

**CHAPTER 15:15**  
**RADIATION PROTECTION ACT**

*Act 5/2004*

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**AN ACT to establish a Radiation Protection Authority and to confer powers and functions on such an Authority in relation to protecting the public and workers from dangers resulting from the use or abuse of equipment, devices or materials capable of producing ionizing radiation; and to provide for matters connected or incidental to the foregoing.**

[Date of commencement: 1st July, 2005.]

WHEREAS Article IV of the International Atomic Energy Agency Statute approved on 26 October, 1956, provides as follows—

#### **ARTICLE IV Membership**

- A. *The initial members of the Agency shall be those States Members of the United Nations or of any of the specialised agencies which shall have signed this Statute within ninety days after it is opened for signature and shall have deposited an instrument of ratification.*
- B. *Other members of the Agency shall be those States whether or not Members of the United Nations or of any specialised agencies, which deposit an instrument of acceptance of this Statute after their membership has been approved by the General Conference upon the recommendation of the Board of Governors. In recommending and approving a State for membership, the Board of Governors and the General Conference shall determine that the State is able and willing to carry out the obligations of membership in the Agency, giving the consideration to its ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations.*
- C. *The Agency is based on the principle of sovereign equality of all its members, and all members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligation assured by them in accordance with this Statute.,*

AND WHEREAS paragraphs 13 and 14 of the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources further provide as follows:

**“13 Every State should establish legislation and regulations that—**

- (a) *prescribe and assign governmental responsibilities for the safety and security of radioactive sources;*
- (b) *provide for the effective control of radioactive sources;*
- (c) *specify the requirements for protection against exposure to ionizing radiation;*
- (d) *specify the requirements for the safety and security of radioactive sources; and*
- (e) *provide for the establishment of a national register of those radioactive sources which pose the most significant risks, i.e. the radioactive sources belonging to Category I of the IAEA’s “Categorization of Radiation Sources”. However, in doing so, States should also devote appropriate attention to radioactive sources other than those belonging to Category I.*

**14 Such legislation and regulations should include, in particular—**

- (a) *the establishment of a regulatory body whose regulatory functions are effectively independent of other functions if that body is involved in both the management of radioactive sources and in their regulation. This body should have the powers listed in paragraphs 15 to 17.*
- (b) *measures, commensurate with the risks, to protect individuals, society and the environment from the deleterious effects of radiation;*
- (c) *administrative requirements relating to the authorization of the management of radioactive sources;*
- (d) *provisions for exemption, as appropriate, from the administrative requirements referred to in paragraph (c) above;*
- (e) *administrative requirements relating to the notification to the regulatory body, as appropriate, by an authorised person of actions involved in the management of such sources and of any other activity in relation to such sources which may engender a significant risk to individuals, society or the environment;*
- (f) *managerial requirements in particular relating to the establishment of adequate policies, procedures and measures for the control of radioactive sources*
- (g) *security measures to prevent, protect against, and ensure the timely detection of, the unauthorized access to, or the theft, loss or unauthorized use or removal of radioactive sources during all stages of management;*
- (h) *requirements relating to the verification of the safety and security of radioactive sources, through: safety and security assessments; monitoring and verification of compliance; and the maintenance of appropriate records;*
- (i) *the imposition of appropriate penalties.”*

AND WHEREAS, *it is desirable to make further provisions for the protection of the public and workers from ionizing radiation:*

NOW, THEREFORE, *be it enacted by the President and Parliament of Zimbabwe as follows:*—

## PART I

### PRELIMINARY

#### 1 Short title and date of commencement

This Act may be cited as the Radiation Protection Act [*Chapter 15:15*].

#### 2 Interpretation

In this Act—

“Authority” means the Radiation Protection Authority of Zimbabwe established by section three;  
“authorisation” means any permission granted in the form of a registration or a licence granted by the Authority to a person who has submitted an application to carry out a practice of any relevant action;  
“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed in terms of section six;  
“exposure” means any act or condition of being subject to radiation;  
“facility” means any premises in which is located service which uses a radiation source;  
“intervention” means any action to reduce or avert exposure or the likelihood of exposure to a radiation source which is not part of a licenced practice or which is out of control as a consequence of an accident;  
“ionising radiation” means any electromagnetic or corpuscular radiation capable of producing ions, directly or indirectly, in its passage through matter;  
“licence” means an authorization granted by the Authority on the basis of a safety assessment and accompanied by specific requirements and conditions to be complied with;  
“member” means a member of the Board, including the chairperson;  
“Minister” means the Minister of Health and Child Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;  
“practice” means any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people or modifies the network of exposure of people or the number of people exposed;  
“prescribed requirement” means a requirement—  
*(a)* prescribed by regulations made under section *twenty-two*; or  
*(b)* prescribed by the Authority in any authorisation or any standard, norm or requirement imposed or notified by it under this Act whether by a code of practice or otherwise;  
“radiation source” means any apparatus, substance or installation capable of emitting ionizing radiation.

## PART II

### RADIATION PROTECTION AUTHORITY OF ZIMBABWE

#### 3 Establishment of Radiation Protection Authority of Zimbabwe

There is hereby established an authority, to be known as the Radiation Protection Authority of Zimbabwe, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of doing anything that bodies corporate may by law perform.

#### 4 Functions and powers of Authority

(1) The functions of the Authority shall be—

- (a)* to issue standards and norms governing exemption, notification, registration and licensing of radiation sources and radiation protection and safety; and
- (b)* to define in regulation standards and norms the exposures that are excluded from regulatory requirements on the basis that they are not capable of being subjected to regulatory control; and
- (c)* to issue authorisations for the possession and use of radiation sources; and
- (d)* to define in regulations and authorisations the detailed obligations to be placed on those who possess radiation sources; and
- (e)* to conduct inspections and obtain performance information concerning radiation sources; and
- (f)* to take such action as is necessary to enforce any prescribed requirements; and
- (g)* to protect the health and safety of workers and the members of the general public; and
- (h)* to accredit persons as suppliers of certain services or facilities necessary to enable licensees, registrants or notifying parties to comply with conditions or requirements imposed by or under this Act; and

- (i) to approve persons with specified radiation protection responsibilities; and
- (j) to ensure that adequate national arrangements for response to radiological accidents are established; and
- (k) to initiate, recommend or provide support for intervention, as appropriate; and
- (l) to advise on matters relating to the safety of radiation sources and the disposal of radioactive waste materials or irradiating devices; and
- (m) to establish and maintain registers of importers, exporters, manufacturers, users and operators of devices or materials capable of producing ionizing radiation.

(2) For the better exercise of its functions, the Authority shall have power, subject to this Act, to do or cause to be done, either by itself or through its agents, all or any of the things specified in the First Schedule, either absolutely or conditionally and either solely or jointly with others.

## 5 Board of Authority

(1) There shall be a Board of the Authority which, subject to this Act, shall be responsible for formulating the general policy of the Authority and controlling its operations.

(2) The Board shall consist of—

- (a) one person appointed by the Minister; and
- (b) one person appointed by the Minister from a list of not fewer than three names submitted by the Ministry responsible for energy; and
- (c) one person appointed by the Minister from a list of not fewer than three names submitted by the Ministry responsible for agriculture; and
- (d) one person appointed by the Minister from a list of not fewer than three names submitted by the Ministry responsible for the environment; and
- (e) one person appointed by the Minister from a list of not fewer than three names submitted by the Ministry responsible for education; and
- (f) the Dean of the Medical School at the University of Zimbabwe; and
- (g) the Director of the Department of Water in the Ministry responsible for rural resources and water development; and
- (h) the Director of Civil Protection referred to in section 3 of the Civil Protection Act [*Chapter 10:06*]; and
- (i) at least two other members appointed by the Minister after consultation with the President.

(3) The chairperson and vice chairperson of the Board shall be members of the Board appointed by the Minister in consultation with the President.

(4) The provisions applicable to the Board shall be as set out in the Second Schedule.

## 6 Appointment and functions of Chief Executive Officer

(1) Subject to this section, the Board shall appoint, on such terms and conditions as the Board may fix, a person to be the Chief Executive Officer of the Authority.

(2) No person shall be appointed as Chief Executive Officer and no person shall be qualified to hold office as Chief Executive Officer if he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe.

(3) The appointment of the Chief Executive Officer shall terminate if he or she would be required in terms of subparagraph (1) or (2) of paragraph 3 of the Second Schedule to vacate his or her office had that provision applied to him or her.

(4) The functions of the Chief Executive Officer shall be—

- (a) to be secretary to the Board;
- (b) to supervise and manage the Authority's affairs;
- (c) to perform such other duties as the Board may determine or as may be conferred or imposed on him or her by or under this Act or any other enactment.

## 7 Radiation protection officers and staff of Authority

(1) The Authority may employ, on such terms and conditions as it may fix with the approval of the Minister—

- (a) radiation protection officers who shall act as inspectors; and
- (b) such other members of staff as may be necessary for the proper exercise of the Authority's functions.

(2) Every radiation protection officer shall be furnished with a certificate of his or her appointment signed by the Board or any person authorised by the Board, and when visiting a place to which the provisions of this Act apply, shall, if so required, produce that certificate to the owner or occupier of the premises.

## **8 Minister may give Board directions on matters of policy**

(1) Subject to subsection (2), the Minister may give the Board such directions of a general character relating to the policy which the Authority is to observe in the exercise of its functions, as the Minister considers to be requisite in the national interest.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the finances, commercial interests and other resources and functioning of the Authority.

(3) After receipt of the views of the Board submitted in terms of subsection (2), the Minister may confirm, alter or withdraw any proposed direction to the Board and, where the Minister has confirmed a direction, whether altered or not, the Board shall forthwith comply with the direction.

(4) When any direction has been received by the Board in terms of this section, the Board shall set out in the Authority's annual report the direction received by it, the views expressed by it in terms of subsection (2), and the final direction given to it in terms of subsection (3).

## **PART III**

### **FUNDS OF AUTHORITY**

## **9 Funds of Authority**

The funds of the Authority shall consist of—

- (a) any moneys that maybe payable to the Authority from moneys appropriated for the purpose by Act of Parliament;
- (b) any donations, grants, bequests or loans made to the Authority by any person or organization or any government of any country; and
- (c) any other moneys accruing to the Authority by way of licence fees or other payments charged in respect of any services rendered by the Authority and for which fees may be charged under this Act.

## **10 Investment of moneys not immediately required by the Authority**

Any funds of the Authority not immediately required by Authority may be invested in such a manner as the Board, in consultation with the Minister, may approve.

## **11 Accounts of Authority**

(1) The Authority shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Authority's activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, the Authority shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

## **12 Audit of Authority's accounts**

(1) The accounts of the Authority shall be audited by the Comptroller and Auditor-General, who for that purpose shall have the function conferred on him or her by sections 8 and 9 of the Audit and Exchequer Act [*Chapter 22:03*], as though the assets of the Authority were public moneys and the members of the Board and employees and agents of the Authority were officers as defined in that Act.

(2) Any member of the Board or employee or agent of the Authority who—

- (a) fails or refuses to provide the Comptroller and Auditor-General with any explanation or information required by him or her for the purpose of an audit in terms of subsection (1); or
- (b) hinders or obstructs the Comptroller and Auditor General in the conduct of an audit in terms of subsection (1);

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Notwithstanding subsection (1) the Comptroller and Auditor General may appoint a suitably qualified person to audit the accounts of the Authority, and if he or she does so—

- (a) subsections (1) and (2) shall apply in respect of the person so appointed as if he or she were the Comptroller and Auditor-General; and
- (b) any expenses incurred by the person so appointed in carrying out his or her audit shall be met from the funds of the Authority.

## **13 Internal auditor**

Section 19 of the Audit and Exchequer Act [*Chapter 22:03*] shall apply, mutatis mutandis, to the appointment of an internal auditor to the Authority in all respect as if the Authority were a department of the Ministry for which the Minister is responsible.

## PART IV

### PROTECTION AGAINST RADIATION

## **14 Prohibition of certain practices**

(1) Subject to exemptions that may be prescribed or provided under this Act, no practice shall be adopted, introduced, conducted, discontinued, or ceased and no radiation source within a practice shall, as applicable, be mined, milled, processed, designed, manufactured, constructed, assembled, acquired, imported, exported, distributed, sold, loaned, hired, received, sited, located, commissioned, possessed, used, operated, maintained, repaired, transferred, decommissioned, disassembled, transported, stored or disposed of except in accordance with prescribed requirements.

(2) No person shall cause ionizing radiation to be applied to any other person for the purpose of diagnosing or treating a disease unless the application is prescribed by a registered medical or dental practitioner.

(3) For the purposes of this Act, any department of Government, public or statutory body, or board or local authority which for the purpose of performing its functions uses or is required to use radiation shall comply with the provisions of this Act and any prescribed requirements in the same manner and to the same extent as any other person using radiation.

## **15 Authorisations**

(1) No person shall administer ionizing radiation to another person unless the person administering it is in possession of a valid licence issued under this Act.

(2) An application for the issuance or renewal of a licence under this Act shall be made in the prescribed form to the Board and shall be accompanied by the prescribed fee.

(3) After receiving an application for a licence or renewal of a licence the Board may issue to the applicant the appropriate licence or renew the licence if it is satisfied that the applicant has proper personnel or appropriate facilities required to operate or safely install, use or store any irradiating device or radioactive materials.

(4) A licence issued under this Act shall—

- (a) be in the prescribed form; and
- (b) authorise the licensee to own, purchase, acquire, import, export, possess, sell or deal in, install, use or dispose of, as may be required, irradiating devices, radioactive materials or other sources of ionizing radiation; and
- (c) be valid for such a period as the Board may determine; and
- (d) contain such conditions as the Board may think necessary for the safe use or disposal of irradiating devices or radioactive materials.

(5) The holder of a licence shall be responsible for ensuring that exposure to ionizing radiation resulting directly or indirectly from its operation, conditions of storage, transport or disposal is kept as low as reasonably practicable and below the prescribed limits.

(6) A licence issued under this Act may be—

- (a) amended by the Board if the amendment is necessary for the purpose of public safety; or
- (b) suspended or revoked by the Board, if the holder fails to comply with the conditions contained in the licence.

## **16 Appointment of radiation safety officer**

The owner or occupier of a facility shall appoint a person experienced in radiation health and safety measures as a radiation safety officer within the facility and the person so appointed shall ensure that—

- (a) all persons using or working in the facility are supplied with at least one monitoring device and any other protective accessories necessary to carry out radiation procedures with the lowest possible risk; and
- (b) all radiation workers employed within the facility are given proper instruction on radiation safety measures and, where annual exposure exceed three-tenths of the dose equivalent limit, receive medical check-ups at least once every six months; and
- (c) proper care is taken of radioactive wastes if they appear in the course of the use of radiation sources as described in the codes of practice issued by the Board for protection of persons exposed to ionizing radiation and that the wastes are only disposed of in accordance with the licence granted for the purpose; and

- (d) exposure records are kept as prescribed in the codes of practice for users of ionizing radiation; and
- (e) any other instructions that may be issued from time to time by the Board are implemented.

## **17 Register of licences**

(1) The Chief Executive Officer shall maintain a register in the prescribed form in which he or she shall record such particulars relating to licences issued under this Act.

(2) The Chief Executive Officer shall, with the specific or general approval of the Board, effect changes in particulars and rectify any clerical errors in the register or other document containing extracts from the register.

## **18 Inspection and enforcement**

- (1) The Chief Executive Officer or a radiation protection officer in his or her capacity as an inspector may—
  - (a) enter, inspect and examine any facility or premises, if there is reasonable cause to believe that an irradiation device, radioactive material or any other radiation source is stored, used, transported or disposed of;
  - (b) require the production of a licence authorising the use of any irradiating device, radioactive material or any other radiation source of or a register or document kept under this Act and inspect, examine or take copies of them;
  - (c) seize any such substances or equipment or any book, record, or document so found in respect of which any provisions of this Act appears to have been contravened;
  - (d) by notice in writing to the person in control thereof prohibit the use, sale or removal of, or any other dealing whatsoever in connection with , such materials in respect of which any provisions of this Act appears to have been contravened;
  - (e) take so many samples of any substance as he or she may consider necessary for the purpose of testing, examination or analysis in terms of this Act;
  - (f) carry out any investigation, test or examination he or she may consider appropriate.

(2) Any person who fails to comply with a notice of prohibition issued in terms of paragraph (d) of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) An inspector may at any time return anything seized or by notice in writing to the appropriate person, withdraw a notice of prohibition issued in terms of paragraph (d) of subsection (1).

## **19 Appeal to Administrative Court**

(1) An applicant or licensee may appeal in writing to the Administrative Court, against the cancellation, suspension, revocation, or refusal to grant or renew a licence.

(2) An appeal in terms of subsection (1) shall be noted by lodging a written notice of appeal with the Registrar of the Administrative Court and the Chief Executive Officer of the Authority within twenty days from the date on which the appellant was notified of the decision that is the subject of the appeal.

(3) In an appeal in terms of subsection (1), the Administrative Court may confirm, vary or set aside the decision appealed against or give such other decision as in its opinion the Authority ought to have given, and may make such order as to costs as it thinks fit.

(4) Before making any decision in terms of subsection (3), the Administrative Court may invite expert assessors to give evidence.

(5) The Administrative Court Act [*Chapter 7:01*] shall apply in relation to the composition, procedure and powers of the Administrative Court in an appeal in terms of subsection (1).

## **20 Offences**

- (1) Any person who—
  - (a) wilfully obstructs the Chief Executive Officer or any other radiation protection officer in the exercise of his or her duties in pursuance of this Act; or
  - (b) without reasonable excuse fails to produce a licence or other document required to be produced by this Act; or
  - (c) wilfully prevents or attempts to prevent any person from giving information as to their ownership or management of a radiation source; or
  - (d) wilfully withholds any information as to the ownership or management of a radiation source; or
  - (e) gives information which he knows to be untrue or has no reason to believe to be true;

shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding three years or both such fine and such imprisonment.

(2) Any person who contravenes any of the provisions of this Act relating to or in connection with the importation, possession, transportation, use or disposal of irradiating devices or radioactive materials or deals in any

radiation source without being in possession of a valid licence shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) The court may, in addition to any punishment imposed for an offence under this Act, order the forfeiture of any irradiating device, radioactive material or radiation source by which an offence is committed and shall determine the manner of disposal of the device or material.

## **21 Preservation of secrecy**

Any person who discloses, except—

- (a) to the Minister or to any other person for the purposes of carrying out his or her duties or the performance of his or her functions under this Act; or
- (b) to a police officer for the purposes of an investigation or inquiry relating to the enforcement of the provisions of this Act; or
- (c) when required to do so by any court or under any enactment;

any information acquired by him or her in the carrying out of any duty or the performance of any function under this Act in relation to the business or affairs of any other person shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

## **22 Regulations**

The Minister, after consultation with the Board, may make regulations providing for matters which in terms of this Act are required or permitted to be prescribed, particularly—

- (a) the precautions to be taken to prevent injury being caused by ionizing radiation to the health of persons employed in places where irradiating devices, radioactive materials or other radiation sources manufactured, stored, or disposed of or of persons likely to be exposed to harmful radiation;
- (b) the methods of disposing of radioactive waste products;
- (c) the precautions to be taken to prevent injury being caused by the transportation of irradiating devices, radioactive materials or other radiation sources to the health of persons engaged therein and other persons;
- (d) the manner in which and the conditions subject to which irradiating devices or radioactive materials or other radiation sources may be stored or used;
- (e) the making of returns by owners and persons in possession of irradiating devices, radioactive materials or other radiation sources giving such details as may be required;
- (f) the security of radiation sources so as to prevent theft and acts of terrorism; and
- (g) the fees payable in respect of any licence and services offered by the Authority.

## **23 Repeal of sections 84, 85 and 86 of Cap. 20:27 and savings**

(1) Sections 84, 85 and 86 of the Environmental Management Act [*Chapter 20:27*] are repealed.

(2) Any matter or thing which was lawfully made, done or commenced under the repealed sections and which immediately before the fixed date, had effect or was capable of acquiring effect shall, subject to this Act, continue to have or to be capable of acquiring, as the case may be, and shall be deemed to have been made, done or commenced under this Act.

## **FIRST SCHEDULE (Section 4(2))**

### **POWERS OF AUTHORITY**

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests, rights, concessions, grants, powers and privileges in respect of such property.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets or part of any assets and to sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Board may determine.
5. To draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.

7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such suretyships or guarantees.
8. To enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise , that may seem conducive to the exercise of any of its functions and to obtain from such government or authority rights, privileges and concessions.
9. To establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the Authority's functions.
10. To pay such remuneration and allowances and grant such leave of absence and, with the approval of the Minister, to make such gifts, bonuses and the like to its members of staff as the Board considers fit.
11. To provide pecuniary benefits for its members of staff on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its members of staff and their dependants any or all of the pecuniary benefits to which this paragraph relates.
12. To purchase, take on lease or in exchange or otherwise acquire land or dwelling-houses for use or occupation by its members of staff.
13. To construct dwellings, outbuildings or improvements for use or occupation by its members of staff on land purchased, taken on lease or in exchange or otherwise acquired by the Council.
14. To sell or lease dwelling-houses and land and rights therein for residential purposes to its members of staff.
15. To make loans or guarantee loans made to its members of staff and their spouses for the acquisition of dwelling-houses or land for residential purposes, the construction of dwelling houses and the improvement of dwelling houses or land.
16. To provide security in respect of loans such as are described in paragraph 15 by the deposit of securities, in which the Council may invest such moneys as the Board may consider necessary for the purpose.
17. To make loans to any member of the Authority's staff for the purpose of purchasing vehicles, tools or other equipment to be used by him or her in carrying out his or her duties.
18. To do anything for the purpose of improving the skill, knowledge or usefulness of its members of staff, and in that connection to provide or assist other persons in providing facilities for training, education and research.
19. To provide such services and facilities as the Board considers may properly be provided by the Authority and to charge for such services and facilities such fees as the Board may, from time to time, determine.
20. Generally to do anything that is calculated to facilitate or is incidental or conducive to the exercise of the Authority's functions in terms of this Act or any other enactment.

## **SECOND SCHEDULE (Section 5(4))**

### PROVISIONS APPLICABLE TO THE BOARD

*Paragraph*

1. Terms and conditions of office of members.
2. Disqualifications for appointment as member.
3. Vacation of office by appointed members.
4. Dismissal of appointed members.
5. Filing of vacancies on Board.
6. Meetings and procedure of Board.
7. Committees of Board.
8. Remuneration and allowances of members of Board and committees.
9. Members of Board and committees to disclose certain connections and interests.
10. Minutes of proceedings of Board and committees.
11. Validity of decisions and acts of Board and committees.

#### ***1. Terms and conditions of office of members***

(1) A member shall hold office for a period not exceeding five years or for such period as the Minister may fix at the time of his or her appointment.

(2) On the expiry of the period for which a member has been appointed the member shall continue to hold office until he or she has been reappointed or the member's successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for more than six months.

(3) A retiring member shall be eligible for reappointment as a member.

(4) Members shall hold office on such terms and conditions as the Minister may fix.

**2. *Disqualifications for appointment as member***

(1) Subject to this Act, a person shall not be qualified for appointment as a member if—

(a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or

(b) he or she has, in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated; or

(ii) made an assignment or composition with his or her creditors which has not been rescinded or set aside;

or

(c) he or she has been convicted in Zimbabwe or in any other country—

(i) of any offence involving dishonesty; or

(ii) of any other offence, in the period of five years before his or her appointment, for which a term of imprisonment without the option of a fine has been imposed, whether or not any portion of that sentence has been suspended.

(2) A person shall not be qualified for appointment as a member, nor shall the person hold office as an appointed member, if—

(a) he or she is a member of two or more other statutory bodies; or

(b) he or she is a member of Parliament.

(3) For the purposes of paragraph (a) of subsection (2)—

(a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;

(b) “statutory body” means—

(i) any commission established by the Constitution; or

(ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other statutory body or by a Commission established by the Constitution.

**3. *Vacation of office by appointed members***

(1) A member of the Board shall vacate his or her office and the member’s office shall become vacant—

(a) one month after the date he or she gives notice in writing to the Minister, of his or her intention to resign his or her office or after the expiry of such other period of notice as the member and the Minister may agree; or

(b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

(c) if he or she becomes disqualified in terms of subparagraph (1) or (2) of paragraph 2 to hold office as a member; or

(d) if he or she is required in terms of subparagraph (2) or (3) to vacate his or her office as a member.

(2) The Minister may require a member of the Board to vacate his or her office if the member—

(a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or

(b) has failed to comply with any condition of his or her office fixed in terms of paragraph 1; or

(c) is mentally or physically incapable of efficiently executing his or her functions as a member; or

(d) the member has ceased to possess any qualification by reason of which he or she was appointed; or

(e) the member contravenes paragraph 9; or

(f) the member, or his or her spouse engages in any occupation, service or employment, or holds any asset, which in the Minister’s opinion is inconsistent with the duties of a member.

(3) The Minister, on the recommendation of the Board, may require a member of the Board to vacate his or her office if the Minister is satisfied that the member has been absent without the consent of the chairperson of the Board from two consecutive meetings, of which the member has been given at least seven days notice, and that there was no just cause for the member’s absence.

#### **4. Dismissal of appointed members**

- (1) Subject to subparagraph (2), if the Minister is satisfied on reasonable grounds that—  
(a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or  
(b) the Board has failed to comply with a direction in terms of section eight; or  
(c) whether through disagreements among its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act;

and that it is in the national interest to do so, the Minister may, by written notice to the chairperson and Chief Executive Officer, dismiss all the appointed members and their offices shall become vacant as soon as the Chief Executive Officer receives the notice.

(2) Before dismissing all the appointed members in terms of subparagraph (1), the Minister shall consult the President and act in accordance with any directions the President may give him.

#### **5. Filling of vacancies on Board**

- (1) Subject to this Part, within three months after an appointed member's death or his or her vacation of office in terms of paragraph 3, the Minister shall appoint a person to fill the vacancy.  
(2) Within one month after dismissing all the appointed members in terms of paragraph 4, the Minister shall, subject to this Part, appoint persons to fill the vacancies.

#### **6. Meetings and procedure of Board**

- (1) Subject to this Act, the Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.  
(2) The chairperson may himself or herself at any time and shall, at the request in writing of not fewer than two members, convene a special meeting of the Board, which meeting shall be convened for a date not sooner than seven days or later than thirty days after receipt of such request.  
(3) The chairperson or, in his or her absence, the vice-chairperson, shall preside at meetings of the Board.  
(4) A majority of members shall form a quorum at any meeting of the Board.  
(5) All acts, matters or things authorised or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.  
(6) Subject to paragraph 9, at all meetings of the Board each member present shall have one vote on each question before the Board.

Provided that—

- (i) in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to his or her deliberative vote;  
(ii) no member shall take part in the consideration or discussion of, or vote on, any question before the Board which relates to his or her vacation of office as a member.  
(7) Any proposal circulated among all members of the Board and agreed to by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board.

Provided that, if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.

(8) With approval of the Minister, the Board may co-opt any person to the Board, but a co-opted person shall have no vote in any decision by the Board.

#### **7. Committees of Board**

(1) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate:

Provided that the vesting of any function in a committee shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

- (2) On the establishment of a committee in terms of subparagraph (1), the Board—  
(a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairperson of the committee; and  
(b) may appoint as members of the committee, on such terms and conditions as the Board may fix, persons who are not members of the Board.  
(3) Meetings of a committee may be convened at any time and at any place by the chairperson of the Board or the chairperson of the committee.

(4) Subject to subparagraph (3) and to paragraphs 9 and 10, the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Board.

**8. Remuneration and allowances of members of Board and committees**

(1) Members of the Board and of committees of the Board shall be paid—

- (a) such remuneration, if any; and
- (b) such allowances to meet reasonable expenses incurred by them in connection with the business of the Board or committee, as the case may be;

as the Minister may fix.

(2) Remuneration payable to a member of the Board shall not be reduced during his or her tenure of office.

**9. Members of Board and committees to disclose certain connections and interests**

(1) In this paragraph—

“relative”, in relation to a member of the Board or a committee, means the member’s spouse, child, parent, brother or sister.

(2) Subject to subparagraph (4)—

(a) if a member of the Board or of a committee—

(i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee;  
or

(ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member; or

(iii) knows or has reason to believe that his or her relative—

A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member;

or

(b) if for any reason the private interests of a member of the Board or of a committee come into conflict with his or her functions as a member;

the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(3) A member referred to in subparagraph (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any property, right or interest referred to in that subparagraph.

(4) Nothing in this paragraph shall be taken to prevent members of the Board or of a committee of the Board from taking part in the consideration of, or voting on, any matter that affects members generally in their capacity as persons liable to pay revenue.

(5) Any person who contravenes subparagraph (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

**10. Minutes of proceedings of Board and committees**

(1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board and of every committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

**11. Validity of decisions and acts of Board and committees**

No decision or act of the Board or a committee or act that is authorised by the Board or a committee shall be invalid solely because there was a vacancy in the membership of the Board or the committee or because a disqualified person purported to act as a member of the Board or the committee, as the case may be, at the time the decision was taken or the act was done or authorised.