Economy and Climate Change Act No. 18 of 2024. This Chapter synthesises the conclusions drawn from each preceding chapter and proposes legal mechanisms to more comprehensively integrate ESG-related environmental obligations into Zambia’s regulatory framework.

5.2. Findings

Chapter Two established the conceptual and normative framework of ESG principles with particular emphasis on the environmental pillar. It demonstrated that the ESG principles have evolved from voluntary corporate responsibility initiatives into an increasingly structured framework of regulatory accountability, underpinned by international instruments including the UNFCCC, the Paris Agreement, and the ISSB Sustainability Disclosure Standards. The chapter identified five core components of the environmental pillar that serve as the analytical benchmark for this research: environmental impact assessment, pollution control and prevention, climate-related risk management, greenhouse gas emissions reduction, and environmental disclosure. The chapter further found that Zambia's primary corporate governance instrument, the Companies Act No. 10 of 2017, does not provide a legal foundation for corporate ESG environmental obligations, as its governance framework is oriented exclusively toward shareholder value and financial accountability with no express provision for environmental disclosure, climate-risk reporting, or sustainability governance. Zambia's existing ESG framework operates predominantly through soft-law instruments, specifically, the LuSE Listing Rules and Corporate Governance Code and the Bank of Zambia's 2024–2027 Strategic Plan, which apply only to listed companies and regulated financial institutions, respectively, leaving the vast majority of corporate actors, particularly those in high-impact sectors such as mining, energy, and manufacturing, without a binding ESG reporting obligation. This legislative gap directs the research toward an assessment of whether the Environmental

Management Act and the Green Economy and Climate Change Act domesticate the environmental pillar of ESG at the corporate level

Chapter Three established that the EMA domesticates several foundational ESG-related environmental obligations, despite predating the modern expansion of ESG governance frameworks. Assessed against the five components of the environmental pillar identified in Chapter Two, the Act demonstrates meaningful but partial domestication. The EMA substantially domesticates environmental impact assessment through its mandatory EIA framework, which requires companies to identify and evaluate environmental impacts before project implementation and to develop mitigation measures consistent with ESG risk management obligations. On pollution control, the EMA upholds the Polluter Pays Principle and establishes civil and criminal liability for environmental violations, with criminal sanctions piercing the corporate veil to attach personal liability to directors and managers. Regarding environmental disclosure, licence holders are required to submit environmental audit reports to ZEMA, which maintains a publicly accessible register that reflects principles of transparency consistent with ESG disclosure expectations. However, the chapter identified significant limitations. The EMA does not impose obligations relating to climate-related financial disclosure, greenhouse gas emissions reduction targets, mandatory sustainability reporting, board-level environmental oversight, or standardised ESG performance metrics. Enforcement has further been inconsistent, with courts historically reluctant to impose criminal sanctions on corporate entities as illustrated in *James Nyasulu and Others v Konkola Copper Mines Plc*. The Chapter therefore concluded that the EMA's domestication of the environmental pillar remains regulatory rather than governance-oriented, and partial rather than comprehensive.

Chapter Four established that the GECCA represents a significant and purposive legislative advancement in the domestication of ESG-related environmental obligations, substantially exceeding what the EMA had previously achieved. The Act introduces, for the first time in Zambia's legislative history, binding statutory obligations for greenhouse gas emissions governance through a mandatory Greenhouse Gas Inventory Management System requiring corporate emitters to maintain and submit emissions data to regulatory authorities. The Act further domesticates climate-related risk management through its mainstreaming of climate resilience across planning cycles, environmental disclosure through a publicly accessible Climate Change Register and Integrated Measuring, Reporting and Verification System, and corporate accountability through an enforcement framework that includes substantial financial penalties, criminal liability, and veil-piercing provisions attaching personal liability to directors and managers for climate compliance failures. However, the Chapter identified significant limitations. The Constitutional Court's decision in *Climate Action Professionals Zambia v Attorney General* judicially confirmed that three of the GECCA's key implementation mechanisms: the IMRV System, the Climate Change Fund, and the Climate Change Register, remain unoperationalised, directly undermining the environmental accountability and disclosure obligations central to ESG domestication. Furthermore, the GECCA does not establish mandatory standardised corporate sustainability reporting accessible to investors and capital markets, and its disclosure obligations remain primarily regulatory rather than governance-oriented. The Chapter therefore concluded that while the GECCA provides the regulatory infrastructure upon which the ESG framework can be built, its domestication of the environmental pillar remains incomplete pending full operationalisation of its institutional mechanisms.

5.3. Summary of Findings

This research examined the extent to which the environmental pillar of ESG principles is domesticated in Zambia's environmental legal framework. The first finding is that the Companies Act No. 10 of 2017, as the primary instrument of corporate governance in Zambia, does not provide a legal foundation for corporate ESG environmental obligations. Its governance framework is oriented exclusively toward shareholder value and financial accountability, with no express provision for environmental disclosure, climate-risk reporting, sustainability governance, or board-level environmental oversight. Zambia's existing ESG framework operates predominantly through soft-law instruments, specifically, the LuSE Listing Rules and Corporate Governance Code, and the Bank of Zambia's 2024–2027 Strategic Plan, which apply only to listed companies and regulated financial institutions, respectively, leaving the vast majority of companies without binding ESG reporting obligations.

The second finding is that the EMA domesticates several foundational ESG-related environmental obligations, but that its domestication remains regulatory rather than governance-oriented, and partial rather than comprehensive. The Act substantially domesticates environmental impact assessment through its mandatory EIA framework, pollution control through the Polluter Pays Principle and civil and criminal liability provisions, and environmental disclosure through mandatory audit reporting and ZEMA's publicly accessible register. However, the EMA does not impose obligations relating to climate-related financial disclosure, greenhouse gas emissions reduction targets, mandatory sustainability reporting, board-level environmental oversight, or standardised ESG performance metrics. Enforcement has further been inconsistent, with courts historically reluctant to impose criminal sanctions on corporate entities for environmental violations as illustrated in *James Nyasulu and Others v Konkola Copper Mines Plc*.

The third finding is that the GECCA represents a significant and purposive legislative advancement in the domestication of ESG-related environmental obligations, substantially exceeding what the EMA had previously achieved. The Act introduces, for the first time in Zambia's legislative history, binding statutory obligations for greenhouse gas emissions governance through a mandatory Greenhouse Gas Inventory Management System, domesticates climate-related risk management through mainstreaming of climate resilience across planning cycles, and establishes environmental disclosure through a publicly accessible Climate Change Register and Integrated Measuring, Reporting and Verification System. Its enforcement framework, incorporating substantial financial penalties, criminal liability, and veil-piercing provisions attaching personal liability to directors and managers, reflects a legislative commitment to making ESG-related environmental governance enforceable rather than aspirational. However, the Constitutional Court's decision in *Climate Action Professionals Zambia v Attorney General* judicially confirmed that the IMRV System, the Climate Change Fund, and the Climate Change Register remain unoperationalised, directly undermining the accountability and disclosure obligations central to ESG domestication. The GECCA further does not establish mandatory standardised corporate sustainability reporting accessible to investors and capital markets.

The fourth and overarching finding is that Zambia's environmental legal framework partially domesticates the environmental pillar of ESG principles. The EMA and the GECCA collectively establish a substantive regulatory foundation covering environmental impact assessment, pollution control, greenhouse gas emissions governance, and environmental disclosure, demonstrating a legislative recognition of the need to regulate the environmental consequences of corporate activity. However, neither statute, individually or collectively, establishes a comprehensive ESG governance framework of the kind now required by modern sustainability standards. The critical gaps are the absence of mandatory, standardised corporate sustainability reporting for all corporate entities, the absence of board-level environmental governance requirements, the lack of uniform climate-related financial disclosure standards accessible to investors, and the continued reliance on soft-law mechanisms for ESG disclosure in practice. Zambia's framework corresponds to what Chawarura, Sibanda, and Mamvura describe as the fragmented, sector-specific developmental stage through which many African jurisdictions progress before achieving integrated ESG governance.

5.4. Recommendations

The research has demonstrated that Zambia's environmental legal framework partially domesticates the environmental pillar of ESG principles but contains significant structural gaps, particularly in corporate governance and mandatory sustainability reporting. The following recommendations are advanced to address these gaps within the existing legislative framework.

First, the Companies Act No. 10 of 2017 should be amended to integrate ESG-related environmental obligations into the primary corporate governance framework. As demonstrated in Chapter Two, the Act's governance architecture is oriented exclusively toward shareholder value and financial accountability, with no express provision for environmental disclosure, climate-risk reporting, or board-level environmental oversight. To address this, it is recommended that section 277 of the Act be amended to require companies operating in environmentally sensitive sectors, such as mining, energy, manufacturing, and agriculture, above a prescribed size, to include environmental performance disclosures, climate-related risk information, and sustainability metrics as mandatory components of the annual report. It is further recommended that section 105 be amended to expressly impose on directors a duty to assess and manage environmental risks as a distinct governance obligation, rather than leaving this to a purposive interpretation of the existing risk management duty. Additionally, section 89 should be amended to require companies in designated sectors to establish board-level sustainability committees with defined environmental oversight functions. These amendments would align Zambia's corporate governance framework with the governance dimension of the environmental pillar of ESG and give legislative expression to the constitutional duty under Article 257 of the Constitution to protect and safeguard the environment, which extends to companies as separate legal persons.

Second, the operationalisation of the GECCA's key implementation mechanisms should be prioritised as a matter of legal urgency. At the conclusion of this study, the Integrated Measuring, Reporting and Verification System, the Climate Change Fund, and the Climate Change Register remain unoperationalised, directly undermining the Act's disclosure and accountability architecture. Without these mechanisms, the GECCA's greenhouse gas inventory obligations, environmental disclosure framework, and climate financing provisions cannot function as designed. It is further recommended that the Minister responsible for green economy and climate change urgently issue the statutory instruments prescribing greenhouse gas emission standards under the GECCA, so that the criminal liability and civil penalty provisions become operational and exercise a genuine deterrent effect on corporate non-compliance.

Third, the scope of mandatory ESG reporting should be extended beyond listed companies. The LuSE Corporate Governance Code's comply-or-explain approach, while a useful developmental instrument, applies to only the few listed companies and is insufficient to ensure consistent environmental accountability across the sectors generating the greatest environmental impact in Zambia. It is therefore recommended that the Securities and Exchange Commission of Zambia, in collaboration with ZEMA and the Department of Green Economy and Climate Change, develop sector-specific mandatory ESG reporting guidelines applicable to unlisted companies in high-impact sectors, aligned with the ISSB Sustainability Disclosure Standards and consistent with Zambia's nationally determined contributions under the Paris Agreement.

5.5. Final Conclusion

This research examined the extent to which the environmental pillar of ESG principles is domesticated in Zambia's environmental legal framework, with particular focus on the Environmental Management Act No. 12 of 2011 and the Green Economy and Climate Change Act No. 18 of 2024, premised on the finding that the Companies Act No. 10 of 2017 does not provide a legal foundation for corporate ESG environmental obligations.

The research has demonstrated that the domestication of the environmental pillar of ESG in Zambia is real but incomplete. The EMA establishes a substantive regulatory foundation through its environmental impact assessment framework, pollution control obligations, and environmental audit and disclosure mechanisms. The GECCA advances this considerably by introducing binding statutory obligations for greenhouse gas emissions governance, climate resilience planning, environmental disclosure, and a robust enforcement framework that pierces the corporate veil to attach personal liability to directors and managers. Together, these statutes reflect a legislative trajectory progressively moving toward ESG integration.

However, this trajectory has not yet produced a comprehensive ESG governance framework. The absence of mandatory standardised corporate sustainability reporting applicable to all corporate entities, board-level environmental governance requirements in primary corporate legislation, and the non-operationalisation of the GECCA's key institutional mechanisms collectively mean that Zambia's domestication of the environmental pillar remains partial, fragmented, and predominantly regulatory rather than governance-oriented.

The research therefore concludes that while Zambia has made meaningful legislative progress through the EMA and the GECCA, significant reforms remain necessary. The recommended amendments to the Companies Act, the urgent operationalisation of the GECCA's institutional mechanisms, and the extension of mandatory ESG reporting obligations beyond listed companies are necessary to give domestic legal effect to Zambia's international environmental commitments, discharge the constitutional duty to safeguard the environment under Article 257 of the Constitution, and ensure that corporate environmental accountability keeps pace with the evolving demands of the global ESG framework.

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