

**FINANCE ACT, 2018**

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1. Short title.

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## ZIMBABWE

# ACT

To make further provision for the revenues and public funds of Zimbabwe and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament and President of Zimbabwe.

### PART I

#### PRELIMINARY

#### 1 Short title

This Act may be cited as the Finance Act, 2018.

### PART II

#### INCOME TAX

#### *Amendments to Chapter I of Finance Act [Chapter 23:04]*

#### 2 Amendment of section 14 of Cap. 23:04

Section 14 (“Income tax for periods of assessment after 1.4.88”) of the Finance Act [Chapter 23:04] is amended—

(a) in subsection (1) by the insertion of the following definition—

““power generation project” means any electricity generation project that commences on or after the 1st January, 2018, or is not completed at that date, and is licensed in terms of Part III of the Energy Regulatory Authority Act [Chapter 13:23] (No. 2 of 2011)”;

(b) in subsection (2) by the insertion after paragraph (c) and of the following paragraph—

“(e1) in respect of that part of the taxable income of a power generation project which is attributable to its operations as such, for the first five years after the 1st January, 2018, at the percentage of each dollar of that income specified in Part II of the Schedule in respect of those years, and thereafter at the rate specified therein;”.

### 3 Amendment of Schedule to Chapter I of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2018, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [*Chapter 23:04*] is amended in Parts II (“Rates of Income Tax on Taxable Income earned in Foreign Currency”) by the insertion after the item relating to section 14(2)(e) of the following item—

“14(2)(e1) Taxable income of power generation project before the end of the fifth year of its operations as such . . . . . 0  
Taxable income of power generation project after the fifth year of its operations as such . . . . . 15”.

### 4 Amendment of section 22B of Cap. 23:04

Section 22B (“Automated financial transactions tax”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “for each transaction on which the tax is payable” and the substitution of “for each transaction exceeding ten United State dollars on which the tax is payable.”

### 5 Amendment of section 22G of Cap. 23:04

Section 22G (“Intermediated money transfer tax”) of the Finance Act [*Chapter 23:04*] is amended by the deletion of “for each transaction on which the tax is payable” and the substitution of “for each transaction exceeding ten United State dollars on which the tax is payable.”

### 6 New section inserted in Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2018, Part III (“Rates of Income Tax and other Taxes Levied in Terms of the Income Tax Act”) of Chapter I of the Finance Act [*Chapter 23:04*] is amended by the insertion after section 22H of the following section—

#### “22M Bookmakers tax

The bookmakers tax chargeable in terms of section 36 L of the Taxes Act shall be calculated at the rate of three *per centum* of each dollar of the gross monthly takings of the bookmaker in terms of the Thirty-Sixth Schedule to that Act.”.

### 7 Amendment of Chapter X of Cap. 23:04

With effect from the 1st January, 2018, Chapter X (“Rentals and Development Levies for State Land Allocated for Agricultural Purposes”) of the Finance Act [*Chapter 23:04*] is amended—

(a) in section 44 (“Development levy payable in respect of Model A1 and A2 farms”) by the repeal of subsection (2) and the substitution of—

“(2) Every—

- (a) lessee; and
  - (b) holder of a permit in respect of a Model A1 farm; and
  - (c) holder of an offer letter in respect of a Model A2 farm;
- located in the Natural Region shown in the first column of the Schedule shall, on a quarterly basis, pay to the Rural District Council in which such lessee or holder is resident or uses the land subject to the lease, permit or offer letter, the development levy indicated opposite thereto in the second column.”;
- (b) by the repeal of section 45 and the substitution of—
- “44A Collection of rentals and use of rentals and development levy
- (1) The Minister of Lands shall, through the officers of the Ministry of Lands specially designated by the Secretary of the Ministry, be responsible for collecting on behalf of the State from every—
- (a) lessee; and
  - (b) holder of a permit in respect of a Model A1 farm; and
  - (c) holder of an offer letter in respect of a Model A2 farm;
- resident on or using the relevant land the rentals due from them in terms of this Chapter.
- (2) For the avoidance of doubt—
- (a) the development levies collected in terms of this Chapter shall be retained by the Rural District Council concerned for application as specified in section 44(4); and
  - (b) the rentals collected in terms of this Chapter shall form part of the Consolidated Revenue Fund but be retained by the Ministry of Lands (for which purpose the Ministry of Lands shall establish a fund pursuant to section 18(1)(b) of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009).”;
- (c) by the deletion of the title to “section 46” that follows section 44A as substituted by this Act and the substitution of “44B Public Assistance to Model A1 and A2 farmers conditional on full payment of rentals and development levies”.

*Amendments to Income Tax Act [Chapter 23:06]*

**8 Amendment of section 8 of Cap. 23:06**

With effect from the year of assessment beginning on the 1st January, 2018, section 8 (“Interpretations of the terms relating to income tax”) of the Income Tax Act [*Chapter 23:06*] is amended by the insertion of the following subsection after subsection (2)—

“(3) For the purposes of the definition of “gross income” in subsection (1), any amount received that constitutes prepayment for goods, services or benefits that will be used up in any subsequent year of assessment shall not form part of the gross income for the year of assessment for which a return of income is made, but must be included in the year of assessment in which the goods, services or benefits are used up or, if used up in stages or batches, included proportionately in the returns for the years of assessment in which the goods, services or benefits are so used up.”.

### 9 Amendment of section 15 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2018, section 15 (“Deductions allowed in determination of taxable income”)(2) of the Income Tax Act [Chapter 23:06] is amended—

- (a) by the repeal of paragraph (a) and the substitution of—
- “(a) expenditure and losses to the extent to which they are incurred for the purposes of trade or in the production of the income except—
- (i) to the extent to which they are expenditure or losses of a capital nature; or
- (ii) expenditure that constitutes prepayment for goods, services or benefits that will be used up in any subsequent year of assessment (in which event the expenditure will be allowed proportionately over the years of assessment in which the goods, services or benefits are used up).”;
- (b) by the insertion after paragraph (kk) of the following paragraph—
- “(ll) the amount of any expenditure related to technical and support services that is incurred by the taxpayer who is an anchor company to an outgrower farmer during the year of assessment, together with an amount equal to fifty *per centum* of such expenditure.
- For the purposes of this paragraph—
- “anchor company” means a company that provides inputs, agronomic advice and marketing opportunities to a group of outgrower farmers and small or medium enterprises;
- “expenditure related to technical and support services” means such items of expenditure as the Minister shall specify in regulations made under section 90;
- “outgrower farmer” means a farmer who is a party to a scheme or contract whereunder an anchor company supplies inputs, agronomic advice and marketing opportunities in return for the outgrower farmer selling or delivering the contract or scheme produce to the anchor company or other person designated by the scheme or contract;”.

### 10 Amendment of section 16 of Cap. 23:06

With effect from the year of assessment beginning on the 1st January, 2018, section 16 (“Cases in which no deduction shall be made”) of the Income Tax Act [Chapter 23:06] is amended by the repeal of paragraph (q) and the substitution of—

- “(q) any expenditure incurred by a local branch or subsidiary of a foreign company, or by a local company or subsidiary of a local company, in servicing any debt or debts contracted in connection with the production of income to the extent that such debt or debts cause the person to exceed a debt to equity ratio of three to one (for the purpose of this paragraph, “equity” means issued and paid-up capital, unappropriated profits, reserves, realised reserves and interest-free loans from shareholders);

Provided that this paragraph shall not apply if the debt or debts in question—

- (i) are contracted by a local company or subsidiary of a local company with a locally domiciled, registered or incorporated financial institution or other person ordinarily resident in Zimbabwe; and

- (ii) the contracting parties are not associated with each other within the meaning contemplated in section 2A, and have not colluded for the purpose of avoiding tax by the application of this proviso;”.

**11 Amendment of section 36C of Cap. 23:06**

Section 36C (“Presumptive tax”) of the Income Tax Act [*Chapter 23:06*] is amended by the repeal of subsection (1b).

**12 New section inserted in Cap. 23:06**

With effect from the year of assessment beginning on the 1st January, 2018, Part IV of the Income Tax Act [*Chapter 23:06*], is amended by the insertion after section 36K of the following section—

“36 L Bookmakers tax

There shall be charged, levied and collected throughout Zimbabwe for the benefit of the Consolidated Revenue Fund a bookmakers tax paid by bookmakers in accordance with the Thirty-Sixth Schedule at the rate fixed from time to time in the Charging Act.”.

**13 Amendment of section 80 of Cap. 23:06**

With effect from the 1st January, 2018, section 80 (“Withholding of amounts payable under contracts with State or statutory corporations”)(1) of the of the Income Tax Act [*Chapter 23:06*] is amended in the definition of “contract” by the insertion of the following paragraph after paragraph (c)—

- “(d) a contract for the purchase of auction or contract tobacco in terms of which tobacco levy may be required to be withheld in terms of section 36A.”.

**14 New section inserted after section 80D in Cap. 23:06**

The Income Tax Act [*Chapter 23:06*] is amended by the insertion after section 80D of the following section—

“80DD Virtual Tax Management System

For the purposes of creating an electronic platform to enable the electronic recording by taxpayers of transactions that may be liable to tax under this Act (to be known as the Tax Management System), the Minister shall in regulations made under section 90 prescribe the rules to be followed by taxpayers using the Tax Management System.”.

**15 Amendment of Third Schedule to Cap. 23:06**

The Third Schedule (“Exemptions from Income Tax”) to the Income Tax Act [*Chapter 23:06*] is amended—

- (a) by the repeal of paragraph 16 and the substitution of—

“16. With effect from the 1st June, 2016, and every subsequent year of assessment, the amount of the premium paid by the Reserve Bank of Zimbabwe pursuant to the Export and Foreign Remittance Incentive scheme on receipts of earnings by exporters and on remittances from abroad received by individuals resident in Zimbabwe, being receipts or remittances channelled through any authorised dealer in terms of the Exchange Control Act [*Chapter 22:05*].”;

(b) by the insertion of the following paragraph after paragraph 19—

“20. The receipt and accruals of a power generation project as defined in section 14(1) of the Finance Act [*Chapter 23:04*] to the extent that they accrue directly from the operations of the power generation project in any of the five years of assessment referred to in section 14(2)(e1) of the Finance Act [*Chapter 23:04*].”.

#### **16 Amendment of Twenty-Second Schedule to Cap. 23:06**

The Twenty-Second Schedule (“Determination of Gross Income and Taxable Income or Assessed Loss from Special Mining Lease Operations”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 6 (“Limitations on allowable deductions”) (2)—

(a) in paragraph (f) by the insertion of the following subparagraph after subparagraph (iv) —

“(v) twenty-five thousand United States dollars, where the residential unit was erected on or after the 1st January, 2018;”.

(b) in paragraph (h)(ii)B by the insertion of the following sub-subparagraph after sub-subparagraph IV —

“V. one hundred and fifty thousand United States dollars, where the expenditure was incurred on or after the 1st January, 2018;”.

#### **17 Amendment of Twenty-Eighth Schedule to Cap. 23:06**

The Twenty-Eighth Schedule (“Carbon Tax”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 2 by the insertion of the following proviso thereto—

“Provided that the Minister may, by notice in the *Gazette*, exempt any power generation project (as defined in section 14(1) of the Finance Act) from liability for carbon tax under this paragraph for a temporary or indefinite period, and may backdate such exemption.”.

#### **18 Amendment of Thirty-First Schedule to Cap. 23:06**

The Thirty-First Schedule (“Liability for NOCZIM debt redemption Levy and Strategic Reserve Levy”) to the Income Tax Act [*Chapter 23:06*] is amended in paragraph 2(1)(a) by the insertion of the following proviso thereto—

“Provided that the Minister may, by notice in the *Gazette*, exempt any power generation project (as defined in section 14(1) of the Finance Act) from liability for NOCZIM debt redemption levy and strategic reserve levy for a temporary or indefinite period, and may backdate such exemption.”.

#### **19 New Schedule inserted in Cap. 23:06**

With effect from the year of assessment beginning on the 1st January, 2018, the Income Tax Act [*Chapter 23:06*] is amended by the insertion after the Thirty-Fifth Schedule of the following Schedule—

##### “THIRTY-SIXTH SCHEDULE (*Section 36L*)

##### BOOKMAKERS TAX

##### *Interpretation*

1. (1) In this Schedule—

“bookmaker” means a person licensed or required to be licensed as such in terms of the Betting and Totalizator Control Act [*Chapter 10:02*];

“gross takings”, in relation to a bookmaker, means the total money earned by the bookmaker from betting with members of the public before paying out on any bet.

(2) Any term defined in the Betting and Totalizator Control Act [*Chapter 10:02*] shall bear the same meaning when used in this Schedule.

*Bookmakers to pay bookmakers tax*

2. (1) Every bookmaker shall pay three *per centum* of his or her gross takings in every month to the Commissioner-General no later than the last day of the month following the month in which the bookmaker collected those takings, or within such further time as the Commissioner-General may for good cause allow.

(2) Together with the payment of bookmakers tax the bookmaker shall provide the Commissioner-General with a return, in a form approved by the Commissioner-General, showing—

- (a) the amount of the bookmakers tax; and
- (b) the amount of the gross takings from which the tax is paid.

*Penalty for non-payment of tax*

3. (1) Subject to subparagraph (2), a bookmaker who fails to pay to the Commissioner-General any amount of bookmakers tax as provided in paragraph 2 shall be liable for the payment to the Commissioner-General, not later than the date on which payment should have been made in terms of paragraph 2 of—

- (a) the amount of bookmakers tax which he or she failed to pay to the Commissioner-General; and
- (b) a further amount equal to such bookmakers tax.

(2) The amounts for the payment of which a bookmaker is liable in terms of subparagraph (1)—

- (a) shall be debts due by the principal to the State; and
- (b) may be sued for and recovered by action by the Commissioner-General in any court of competent jurisdiction.

(3) The Commissioner-General, if he or she is satisfied in any particular case that the failure to pay to him or her bookmakers tax was not due to any intent to evade the provisions of this Schedule, may waive the payment of the whole or such part as he or she thinks fit of the amount referred to in subparagraph (1)(b).

*Refund of overpayments*

4. If it is proved to the satisfaction of the Commissioner-General that any bookmaker has been charged with bookmakers tax in excess of the amount properly chargeable to him or her in terms of this Schedule, the Commissioner-General shall authorise a refund in so far as it has been overpaid:

Provided that the Commissioner-General shall not authorise any refund in terms of this paragraph unless the claim therefor is made within six years of the date of payment of such tax.”

**20 Amendments to penalties in Cap. 23:06**

With effect from the 1st February, 2009, the provisions of the Income Tax Act [*Chapter 23:06*] specified in the first column of the Schedule are amended to the extent set out opposite thereto in the second column.

PART III  
VALUE ADDED TAX

*Amendment to Chapter IV of Finance Act [Chapter 23:04]*

**21 Amendment of Schedule to Chapter IV of Cap. 23:04**

With effect from the 1st January, 2018, the Schedule to Chapter IV of the Finance Act [Chapter 23:04] is amended in Part IV (“Value Added Withholding Tax”) by the deletion of “two-thirds” and the substitution of “one-third”.

*Amendments to Value Added Tax Act [Chapter 23:12]*

**22 Amendment of section 2 of Cap. 23:12**

With effect from the 1st January, 2017, section 2 (“Interpretation”)(1) of the Value Added Tax Act [Chapter 23:12] is amended in the definition of “financial services” by the insertion of the following paragraph before paragraph (a)—

“(1a) any service provided by a banking institution registered or required to be registered in terms of the Banking Act [Chapter 24:20] (No. 9 of 1999); or”.

**23 New section inserted after section 12A in Cap. 23:12**

With effect from the 1st January, 2018, the Value Added Tax Act [Chapter 23:12] is amended by the insertion of the following section after section 12A—

“12B Collection of tax on exportation of unbeneficiated lithium, determination of value thereof

(1) Notwithstanding section 10(1), tax at the rate of five *per centum* on the gross fair market value of unbeneficiated lithium shall be levied on a supplier of such lithium for export from Zimbabwe.

In this section, “unbeneficiated lithium”, in relation to its exportation from Zimbabwe, means lithium exported for use in automotive or other batteries manufactured outside Zimbabwe, or for the manufacture of lithium carbonate, or for any beneficiation whatsoever outside Zimbabwe.

(2) For the purposes of this Act unbeneficiated lithium shall be deemed to be exported from Zimbabwe on the date on which the lithium is, in terms of section 60 of the Customs Act [Chapter 23:02], deemed to be exported.

(3) For the purposes of this Act the value to be placed on the exportation of unbeneficiated lithium from Zimbabwe shall be deemed to be—

- (a) the market value thereof on the date of exportation as determined by reference to a reputable metals exchange; or
- (b) the value as reflected on the bill of entry or other document required in terms of section 54 of the Customs and Excise Act [Chapter 23:02] to be delivered to an officer under that Act;

whichever is the higher value.

(4) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.”.

#### 24 Amendment of section 12D of Cap. 23:12

(1) Section 12D (“Collection of tax on exportation of unbeneficiated platinum, determination of value thereof”) of the Value Added Tax Act [Chapter 23:12] by the repeal of subsection (2) and the substitution of—

“(2) Notwithstanding section 10(1), tax at the rate specified in the table below on the value of unbeneficiated platinum shall be levied on a supplier of such platinum for export from Zimbabwe—

- (a) if the supplier has built plant in Zimbabwe capable of producing platinum group concentrates, tax at the rate of five *per centum* on the value of unbeneficiated platinum;
- (b) if, additionally to the plant referred to in paragraph (a), the supplier has built plant in Zimbabwe capable of smelting to produce matte, tax at the rate of two comma five *per centum* on the value of unbeneficiated platinum;
- (c) if, additionally to the plant referred to in paragraph (a) and (b), the supplier has built in Zimbabwe a base metal refinery capable of recovering base metals, tax at the rate of one *per centum* on the value of unbeneficiated platinum;
- (d) at the rate zero *per centum* on the value of unbeneficiated platinum in the case of a supplier who begins operations as such on or after the 1st January, 2018, and for a period of five years after that.”.

(2) Despite section 14(2) of the Finance Act, 2014, section 12D (“Collection of tax on exportation of unbeneficiated platinum, determination of value thereof”) of the Value Added Tax Act [Chapter 23:12] has effect from the year of assessment beginning on the 1st January, 2019.

#### 25 New section inserted after section 12D in Cap. 23:12

With effect from the 1st January, 2018, the Value Added Tax Act [Chapter 23:12] is amended by the insertion of the following section after section 12D—

“12E Collection of tax on exportation of uncut and cut dimensional stone, determination of value thereof

(1) Notwithstanding section 10(1), tax at the rate of—

- (a) five *per centum* on the gross fair market value of uncut dimensional stone (that is to say marble or black granite hewn on location at the quarry with no or minimal trimming, drilling, cutting or grinding) shall be levied on a supplier of such stone for export from Zimbabwe;
- (b) two comma five *per centum* on the gross fair market value of cut dimensional stone (that is to say, marble or black granite sawn into sheets not exceeding a thickness of five (5) centimetres) shall be levied on a supplier of such stone for export from Zimbabwe:

Provided that no tax shall be payable if the sheets of cut dimensional stone are smoothed at the edges and polished in Zimbabwe.

(2) For the purposes of this Act uncut or cut dimensional stone shall be deemed to be exported from Zimbabwe on the date on which such stone is, in terms of section 60 of the Customs Act [Chapter 23:02], deemed to be exported.

(3) For the purposes of this Act the value to be placed on the exportation of uncut or cut dimensional stone from Zimbabwe shall be deemed to be—

- (a) the market value thereof on the date of exportation as determined by reference to a reputable exchange; or
- (b) the value as reflected on the bill of entry or other document required in terms of section 54 of the Customs and Excise Act [Chapter 23:02] to be delivered to an officer under that Act;

whichever is the higher value.

(4) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.”

## **26 Amendment of section 17 of Cap. 23:12**

Section 17 (“Adjustments”) of the Value Added Tax Act [Chapter 23:12] is amended—

- (a) in subsection (1) by the insertion of the following proviso thereto—  
“Provided that this subsection shall not apply where taxable supplies produced by the registered operator become exempt supplies by virtue of any amendment of this Act.”;
- (b) in subsection (2) by the repeal of the proviso and the substitution of—  
“Provided that this subsection shall not apply—  
  - (a) to any capital goods or services which cost less than fifty thousand dollars or the prescribed amount, excluding tax; or
  - (b) where such goods or services were deemed to be supplied to the registered operator by subsection (4) if the amount which was represented by “B” in the formula contemplated in that subsection was less than fifty thousand dollars when such goods or services were deemed to be supplied to such registered operator; or
  - (c) where taxable supplies produced by the registered operator become exempt supplies by virtue of any amendment of this Act.”;
- (c) in the proviso to subsection (5) by the insertion of the following paragraph after paragraph (a)—  
“(a1) this subsection does not apply where taxable supplies produced by the registered operator become exempt supplies by virtue of any amendment of this Act.”;

## **PART IV**

### **CUSTOMS AND EXCISE**

#### *Amendments to Finance Act [Chapter 23:04]*

## **27 Amendment of Chapter XII of Cap. 23:04**

Chapter XII (“Special Excise Duty on Airtime and Health Fund Levy”) of the Finance Act [Chapter 23:04] is amended by in section 49 (“Rate of special excise duty

on airtime”) by the insertion of the following subsection, the existing section becoming subsection (1)—

“(2) The Health Fund levy is payable with effect from the 23rd March, 2017.”.

*Amendments to Customs and Excise Act [Chapter 23:02]*

## **28 Amendment of section 68 of Cap. 23:02**

With effect from the year of assessment beginning on the 1st January, 2018, section 68 (“Bonded warehouses”) of the Customs and Excise Act [*Chapter 23:04*] is amended—

- (a) in subsection (1) by the repeal of paragraph (a) and the substitution of—
  - “(a) bonded warehouses that are either—
    - (i) private bonded warehouses, that is to say any warehouse for the warehousing and securing of goods imported by a private proprietor and entered for warehousing in the private bonded warehouse; or
    - (ii) public bonded warehouses, that is to say any warehouse for the warehousing and securing of goods imported by one or more importers and entered for warehousing in the public bonded warehouse;”;
- (b) by the repeal of subsection (8).

## PART V

### MINES AND MINERALS

*Amendments to Chapter VII of Finance Act [Chapter 23:04]*

## **29 Amendment of Schedule to Chapter VII of Cap. 23:04**

The Schedule to Chapter VII of the Finance Act [*Chapter 23:04*] is amended in the part fixing the rates of royalties for the purposes of section 245 of the Mines and Minerals Act [*Chapter 21:05*];

- (a) with effect from 1st April, 2017, by the deletion of the item referring to “platinum” and the substitution of the following item—
 

“Platinum . . . . . 2.5”;
- (b) with effect from the 1st January, 2018, by the deletion of the item referring to “diamonds” and the substitution of the following item—
 

“Diamonds (but no royalty is payable in respect of diamonds sold to local diamond manufacturers at a discount equivalent to the value of the royalty that would otherwise be payable) . . . . . 15”.

## PART VI

### REVENUE AUTHORITY

## **30 Amendment of Part IIIA of Cap. 23:11**

The Revenue Authority Act [*Chapter 23:11*] is amended in Part IIIA (“Expedited Procedure for Recovery of Outstanding Taxes”)—

- (a) in section 33A—
  - (i) by the deletion of the title thereto and the substitution of “33A Interpretation and application of Part IIIA”;
  - (ii) by the insertion of the following subsection, the existing section becoming subsection (1)—

- “(2) This Part does not apply where more than six years have elapsed since the tax or duty referred to in section 33C(1) became payable.”;
- (b) in section 33C (“When expedited procedure competent, jurisdiction of magistrates courts and period within which expedited procedure allowed”)—
- (i) in subsection (2) by the insertion after “recoverable by” of the words “chamber application”;
  - (ii) by the repeal of subsection (3);
- (c) in section 33D (“Issuance, contents and service of provisional attachment order”)—
- (i) in subsection (1) by the deletion of “shall serve upon the taxpayer” and the substitution of “shall issue and serve upon the taxpayer”;
  - (ii) in subsection (3)(b) by the deletion of “order being made” and the substitution of “the issuance and service of the order”;
- (d) in section 33E (“Powers of Commissioner-General in relation to provisional attachment order”)—
- (i) in subsection (1)(b) by the insertion after “while the order is being executed” of the words “by the messenger of court”;
  - (ii) in subsection (2) by the deletion of “for a period not exceeding twenty-one days”;
  - (v) in subsection (5)(b) by the deletion of “recommence” and the substitution of “continue”;
- (e) in section 33G (“Confirmation of provisional attachment order”) by the repeal of subsection (4).

## PART VII

### TAX AMNESTY

#### 31 Interpretation in Part VII

In this Part, unless the context otherwise requires—

“amnesty” or “tax amnesty” means the relief contemplated in section 33;

“amnesty period” means the period beginning 1st January, 2018, and ending 30th June, 2018;

“Authority” means the Zimbabwe Revenue Authority as established by the Zimbabwe Revenue Authority Act [*Chapter 23:11*];

“Commissioner-General” means the Commissioner-General appointed under the Zimbabwe Revenue Authority Act [*Chapter 23:11*];

“covered tax” means a tax or duty administered by the Zimbabwe Revenue Authority under the Zimbabwe Revenue Authority Act [*Chapter 23:11*] that became due and payable before the 1st December, 2017, but is outstanding as at that date;

“Minister” means the Minister of Finance and Economic Development or any other Minister to whom the President may from time to time, assign the administration of this Act;

“payment schedule form” means the payment schedule form referred to in section 36.

#### 32 Non-application of criminal laws in respect of amnestied conduct

For the purpose of this amnesty, any provision of the criminal law of Zimbabwe for which an amnestied person would, but for this Part, be liable to be prosecuted by

the National Prosecuting Authority shall not, to the extent of the amnestied conduct, be deemed to be criminal conduct.

### **33 Scope of amnesty**

(1) A tax amnesty may be applied for in respect of any unpaid tax that is a covered tax.

(2) Under the amnesty, taxpayers are absolved of the obligation to pay or incur—

- (a) interest relating to unpaid taxes described in subsection (1); and
- (b) penalties relating to covered tax.

(3) The amnesty shall not extend to the principal amount of any covered tax due and payable.

(4) Subject to the conditions set out in this Part, when an amnesty is granted for any covered tax, it shall preclude the Authority and the National Prosecuting Authority from prosecuting any offender or imposing administrative penalties for—

- (a) false declarations or evasion of covered tax;
- (b) not having made the returns or payments of covered tax in due time;
- (c) non-payment of covered tax or non-submission of returns of covered tax;
- (d) fraud, negligence or wilful default with respect to covered tax.

### **34 Application for and granting of amnesty**

(1) A person who, but for this Part, would be liable—

- (a) to any civil or administrative penalty; and
- (b) to be prosecuted by the National Prosecuting Authority;

for non-payment of tax that is a covered tax committed or occurring during the amnesty period may, no later than the 30th June, 2018, apply for amnesty in terms of this Part.

(2) An application for amnesty shall be in writing and in a form as shall be prescribed by the Minister.

(3) An application for amnesty shall only be considered if it is lodged with any office of the Authority by the 30th June, 2018.

(4) An amnesty shall be granted only upon the applicant having made full disclosure in conformity with such conditions as may be prescribed by the Minister, in respect of unpaid taxes, and upon having provided such supporting documents in connection with the application for the amnesty as may be required.

(5) Unless the Commissioner-General requires further information from the applicant in connection with his or her application, the Commissioner-General shall determine every application for an amnesty within ten days from the date of receiving the application.

### **35 Eligibility for amnesty**

Any application for amnesty shall be invalid in respect of any action resulting in the seizure or forfeiture of any property or goods, which action commenced before the 1st December, 2017.

### **36 Payment conditions**

(1) When an amnesty is granted, the covered taxes due shall be payable as set out on the payment schedule form as determined by the Commissioner-General, and, save as may otherwise be allowed or directed by the Commissioner-General under subsection (2), is to be paid no later than the 30th June, 2018.

(2) An applicant who fails to pay the full principal amount of any covered tax due and payable will only be amnestied for the part of the principal actually paid by the 30th June, 2018.

### **37 Powers of Commissioner-General**

(1) The Commissioner-General shall have the authority to do anything necessary for the efficient and effective application or implementation of this Part.

(2) Without prejudice to the generality of subsection (1), the Commissioner-General may delegate his or her functions under this Part to a task force, division or unit within the Authority, existing or set up specifically to implement the provisions of this Part.

### **38 Regulatory powers of Minister**

(1) The Minister may make regulations prescribing all matters which by this Part are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) Without derogating from the generality of subsection (1) regulations may provide for—

- (a) such forms as may be necessary for the application or implementation of this Part;
- (b) the manner in which applications for amnesty shall be made and what supporting documents must be produced in support of such applications.

## PART VIII

### AMENDMENT OF OTHER ACTS

### **39 Amendment of Cap 2:02**

The Parliamentary Pensions Act [*Chapter 2:02*], is amended—

- (a) in the long title by the insertion after the word “Parliament” of “and for the gratuity of a former Prime Minister”;
- (b) by the repeal of section 7 and the substitution of—

#### “7 Entitlement to pension

Subject to this Act, a person who has served as a member of Parliament for the duration of two Parliaments shall be entitled to a pension with effect from the date on which he or she ceases to be a member of Parliament:

Provided that a person who has served as a member of Parliament for one term shall be entitled to gratuity.”.

- (c) by the repeal of section 8A and the substitution of the following sections—

#### “8A Pensions payable to former Speakers, Deputy Speakers, Presidents of Senate and Deputy Presidents of Senate and surviving spouses

(1) There shall be paid—

- (a) to any person who has at any time since the 18th April, 1980, served as—
  - (i) Speaker or Deputy Speaker of Parliament or the National Assembly; or
  - (ii) President or Deputy President of the Senate;

for at least one full term of office, an annual pension equal to the annual pensionable emoluments payable to him or her as Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate on the day he or she vacated office as such; and

- (b) to a surviving spouse of a person who dies whilst in office as Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate after having served in that office for the term specified in paragraph (a), an annual pension equal to one-half of any annual pension to which that person would have been entitled if he or she had vacated office as Speaker or Deputy Speaker of Parliament on the day he or she died; and
- (c) to a surviving spouse of a person who, on the date of his or her death, was receiving or was entitled to receive a pension in terms of paragraph (a), an annual pension equal to one-half of the annual pension which that person was receiving or was entitled to receive on the day he or she died.

(2) A pension referred to in subsection (1) shall be payable —

- (a) to a former Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate with effect from the day following the day upon which he or she vacated office as such;
- (b) to a surviving spouse with effect from the day following the death of the Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate, to whom he or she was married.

(3) Where a Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate resigns his or her office as such or dies in office before completing a full term of office —

- (a) section 8 shall apply if he or she is entitled in terms of section 7 to be paid a pension; or
- (b) section 9 shall apply if, at the time of resignation or death, he or she had not completed ten years' qualifying service.

(4) For the purposes of this section a full term of a Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate shall be the life of one Parliament, that is to say, the period from one dissolution of Parliament in terms of section 143 of the Constitution until the next such dissolution.

(5) Nothing in this section shall be construed as entitling Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate or former Speaker, Deputy Speaker, President of the Senate or Deputy President of the Senate to a pension in terms of this section and a pension in terms of any other provision of this Act.”

#### “8B Gratuity payable to former Prime Minister

A person who served as a Prime Minister shall be entitled to a once off lump sum gratuity.”

**40 Amendment of Cap. 2:03**

The Parliamentary Salaries, Allowances and Benefits Act [*Chapter 2:03*] is amended—

- (a) in section 2 (“Interpretation”) by the repeal of the definition of “Vice-President”;
- (b) in section 3 (“Benefits for Vice-Presidents, Senior Ministers, Ministers and Deputy Ministers”)—
  - (i) by the deletion of the title thereto and the substitution of “3 Benefits of Senior Ministers, Ministers and Deputy Ministers”;
  - (ii) by the deletion of “every Vice-President, Senior Minister, Minister and Deputy Minister” and the substitution of “every Senior Minister, Minister and Deputy Minister”;
- (c) by the repeal of section 5;
- (d) by the repeal of section 6 and the substitution of—

**“6 Benefits for office-bearers and members of Parliament**

(1) Subject to this Act, the following persons namely—

- (a) the Speaker of the National Assembly;
- (b) the President of the Senate;
- (c) the Deputy Speaker of the National Assembly;
- (d) the Deputy President of the Senate;
- (e) President of the National Council of Chiefs and his or her deputy;
- (f) the leader of the Opposition;
- (g) the Government Chief Whip and his or her deputy;
- (h) the Chief Whip of the main opposition and his or her deputy;
- (i) the Chief Whips of Parties in Parliament and their deputies;
- (j) members of the Committee on Standing Rules and Orders;
- (k) members of the Chairperson Panel;
- (l) the Chairperson of the Parliamentary Legal Committee;
- (m) Chairpersons of Thematic and Portfolio Committee;
- (n) every members of the Parliamentary Legal Committee;
- (o) every member of Parliament who is not entitled to any benefit in terms of Part II and who is not specified in paragraphs (a) to (m);

shall be entitled to—

- (i) a salary at such rate; and
- (ii) such allowances and other benefits;

as may be determined by the Committee on Standing Rules and Orders with the approval of the Minister responsible for Finance.

Provided that if a person listed in paragraphs (a) to (k) above is a Minister he or she shall not be entitled to a salary, allowance or benefit under this section.”.

(2) In addition, a person who has served as the Speaker of the National Assembly or President of the Senate for at least one full term of office shall be entitled to—

- (a) such allowances; and

- (b) the use and enjoyment of such services and facilities; which allowances, services and facilities shall be as favourable as those that are prescribed for a former Vice-President in terms of the Presidential Pension and Retirement Benefits Act [Chapter 2:05].”.
- (e) by the repeal of subsection (1) of section 9 (“Review of benefits”) and the substitution of the following—
  - “(1) The Committee on Standing Rules and Orders shall with the approval of the Minister responsible for finance, review and determine the level of salaries, allowances and benefits provided for in terms of this Act.”.

#### 41 Amendment of Cap. 2:06

The Presidential Salary and Allowances Act [Chapter 2:06] is amended—

- (a) in section 2 (“Benefits for President and Acting President”)—
  - (i) by the deletion of the title thereto and the substitution of—
    - “2 Benefits of President, Acting President and Vice President”;
  - (ii) by the deletion of “The President and any Acting President” and the substitution of “The President, any Acting President and a Vice-President”;
- (b) in section 3 (“Prescribing of benefits and other matters”)(2)(a) of the principal Act is amended by the deletion of “the President and any Acting President” and the substitution of “the President, any Acting President or a Vice-President.”.

#### 42 Amendment of Cap. 14:33

(1) The Indigenisation and Economic Empowerment Act [Chapter 14:33] is amended—

- (a) in section 2 (“Interpretation”)—
  - (i) by the repeal of the definition of “Minister” and the substitution of—
    - ““Minister” means the Minister to whom the President assigns the administration of this Act.”;
  - (ii) by the insertion of the following definitions—
    - ““appropriate designated entity” means any of the following entities (and such other entities as may be designated by the line Minister by notice in the *Gazette*)—
      - (a) the Zimbabwe Mining Development Corporation established in terms of the Zimbabwe Mining Development Corporation [Chapter 21:08], and any company or other entity incorporated by the Zimbabwe Mining Development Corporation or by the Republic of Zimbabwe for the purposes of section 3(2b); or
      - (b) the Zimbabwe Consolidated Diamond Company, being a wholly Government-owned private limited company involved predominantly or exclusively in the extraction for profit of diamonds, that was incorporated on the 11th May, 2015; or
      - (c) the National Indigenisation and Economic Empowerment Fund;

“community share ownership scheme” means a scheme referred to in section 14B of the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010, subject to any amendment or replacement of that section or those regulations from time to time;

“designated extractive business” means a company, entity or business referred to in section 3(1)”;

“reserved sector of the economy” means the sector comprising those kinds of businesses reserved for citizens of Zimbabwe under the First Schedule;

“Unit” means the National Indigenisation and Economic Empowerment Unit referred to in section 6A;”;

- (b) by the insertion after section 2 of the following section—

**“2A Application of Act**

For the avoidance of doubt it is declared that this Act shall not apply to any business in the national economy other than those specified in section 3(1) and those in the reserved sector of the economy, and that accordingly any person is free to invest in, form, operate, and acquire the ownership or control of any business not included in section 3(1) or in the reserved sector of the economy.”;

- (c) by the repeal of section 3 and the substitution of the following sections—

**“3 Objectives and measures in pursuance of indigenisation and economic empowerment**

(1) The State shall, by this Act, or through regulations under this Act or any other law, secure that at least fifty-one *per centum* of the shares or other ownership interest of every designated extractive business, that is to say a company, entity or business involved in the extraction of—

- (a) diamonds; or
- (b) platinum;

shall be owned through an appropriate designated entity (with or without the participation of a community share ownership scheme or employee share ownership scheme or trust, or both).

(2) No—

- (a) merger or restructuring of the shareholding of two or more related or associated designated extractive businesses; or
- (b) acquisition by a person of a controlling interest in a designated extractive business;

that requires to be notified to the Competition Commission in terms of Part IVA of the Competition Act [*Chapter 14:28*] shall be approved unless—

- (c) a fifty-one *per centum* of the shares or other ownership interest in the merged or restructured business is held in the case of a designated extractive business, by an appropriate designated entity:

Provided that some part of the fifty-one *per centum* here referred to may be held by a community share ownership scheme or employee share ownership scheme or trust, or both;

and

- (d) the appropriate designated entity is equitably represented in the governing body of the merged or restructured entity.

(3) No unbundling of a designated extractive business or demerger of two or more such businesses shall, if the value of any business resulting from the unbundling or demerger is at or above a prescribed threshold, be approved unless—

- (a) fifty-one *per centum* in any such resulting business is held by an appropriate designated entity (with or without the participation of a community share ownership scheme or employee share ownership scheme or trust, or both); and
- (b) the appropriate designated entity referred to in subparagraph (c) is equitably represented in the governing body of any such resulting business.

(4) No relinquishment by a person of a controlling interest in a designated extractive business, if the value of the controlling interest is at or above a prescribed threshold, shall be approved unless the controlling interest is relinquished to an appropriate designated entity (with or without the participation of a community share ownership scheme or employee share ownership scheme or trust, or both).

(5) No projected or proposed investment in a prescribed sector of the economy available for investment by domestic or foreign investors for which an investment licence is required in terms of the Zimbabwe Investment Authority Act [*Chapter 14:30*] shall be approved unless, in the case of a designated extractive business, a controlling interest in the investment is reserved for an appropriate designated entity (with or without the participation of a community share ownership scheme or employee share ownership scheme or trust, or both).

(6) In the case of a designated extractive business the Minister may permit the business in writing to do either of the following—

- (a) to comply with this Act within such period as may be prescribed by the Minister so that indigenisation and empowerment quota can be achieved; or
- (b) to achieve the indigenisation and empowerment quota through the use of the credits and within and for such period as the Minister shall prescribe.

### 3A Reserved sectors of the economy

(1) Subject to subsections (2) and (10), only a business owned by a person who is a citizen of Zimbabwe may operate in the reserved sector of the economy.

(2) Every business owned by a person who is not a citizen of Zimbabwe that, before the 1st January, 2018, commenced operating in the reserved sector of the economy may continue to operate if—

- (a) it registers itself with—
    - (i) the Zimbabwe Revenue Authority;
    - (ii) the Unit, in accordance with subsection (3);
- and
- (b) it opens and maintains a bank account in accordance with the Bank Use Promotion Act [*Chapter 24:24*].

(3) For the purpose of benefiting from, and evidencing, the exception granted to a business under subsection (2)—

- (a) the business in question shall, no later than the 1st July, 2018, notify the Unit by affidavit that—
  - (i) it commenced operating in the reserved sector of the economy before the 1st January, 2018; and
  - (ii) it has registered for tax purposes with the Zimbabwe Revenue Authority, and has opened, and continues to maintain, a bank account with a named banking institution in accordance with the Bank Use Promotion Act [*Chapter 24:24*];and
- (b) the Unit shall open and maintain a register wherein shall be recorded relevant particulars of every business referred to in paragraph (a), and furnish to every such business at its request, free of charge, a certificate that it has been registered for the purpose of subsection (2).

(4) Any person who is not a Zimbabwean citizen and who, after the 1st January, 2018, wishes to operate a business in the reserved sector of the economy shall seek the permission of the Minister referred to in subsection (10).

(5) Any person who is not a Zimbabwean citizen and who—

- (a) after the 1st July, 2018, fails to comply with subsections (2) and (3); or
- (b) after the 1st January, 2018, begins to operate a business referred to in subsection (1) without the permission of the Minister given under subsection (10);

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

(6) In addition, the Minister may direct any licensing authority to revoke, suspend or cancel the operating licence of a business operating in contravention of subsections (2) and (3) or (5).

(7) Any official of the Unit and any law enforcement agent and any other person bearing the authority of the Minister, in writing, may access any premises of any business operating in a reserved sector, on production of the written authority by the Minister, and demand any relevant documents for purposes of verifying compliance with this section by such business.

(8) The official referred to in subsection (7) may take copies of documents or any other material that may be used as proof of compliance or non-compliance with this section.

(9) Any person who interferes with or obstructs an official referred to in subsections (7) and (8) in the execution of their functions shall be guilty of an offence and liable to fine not exceeding level ten or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(10) Subject to subsection (11), a person who is not a Zimbabwean citizen may, after the 1st January, 2018, invest in a business in the reserved sector of the economy if that business meets such criteria or threshold as the Minister will prescribe based on the following objectives—

- (a) significant and sustainable employment creation in Zimbabwe;
- (b) the transfer of skills and technology for the benefit of the people of Zimbabwe;
- (c) the creation of sustainable value chains;
- (d) other prescribed socially and economically desirable objectives.

(11) For the purpose of subsection (10)—

- (a) the proposed investor in question shall lodge a written application with the Unit illustrating how it meets or intends to meet the applicable criteria or threshold prescribed under subsection (10);
- (b) the Unit shall, within seven days of receiving the application or such longer period as the Unit and the proposed investor may agree, forward the application, together with its recommendations thereon, to the Minister; and
- (c) the Minister shall, after considering the application, grant or refuse it, and if the Minister grants it, shall furnish to the applicant, free of charge, a permit allowing it to undertake the investment:

Provided that the grant of any such permit and the name of the proposed investor in question shall be published by notice in the *Gazette*.”;

- (d) by the repeal of sections 5 and 6;
- (e) by the repeal of Part III and the substitution of —

### “PART III

#### NATIONAL INDIGENISATION AND ECONOMIC EMPOWERMENT UNIT

#### 6 Establishment, composition and location of Unit

There shall be a Unit in the Ministry responsible for the administration of this Act, known as the National Indigenisation and Economic Empowerment Unit, having the following special features, namely that—

- (a) it shall be headed by a Director whose post shall be a post in the Civil Service;

and

- (b) it shall consist of such other members of staff as may be necessary for the performance of its functions, who shall be civil servants.

## 7 Functions of Unit

(1) The functions of the Unit shall be —

- (a) to administer the Fund in terms of section 15; and
- (b) to perform such other functions as may be imposed or conferred upon the Unit under this Act or any other enactment.

(2) The Director and all members of staff and agents of the Unit shall perform their functions under this Act in an impartial, clear and, subject to section 11 (“Confidentiality”), open manner.

(3) Before reaching a decision under this Act which affects or is likely to affect the rights or interests of any person, the Director and all members of staff and agents of the Unit shall, to the fullest extent practicable—

- (a) give the person due and clear notice of the nature of the decision that is to be made and of the factors that are likely to be taken into consideration when making it; and
- (b) subject to section 11 (“Confidentiality”), allow the person reasonable access to the information available to the Director or the member of staff or agent concerned in regard to the matter under consideration; and
- (c) give the person as full an opportunity as circumstances allow to make representations in the matter; and
- (d) take into account any representations that the person may make in the matter;

and generally observe due process and the rules commonly known as the rules of natural justice.

(4) Subject to section 11 (“Confidentiality”), where the Director or any member of staff or agent of the Unit has made a decision or taken any action that adversely affects the rights or interests of any person, the Director or the staff member or agent concerned shall provide that person, promptly on demand, with full written reasons for the decision or action.

(5) The Minister may give the Director general directions of policy to be adopted by the Unit in the performance of its functions.

(6) Directions under subsection (5) shall be given in writing and kept by the Director at the Unit's principal office, where they may be inspected free of charge by members of the public at all reasonable times during office hours.

**8 Further provisions on the Director, staff, agents and inspectors of Unit**

(1) The Director must be a person experienced or qualified in economics, banking, accounting, law or who possesses any other appropriate qualification or experience.

(2) Subject to this Act, the Director shall be responsible for directing, managing and controlling the activities of the Unit and its staff and agents.

(3) The Director may, when necessary, appoint any—

- (a) police officer; or
- (b) employee of the Zimbabwe Anti-Corruption Commission established by the Constitution; or
- (c) employee of the Reserve Bank; or
- (d) employee of the Zimbabwe Investment Authority; or
- (e) person employed by any other institution or authority that the Director considers appropriate;

to be an agent of the Unit for the purpose of exercising any of the Unit's functions in terms of this Act:

Provided that any such appointment shall be made with the approval of the Minister and, in the case of—

- (a) a police officer, with the approval of the Commissioner-General of Police;
- (b) an employee of the Zimbabwe Anti-Corruption Commission, with the approval of the chairperson of the Commission;
- (c) an employee of the Reserve Bank, with the approval of the Governor of the Reserve Bank;
- (d) an employee of the Zimbabwe Investment Authority, with the approval of the chairperson of the Authority;
- (e) an employee of any other institution or authority, with the approval of the governing body of that institution or authority.

(4) With the approval of the Minister, the Director may delegate to any member of the Unit's staff any function conferred or imposed upon him or her by this Act.

#### 9 Inspectors and their powers

(1) The Director may appoint any member of the Unit's staff and any agent of the Unit to be an inspector for the purposes of this Act.

(2) The Director shall furnish each inspector with a certificate stating that he or she has been appointed as an inspector, and the inspector shall, on demand, exhibit the certificate to any person affected by the exercise of the inspector's powers.

(3) An inspector may, without previous notice and at all reasonable times, enter premises of any business referred to in section 3(1) or a business operating or purporting to operate in the reserved sector of the economy, and, after informing the person in charge or control of the premises of the purpose of his or her visit, may do any or all of the following—

- (a) make such examination and inquiry as he or she considers appropriate;
- (b) question any person who is employed in or at the premises;
- (c) require any person who is employed in or at the premises to produce any book, account, notice, record, list or other document;
- (d) require from any person an explanation of any entry made in any book, account, notice, record, list or other document found upon any person or premises referred to in paragraph (c);
- (e) examine and make copies of any book, account, notice, record, list or other document;
- (f) take possession of any book, account, notice, record, list or other document:

Provided that such book, account, notice, record, list or other document shall be retained only so long as may be necessary for the purpose of any examination, investigation, trial or inquiry arising out of any contravention of this Act;

where there are reasonable grounds for believing that such action is necessary—

- (g) for the prevention, investigation or detection of an offence in terms of this Act, for the seizure of any property which

is the subject-matter of such an offence or evidence relating to such an offence, or for the lawful arrest of a person.

(4) In a search under subsection (3), an inspector may be accompanied and assisted by one or more police officers or other persons, and those persons shall have the same powers as the inspector under that subsection.

(5) Every person whose premises have been entered in terms of subsections (3) and (4), and every employee or agent of that person in or on those premises, shall forthwith provide the inspector and his or her assistants with whatever facilities the inspector may reasonably require for the exercise of the powers conferred on them by those subsections.

(6) Nothing in this section shall be taken to require a legal practitioner to disclose any privileged communication made to him or her in that capacity.

(7) Any person who—

- (a) hinders or obstructs an inspector or his or her assistant in the exercise of his or her powers under this section; or
- (b) without just cause, fails or refuses to comply with a lawful request of an inspector or his or her assistant in terms of this section;

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.

(8) A court convicting a person of failing to give information or to produce any document when required to do so under this section may require the person, within such period as the court may specify, to give the information or to produce the document, as the case may be.

#### 10 Unit to have access to information

(1) For the proper performance of its functions, the Unit shall have power to obtain from any—

- (a) financial institution; or
- (b) person carrying on a designated extractive business or reserved business; or
- (c) law enforcement agency; or
- (d) public authority or public officer; or
- (e) corporate body of a public character; or
- (f) public company;

any information, whether specific or general, that the Director considers necessary to carry out its functions.

(2) Where, in the exercise of the power under subsection (1), the Director or an employee, inspector or agent of the Unit requests information from a person referred to in subsection (1), the information shall be provided within such reasonable time and in such manner as may be specified in writing by the Director or by the employee, inspector or agent concerned.

(3) This section shall not be construed as—

- (a) limiting the powers of inspectors under section 9 (“Inspectors and their powers”); or
- (b) precluding the Unit from obtaining information from any other person or entity, whether in accordance with the Access to Information and Protection of Privacy Act [*Chapter 10:27*] or otherwise.

(4) Nothing in this section shall be taken to require a legal practitioner to disclose any privileged communication made to him or her in that capacity.

## 11 Confidentiality

(1) Any information reported to the Unit or gathered or discovered by any employee, inspector or agent of the Unit in the course of exercising his or her functions under this Act shall be confidential to the Unit, and no person shall disclose any such information to any other person or body except—

- (a) in the course of exercising his or her functions under this Act; or
- (b) to a judicial officer for the purposes of any legal proceedings under this Act; or
- (c) in accordance with the order of any court; or
- (d) for the purposes of any prosecution or criminal proceedings;

or where the disclosure is authorised or required by or under this Act or any other law.

(2) Any officer, employee, inspector or agent of the Unit who discloses any information referred to in subsection (1) otherwise than in accordance with that subsection, or makes use of it for personal gain, 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 to both such fine and such imprisonment.

(3) The Director shall ensure that the Unit maintains adequate systems and procedures to maintain the confidentiality of information referred to in subsection (1).

## 11A Reports of Unit

(1) As soon as possible after—

- (a) the 31st March, the 30th June, the 30th September and the 31st December in each year, the Director shall submit to the Minister a report on the Unit's activities during the three months preceding the date concerned;
- (b) the 31st December in each year, the Director shall submit to the Minister a consolidated report on the Unit's activities during that year.

(2) As soon as practicable after receiving a consolidated report in terms of subsection (1)(b), the Minister shall lay it before the Senate and the National Assembly.”;

(f) by the repeal of section 15 and the substitution of—

### “15 Administration of Fund

(1) Subject to this Act, the Fund shall be administered by the Minister through the Director of the Unit who shall act on behalf of and in accordance with any instructions of the Minister.

(2) With the approval of the Minister, the Director of the Unit shall open one or more banking accounts into which all moneys received on behalf of the Fund shall be paid.

(3) Further provisions governing the administration of the Fund are set out in the Third Schedule.”;

(g) by the repeal of section 16;

(h) in section 19 (“Minister may request information”) by the substitution of “Director of the Unit” for “Minister” wherever it occurs;

(i) in section 20 (“Appeals”) by the repeal of subsection (1) and the substitution of—

(1) If any person is aggrieved by—

- (a) any decision or action of the Unit, he or she may, within thirty days after being notified of the decision or of the action being taken, appeal to the Minister against such decision or action; or
- (b) a decision by the Minister to refuse a permit referred to in section 3A(11)(c), or a decision of the Minister made on appeal to him or her under paragraph (a) of this subsection, or any other decision or action of the Minister in terms of any provision of this Act, he or she may, within thirty days after being notified of the decision or of the action being taken, appeal to the Administrative Court.”;

- (j) in section 21 (“Regulations”)(1) by the deletion of “, after consultation with the Board.”;
- (k) by the repeal of the First Schedule and the substitution of—

“FIRST SCHEDULE (Section 3A(1))

RESERVED THRESHOLD SECTORS

1. Transportation: passenger buses, taxis and car hire services.
  2. Retail and wholesale trade.
  3. Barber shops, hairdressing and beauty saloons.
  4. Employment Agencies.
  5. Estate Agencies.
  6. Valet services.
  7. Grain milling.
  8. Bakeries.
  9. Tobacco grading and packaging.
  10. Advertising Agencies.
  11. Provision of local arts and craft, marketing and distribution.
  12. Artisanal mining.”;
- (l) by the repeal of the Fourth Schedule.

(2) Any tax incentive that a business enjoyed before the promulgation of the Finance Act of 2018 by virtue of complying with the principal Act shall continue to apply after such promulgation and may be applied for on a voluntary basis as if the Finance Act of 2018 had not been promulgated, for which purpose the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010, shall remain in force.

(3) If a business wishes to amend an indigenisation implementation plan approved under the aforementioned regulations on or before the date of commencement of this Act, the business may, no later than sixty days after the commencement of this Act, submit a revised indigenisation implementation plan to the Minister who shall, no later than three months after the revised indigenisation implementation plan submitted to him or her, by notice in writing to the business concerned, either approve the revised indigenisation implementation plan submitted by the business or reject it.

(4) If a revised indigenisation implementation plan submitted to the Minister in terms of subsection (3) is rejected, the business concerned shall have one more opportunity to submit another revised indigenisation implementation plan no later than sixty days from the date when it is notified of the rejection, and subsection (3) shall apply to such plan in the same way as it applied to the first revised indigenisation implementation plan submitted by it.”.

**43 Amendment of Cap. 22:05**

The Exchange Control Act [*Chapter 22:05*] is amended—

- (a) by the insertion of the following section after section 10—

**“11 Amnesty in respect of illegally expatriated property**

(1) An amnesty in respect of illegally expatriated property shall come into force in accordance with the terms of the Schedule.

(2) Subject to the Schedule, this section and the Schedule shall be deemed to be repealed on the 1st March, 2018.”;

- (b) by the insertion of the following schedule thereto—

**“SCHEDULE (Section 11)**

**AMNESTY IN RESPECT OF ILLEGALLY EXPATRIATED PROPERTY**

**ARRANGEMENT OF PARAGRAPHS**

*Section*

1. Interpretation in Schedule.
2. Administration of amnesty and powers of Governor of Reserve Bank.
3. Non-application of certain criminal and other laws in respect of amnestied conduct.
4. Scope of amnesty.
5. Application for and granting of amnesty.
6. Proof and modalities of repatriation.
7. Eligibility for amnesty.
8. Withdrawal of amnesty.
9. Indemnity for facilitators and duty of confidentiality by Reserve Bank, etc.
10. Regulatory powers of Minister.

**APPENDIX: Sample of Acts or Omissions Constituting Illegal Expatriation of Property.**

*Interpretation in Schedule*

1. (1) In this Schedule, unless the context otherwise requires—
  - “amnesty” means, in a general sense, the amnesty for principals and facilitators contemplated by this Schedule that began on the 1st December, 2017, and ended on the 28th February, 2018, and, in a particular sense, an amnesty granted in conformity with this Schedule to an applicant therefor;
  - “amnestied period” means any period before the 1st December, 2017;
  - “Authority” means the Zimbabwe Revenue Authority as established by the Zimbabwe Revenue Authority Act [*Chapter 23:11*];
  - “Exchange Control Inspectorate Department” means the Exchange Control Inspectorate Department of the Reserve Bank, being the department of the Reserve Bank responsible for ensuring compliance with this Act;

“facilitator” has the meaning given to that word in paragraph 4(4);

“illegal expatriation of property” means the expatriation of property as described in paragraph 4(2) in contravention of—

- (a) this Act or any regulation, order or direction made under this Act for which a criminal or other penalty is imposed;
- (b) any provision of the Money Laundering Act for which a criminal or civil penalty is imposed; and
- (c) any law administered by the Zimbabwe Revenue Authority under the Zimbabwe Revenue Authority Act [Chapter 23:11] for which a criminal or other penalty is imposed;

“Money Laundering Act” means the Money Laundering and Proceeds of Crime Act [Chapter 9:24];

“principal” has the meaning given to that word in paragraph 4(3).

(2) Where a person, other than an employee, acts in accordance with the directions, requests, suggestions or wishes of another person, whether or not the persons are in a business relationship and whether or not those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons shall be treated as associates of each other for the purposes of this Schedule.

*Administration of amnesty and powers of Governor of Reserve Bank*

2. (1) The Exchange Control Inspectorate Department shall be responsible for administering the amnesty and for ensuring compliance by successful applicants therefor with the terms of their amnesties.

(2) The Governor of the Reserve Bank shall have the authority to do anything necessary for the efficient and effective application or implementation of this Schedule.

*Non-application of certain criminal and other laws in respect of amnestied conduct*

3. (1) Subject to this Schedule, for the purpose of this amnesty, the violation of any provision of this Act or the criminal law of Zimbabwe for which an amnestied person would, but for this Schedule, be liable to be prosecuted by the National Prosecuting Authority shall not be deemed to be criminal conduct.

(2) Section 10 of this Act, and section 34B (“Reward for information”) of the Revenue Authority Act [Chapter 23:11] (No. 17 of 1999) shall not apply to any information provided or measure taken which relates to an offence for which an amnestied person is not liable by virtue of this Schedule to be prosecuted by the National Prosecuting Authority.

*Scope of amnesty*

4. (1) An amnesty may be applied for in respect of any illegally expatriated property within the scope of this paragraph.

(2) Illegally expatriated property comprises—

- (a) any currency, gold, precious stones and securities that the applicant for the amnesty has exported, externalised

**43 Amendment of Cap. 22:05**

The Exchange Control Act [*Chapter 22:05*] is amended—

- (a) by the insertion of the following section after section 10—

**“11 Amnesty in respect of illegally expatriated property**

(1) An amnesty in respect of illegally expatriated property shall come into force in accordance with the terms of the Schedule.

(2) Subject to the Schedule, this section and the Schedule shall be deemed to be repealed on the 1st March, 2018.”;

- (b) by the insertion of the following schedule thereto—

**“SCHEDULE (Section 11)**

**AMNESTY IN RESPECT OF ILLEGALLY EXPATRIATED PROPERTY**

**ARRANGEMENT OF PARAGRAPHS**

*Section*

1. Interpretation in Schedule.
2. Administration of amnesty and powers of Governor of Reserve Bank.
3. Non-application of certain criminal and other laws in respect of amnestied conduct.
4. Scope of amnesty.
5. Application for and granting of amnesty.
6. Proof and modalities of repatriation.
7. Eligibility for amnesty.
8. Withdrawal of amnesty.
9. Indemnity for facilitators and duty of confidentiality by Reserve Bank, etc.
10. Regulatory powers of Minister.

**APPENDIX: Sample of Acts or Omissions Constituting Illegal Expatriation of Property.**

*Interpretation in Schedule*

1. (1) In this Schedule, unless the context otherwise requires—
  - “amnesty” means, in a general sense, the amnesty for principals and facilitators contemplated by this Schedule that began on the 1st December, 2017, and ended on the 28th February, 2018, and, in a particular sense, an amnesty granted in conformity with this Schedule to an applicant therefor;
  - “amnestied period” means any period before the 1st December, 2017;
  - “Authority” means the Zimbabwe Revenue Authority as established by the Zimbabwe Revenue Authority Act [*Chapter 23:11*];
  - “Exchange Control Inspectorate Department” means the Exchange Control Inspectorate Department of the Reserve Bank, being the department of the Reserve Bank responsible for ensuring compliance with this Act;

“facilitator” has the meaning given to that word in paragraph 4(4);

“illegal expatriation of property” means the expatriation of property as described in paragraph 4(2) in contravention of—

- (a) this Act or any regulation, order or direction made under this Act for which a criminal or other penalty is imposed;
- (b) any provision of the Money Laundering Act for which a criminal or civil penalty is imposed; and
- (c) any law administered by the Zimbabwe Revenue Authority under the Zimbabwe Revenue Authority Act [*Chapter 23:11*] for which a criminal or other penalty is imposed;

“Money Laundering Act” means the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*];

“principal” has the meaning given to that word in paragraph 4(3).

(2) Where a person, other than an employee, acts in accordance with the directions, requests, suggestions or wishes of another person, whether or not the persons are in a business relationship and whether or not those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons shall be treated as associates of each other for the purposes of this Schedule.

*Administration of amnesty and powers of Governor of Reserve Bank*

2. (1) The Exchange Control Inspectorate Department shall be responsible for administering the amnesty and for ensuring compliance by successful applicants therefor with the terms of their amnesties.

(2) The Governor of the Reserve Bank shall have the authority to do anything necessary for the efficient and effective application or implementation of this Schedule.

*Non-application of certain criminal and other laws in respect of amnestied conduct*

3. (1) Subject to this Schedule, for the purpose of this amnesty, the violation of any provision of this Act or the criminal law of Zimbabwe for which an amnestied person would, but for this Schedule, be liable to be prosecuted by the National Prosecuting Authority shall not be deemed to be criminal conduct.

(2) Section 10 of this Act, and section 34B (“Reward for information”) of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) shall not apply to any information provided or measure taken which relates to an offence for which an amnestied person is not liable by virtue of this Schedule to be prosecuted by the National Prosecuting Authority.

*Scope of amnesty*

4. (1) An amnesty may be applied for in respect of any illegally expatriated property within the scope of this paragraph.

(2) Illegally expatriated property comprises—

- (a) any currency, gold, precious stones and securities that the applicant for the amnesty has exported, externalised

or expatriated from Zimbabwe that originated from Zimbabwe or is the proceeds of any trade, business or other gainful occupation or activity carried on by him or her in Zimbabwe; and

- (b) any moveable or immoveable property acquired domestically or outside Zimbabwe by the use of the currency, gold, precious stones and securities referred to in paragraph (a); and
- (c) the proceeds of any sale or other alienation of any moveable or immoveable property referred to in paragraph (b).

(3) Subject to subparagraph (5), any person (hereafter in this Schedule referred to as a “principal”) who, before the 1st December, 2017, illegally expatriated property—

- (a) personally; or
- (b) through or by the use of—
  - (i) a banking institution or other financial institution;
  - (ii) any person in a “designated occupation” as defined in the Money Laundering Act;
  - (iii) a company, trust or other entity in which the principal has a controlling or predominant interest; or
  - (iv) any associate of the principal;

qualifies for an amnesty under this Schedule.

(4) In addition, subject to subparagraph (5), any person who facilitated the illegal expatriation of property (hereafter in this Schedule referred to as a “facilitator”), that is to say—

- (a) an associate of the principal;
- (b) a nominee acting on behalf of a principal who is the beneficial owner of the property in question; or
- (c) any of the following—
  - (i) a banking institution or other financial institution;
  - (ii) any person in a “designated occupation” as defined in the Money Laundering Act;
  - (iii) a company, trust or other entity in which the facilitator has a controlling or predominant interest;
  - (iv) any associate of the facilitator;

qualifies for an amnesty under this Schedule in all respects as if he or she is a principal:

(5) An amnesty granted to—

- (a) a principal under subparagraph (3)—
  - (i) automatically absolves the facilitator of any criminal or liability in relation to property that was illegally expatriated with the assistance of the facilitator, but only to the extent that the property in question is disclosed in the application for the amnesty; and
  - (ii) does not affect the liability for tax of the principal on any property that was illegally expatriated, provided that the principal shall not be subject no any penalty by way of interest or enhanced tax on the property in question;

- (b) a facilitator under subparagraph (4)—
  - (i) does not thereby absolve the principal unless the principal, either independently or together with the facilitator, applies for an amnesty under this Schedule; and
  - (ii) does not affect the liability for tax of the facilitator in a representative capacity on any property that was illegally expatriated, provided that the facilitator shall not be subject to any penalty by way of interest or enhanced tax on the property in question;

(6) Subject to the conditions set out in this Schedule, when an amnesty is granted in terms of this Schedule, it shall preclude the Reserve Bank, the Authority and the National Prosecuting Authority from prosecuting an offender or imposing civil or administrative penalties for any act constituting the illegal expatriation of property or for any activity constituting a misrepresentation or non-disclosure necessary to facilitate the illegal expatriation of property.

(7) In relation to this Schedule, the acts or omissions specified in the Appendix are indicative (but not exhaustive) of the kinds of acts or omissions in respect of which an amnesty may be sought.

*Application for and granting of amnesty*

5. (1) A principal or facilitator who, but for this Schedule, would be liable—

- (a) to any civil or administrative penalty; and
- (b) to be prosecuted by the National Prosecuting Authority;

for the illegal expatriation of property effected during the amnestied period may, no later than the 28th February, 2018, apply for amnesty in terms of this Schedule.

(2) An application for amnesty shall be in writing and in the form furnished by the Exchange Control Inspectorate Department providing, among other matters, for the following—

- (a) the name of the principal or facilitator; and
- (b) the amount or value of the property due for repatriation; and
- (c) in the case of currency, the relevant particulars for the receipt of the currency at a local banking or financial institution; and
- (d) the particulars of the transaction by means of which or under the guise of which the property was expatriated; and
- (e) the estimated time within which the repatriation of the property in question will take place.

(3) An application for amnesty shall only be considered if it is lodged with the Exchange Control Inspectorate Department by the 28th February, 2018.

- (4) An amnesty shall be granted only upon the applicant—
  - (a) having made full disclosure in respect of the illegally expatriated property; and
  - (b) having provided such supporting documents in connection with the application for the amnesty as may be required;

and

- (c) having repatriated the property in full by the 31st March, 2018, in the case of property consisting of currency, gold, precious stones or securities, or other moveable property capable of being speedily repatriated or converted into currency at the current fair market valuation for such property;

Provided that the Exchange Control Inspectorate Department may, for good cause shown by the applicant, extend the period for repatriation by a period not exceeding one hundred and eighty days; and

- (d) having, in the case of immovable property or moveable property not capable of being speedily repatriated or converted into currency, sold or undertaken to sell the property and repatriate the proceeds thereof at the current fair market valuation for such property by such date as may be agreed between the applicant and the Exchange Control Inspectorate Department:

Provided that the Exchange Control Inspectorate Department may, for good cause shown by the applicant, do either or both of the following—

- (i) extend the period for repatriation by a period not exceeding one hundred and eighty days;
- (ii) permit the applicant to lease or alienate the property in any other way with a view to ensuring that the proceeds therefrom are repatriated.

(5) Unless the Exchange Control Inspectorate Department requires further information from the applicant in connection with his or her application, the Exchange Control Inspectorate Department shall determine every application for an amnesty within ten days from the date of receiving the application.

*Proof and modalities of repatriation*

6. (1) The receiving local banking institution or financial institution shall immediately notify the Exchange Control Inspectorate Department of the repatriation of any illegally expatriated property, furnishing it with documentary proof of the same.

(2) The receiving local banking institution or financial institution shall transfer the nostro value of the received funds to the Reserve Bank, which shall transfer an equivalent amount through RTGS, to the banking institution or financial institution for the account of the applicant.

(3) The Exchange Control Inspectorate Department shall issue a receipt to the applicant confirming repatriation of the property in Zimbabwe.

*Eligibility for amnesty*

7. Any application for amnesty shall be invalid—

- (a) in respect of any illegally expatriated property not disclosed in the application for amnesty;

- (b) in respect of any action resulting in the detention, seizure or forfeiture of any property, which action commenced on or before the 1st December, 2017;

*Withdrawal of amnesty*

8. The amnesty granted to any applicant shall be withdrawn and thereby nullified if—

- (a) the applicant makes, in relation to the illegally expatriated property for which amnesty is sought, any wilfully false declaration to the Reserve Bank in applying for the amnesty; or
- (b) the applicant fails to timeously repatriate the property in accordance with paragraph 5.

*Indemnity for facilitators and duty of confidentiality by Reserve Bank, etc.*

9. (1) Any duty of confidentiality required to be observed by a facilitator (being a facilitator who facilitated the illegal expatriation of property knowing that the property in question was being illegally expatriated) in relation to his or her principal by virtue of any privilege, contract or law is hereby waived in relation to every disclosure made by the facilitator for the purpose of obtaining an amnesty under this Schedule, and no criminal or civil liability will attach to a facilitator who applies for an amnesty under this Schedule and makes any disclosures for that purpose.

(2) No action shall lie against any facilitator for the doing of any act required to be done to enable any illegally expatriated property to be repatriated for the purposes of this Schedule.

(3) The Exchange Control Inspectorate Department, the Reserve Bank, and any person employed or retained by either of the foregoing shall not disclose any information acquired by them through the exercise of their functions in terms of this Schedule except—

- (a) with the consent of the applicant who disclosed the information; or
- (b) pursuant to an order of court for the purpose of legal proceedings under this Schedule or any other law; or
- (c) to the extent that it may be necessary to do so for the purpose of this Schedule or any other law, to an agent of the Reserve Bank.

(4) Any person who contravenes subparagraph (3) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

*Regulatory powers of Minister*

10. (1) The Minister may make regulations prescribing all matters which by this Schedule are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

(2) Without derogating from the generality of subparagraph (1) regulations may provide for—

- (a) such forms as may be necessary for the application or implementation of this Schedule;

- (b) the manner in which applications for amnesty shall be made and what supporting documents must be produced in support of such applications.

APPENDIX (*Paragraph 4(7)*)

SAMPLE OF ACTS OR OMISSIONS CONSTITUTING ILLEGAL EXPATRIATION  
OF PROPERTY

Illegal expatriation of property refers to illegal transfer/export of foreign exchange and/or assets from Zimbabwe and/or offshore retention of foreign exchange and/or assets due to Zimbabwe, without relevant regulatory authorisations. Listed below are some of the forms of illegal expatriation of property carried out by resident individuals and/or corporate entities —

- (a) non-repatriation of export proceeds due to Zimbabwe;
- (b) non-return of temporary exports and disguised exports of samples;
- (c) payments for imports of goods and services whose corresponding value has not been received in Zimbabwe;
- (d) remittance of funds used for investments offshore without Exchange Control approval;
- (e) offshore retention of funds realised from sale of shares in local companies to foreign residents;
- (f) offshore retention of investment income such as dividends, profits and management fees due to Zimbabwe;
- (g) remittance of funds for “repayment” of fictitious offshore loans;
- (h) settlement of purchase prices offshore, for an immovable property located in Zimbabwe;
- (i) operation of illegal offshore bank accounts funded from Zimbabwe;
- (j) offshore retention of sale proceeds realised from goods or minerals smuggled out of Zimbabwe; and
- (k) any other retention of funds offshore which were supposed to be received in Zimbabwe or which were not sanctioned by Exchange Control or provided for in current Exchange Control policy.”

**44 Amendment of Cap. 22:19**

The Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009) is amended—

- (a) in section 2 (“Interpretation”) by the insertion of the following definition—
  - ““Office of the President and Cabinet” means the office at the apex of the Civil Service which is headed by the Chief Secretary to the President and Cabinet and which—
  - (a) serves as the secretariat to the President and the Cabinet; and
  - (b) subject to the instructions of the President, is charged, by communication through the heads of the several Ministries, with co-ordinating the work of the Government;”;
- (b) in section 4 (“Application of Act”)—

- (i) in subsection (3) by the insertion of the following paragraph of the following paragraph (d)—
  - “(e) the Office of the President and Cabinet.”;
- (ii) by the insertion after subsection (3) of the following subsection—
  - “(4) For the purposes of this Act the provisions of this Act that apply to constitutional entities are deemed to apply to the Office of the President and Cabinet.”.

#### 45 Amendment of Cap. 24:20

The Banking Act [*Chapter 24:20*] is amended—

- (a) in section 2 (“Interpretation”)(4) by the repeal of paragraph (f);
- (b) in section 19 (“Disqualification for appointment to board of banking institution”) by the repeal of subsection (3) and the substitution of—
  - “(3) No person who has served as a non-executive director of a banking institution for a continuous period of ten years shall be eligible for reappointment to the board of that institution unless at least five years have elapsed since he or she last served on that board.”;
- (c) in section 20 (“Principal administrative office and principal officers of banking institution”)(2a) by the deletion of “be non-voting members” and the substitution of “be voting members”;
- (d) in section 32 (“Restrictions on purchase and pledging of shares in banking institutions and controlling companies”) by the repeal of subsection (1) and the substitution of—
  - “(1) Except with the prior written approval of the Registrar, no banking or controlling company shall—
    - (a) purchase its own shares or the shares of any associate; or
    - (b) make any loan or advance on the security of its own shares or the shares of any associate.”.

#### 46 Amendment of Cap. 24:24

The Bank Use Promotion Act [*Chapter 24:24*] is amended—

- (a) by the repeal of the definition of “cash” and the substitution of—
  - ““cash” means any bank notes and coins of any currency that is currently, or from time to time, designated as legal tender in Zimbabwe, and includes, but is not limited to, the United States dollar, the South African Rand, the British pound, the Euro, the Botswana Pula, the Chinese Yuan, the Indian Rupee, the Japanese Yen, the Australian dollar and bond notes and coins issued in terms of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*]”;
- (b) by the insertion after section 10 of the following section—
  - “10A Designated payees to afford electronic payment facilities
    - (1) In this section, “designated payee” means—
      - (a) an arm, organ, branch or agency of the State;
      - (b) a local authority;
      - (c) a trader registered or required to be registered in terms of the Value Added Tax Act [*Chapter 23:12*];
      - (d) a trader other than one referred to in paragraph (c) whose average monthly turnover exceeds two thousand five hundred dollars;

- (e) a parastatal;
- (f) a moneylender.

(2) Subject to subsections (4) and (5), every designated payee shall, if a person tenders payment for its goods or services by electronic means instead of cash or partly by cash and partly by electronic means, accept the tender of such payment.

(3) No designated payee shall charge or apply a premium or discount to the price of its goods or services on the basis that the person has paid for its goods or services by cash or electronic means instead of cash, or partly by cash and partly by electronic means.

(4) Every existing designated payee must, by the 1st April, 2018—

- (a) acquire any device that facilitates the electronic payment for its goods or services (commonly known as a “point of sale machine”); or
- (b) facilitate the payment for its goods or services electronically by the use of a mobile telephonic device or a computer.

(5) Unless a designated payee has availed to its customers both of the means of electronic payment referred to in subsection (4)(a) and (b), the designated payee can require a person who tenders to pay for goods or services by electronic means to pay by the use of the means referred to in subsection (4)(a) or (b).

(6) The Unit may, by notice in the *Gazette*, exempt from the requirements of subsection (2) any designated payee, whether by reference to a class or description of such designated payees or by reference a maximum total monthly turnover generated by such payee.

(7) Every designated payee who is not able to comply with this section by the 1st April, 2018, must apply to the Director of the Unit in writing for an extension of time within which to comply, setting out the reasons why he or she cannot comply by the fixed date, and the Director shall, on good cause shown, grant an extension for compliance not exceeding thirty (30) days.”;

- (b) in section 11 (“Traders and parastatals to bank surplus cash in an account within a certain time”) is amended in paragraph (b) by the deletion of “seventy-five dollars” and the substitution of “two hundred dollars”;
- (c) in section 15 (“Maximum cash to be kept by moneylenders”)(1) is amended by the deletion of “five thousand dollars” and the substitution of “ten thousand dollars”;
- (d) in section 19 (“Compliance orders under Part III”)—
  - (i) in subsection (1) by the insertion after paragraph (a) of the following paragraph—
    - “(a1) in the case of a contravention of section 10A, either or both of the following as may be appropriate—
      - (i) to immediately comply with section 10A(1); or
      - (ii) to comply with section 10A(4) within seven days of the date of service of the order; “;
  - (ii) in subsection (5)(a) by the deletion of “contravention of section ten” and the substitution of “contravention of section 10 or 10A”;

- (e) in section 20 (“Repeated contraventions of sections 10, 11, 12, 13, 14, 15, 16 and 17”) by the deletion of “section ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen or seventeen” and the substitution of “section 10, 10A, 11, 12, 13, 14, 15, 16 and 17”;

- (f) by the repeal of section 22 and the substitution of—

“22 Unlawful hoarding of cash

(1) Subject to subsection (2), any person, other than a trader, parastatal, moneylender or financial institution, who, otherwise than for good cause, has on his or her person, or under his or her immediate control, or upon any land or upon or in any premises, cash in excess of ten thousand dollars, shall be guilty of an offence and liable to a fine equivalent to—

- (a) the excess cash held in contravention of this section; or  
 (b) a fine not exceeding level ten;

whichever is the greater amount.

(2) Any person (other than a financial institution)—

- (a) who has on his or her person, or under his or her immediate control, or upon any land or upon or in any premises, any amount of cash, whether or not in excess of ten thousand dollars; and  
 (b) about whom there is any information or intelligence leading to a reasonable suspicion that he or she is acting on behalf of the trader, parastatal, moneylender to circumvent the provisions of section 11 or 15;

shall be guilty of an offence and liable to a fine equivalent to—

- (c) all the cash held in contravention of this section; or  
 (d) a fine not exceeding level ten;

whichever is the greater amount.

(3) A person referred to in—

- (a) subsection (1) shall have the burden of proving, to the satisfaction of an inspector, police officer or any court, any good cause for not complying with that provision;  
 (b) subsection (2) shall have the burden of proving, to the satisfaction of an inspector, police officer or any court, that the suspicion there referred to is unfounded;

Provided that if he or she is found to be in possession of cash in excess of ten thousand dollars, he or she is liable to prosecution under subsection (1).

(4) The Minister may, by notice in a statutory instrument, suspend the operation of this section (other than this subsection) indefinitely or for a period specified in the notice, and may, in like manner, bring it back into operation.”;

- (g) by insertion in Part VI before section 42 of the following section—

“41A Freezing orders

(1) The Director may, without notice of his or her intended action to the affected person and financial institution, serve upon that person and the financial institution concerned, a written temporary freezing order having effect for not more than fourteen days in respect

of the account or accounts of any person (hereinafter called "the sanctioned person") reasonably suspected of violating any provision of this Act, the Exchange Control Act [*Chapter 22:05*] or the Money Laundering Act.

(2) The temporary freezing order shall prevent—

(a) the sanctioned person or any person acting on his or her behalf in whatever capacity from—

- (i) operating any account affected by the order; or
- (ii) opening any account with same or any other financial institution;

and

(b) the financial institution where the account of the sanctioned person is held from authorising or executing any transactions through that account, whether at the instance of the sanctioned person or not;

without the express approval of the Director given subject to the conditions specified by the Director.

(3) Within the period of the temporary freezing order, or any extension of the freezing order as the court may allow, the Director may apply to a magistrate's court for a freezing order in respect of the sanctioned person for any definite or indefinite period:

(4) An application for a freezing order shall be in writing and shall be supported by an affidavit of the Director indicating that the Director believes, and the grounds for his or her belief, that the account is concerned in any violation of or is being used for violating any cited provision of this Act, the Exchange Control Act [*Chapter 22:05*] or the Money Laundering Act.

(5) An application for a freezing order may include an application for an order by the court limiting or restricting attendance at the court and publication of its proceedings in terms of the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*].

(6) The court may make a freezing order for any definite or indefinite period in relation to any one or more accounts referred to in an application brought under this section where it is satisfied that there are reasonable grounds to believe that the account or accounts in question are concerned in any violation of or are being used for violating any cited provision of this Act, the Exchange Control Act [*Chapter 22:05*] or the Money Laundering Act:

Provided that—

(a) no freezing order may be issued for a definite period exceeding twelve months without the Director applying for an extension of the order in the same way that he or she applied for the original order;

(b) a freezing order issued for an indefinite period shall lapse at the end of the twelfth month on the date after was issued unless the Director applies (in the same way that he or she applied for the original order) for a renewal of the order or for an order having effect for a definite period.

(7) The temporary freezing order shall prevent—

(a) the sanctioned person or any person acting on his or her behalf in whatever capacity from—

- (i) operating any account affected by the order; or
- (ii) opening any account with same or any other financial institution;

and

- (b) the financial institution where the account of the sanctioned person is held from authorising or executing any transactions through that account, whether at the instance of the sanctioned person or not;

without the express approval of the Director given subject to the conditions specified by, the Director.

(8) Within twenty-one days of the granting of a freezing order or such other period as the court may direct, notice of the order shall be served on all persons known to the Director to have an interest in the funds affected by the order, and such other persons as the court may direct.

(9) Subject to subsection (10), the Director shall not, in relation to the same sanctioned person and to the same account or accounts, make more than two temporary freezing orders in any period of twelve months.

(10) If, within any period of twelve months, the need arises for any account of a sanctioned person to be frozen after it has been temporarily frozen twice within that period, the Director shall apply to a magistrate's court for a freezing order in accordance with the following subsections.

(11) An application for a freezing order shall be in writing and shall be supported by an affidavit of the Director indicating that the Director believes, and the grounds for his or her belief, that the account is concerned in any violation of or being used for violating any cited provision of this Act, the Exchange Control Act [Chapter 22:05] or the Money Laundering Act, which application may —

- (a) be made *ex parte* and without notice, if the Director sets forth in his or her affidavit reasonable grounds for believing that the giving of notice to any affected party is likely to prejudice the purpose for which the application is sought;
- (b) include an application for an order by the court limiting or restricting attendance at the court and publication of its proceedings in terms of the Courts and Adjudicating Authorities (Publicity Restriction) Act [Chapter 7:04].

(12) Subsections (6), (7) and (8) apply also to any order applied for under subsection (11).”;

- (h) by the repeal of section 49 and the substitution of—

“49 Amnesty for breaches of sections 10 and 11

(1) An amnesty for any contravention of section 10 or 11 shall come into force in accordance with the terms of the Schedule.

(2) Subject to the Schedule, this section and the Schedule shall be deemed to be repealed on the 1st April, 2018.”;

- (i) the principal Act is amended by the insertion of the following schedule after the Third Schedule—

“FOURTH SCHEDULE (Section 49)

AMNESTY FOR HOARDING CASH IN BREACH  
OF SECTIONS 10 AND 11

*Interpretation in Fourth Schedule*

1. (1) In this Schedule, unless the context otherwise requires—

“amnesty” means, in a general sense, the amnesty for traders, parastatals and moneylenders contemplated by this Schedule that begins on the 1st January, 2018, and ends on the 1st April, 2018, and, in a particular sense, an amnesty granted in conformity with this Part to an applicant therefor;

“amnestied period” means any period before the 1st January, 2018;

“Bank Use Promotion Unit” means the Bank Use Promotion Unit of the Reserve Bank, established in terms of the Bank Use Promotion Act [*Chapter 24:24*];

“hoarded cash” means cash that a trader or parastatal failed to deposit in a financial institution in accordance with section 11, being cash—

- (a) that is surplus to the requirements of the trader or parastatal; or
- (b) in excess of that prescribed by or under section 11(1)(b);

“Revenue Authority” means the Zimbabwe Revenue Authority as established by the Zimbabwe Revenue Authority Act [*Chapter 23:11*].

(2) Any term defined in the Act shall bear the same meaning when used in this Schedule.

*Amnesty in respect of contraventions of sections 10 and 11 of Cap. 24:24*

2. An amnesty in respect of any contravention of section 10 or 11 shall come into force in accordance with the terms of this Schedule, the effect of which is that—

- (a) where a compliance order in terms of section 19 was, before the 1st January, 2018, issued to a trader, parastatal or moneylender for non-compliance with section 10 or 11, such compliance order, unless earlier discharged, is suspended for the period of the amnesty and discharged if the trader, parastatal or moneylender avails itself of the amnesty before the 1st April, 2018; and
- (b) where a trader, parastatal or moneylender has failed to comply with section 10 or 11 before the 1st January, 2018—
  - (i) no compliance order shall be issued to such trader, parastatal or moneylender for the period of the amnesty ending on the 1st April, 2018; and
  - (ii) such trader, parastatal or moneylender shall, without reference to section 19 of the Act, be liable to prosecution under paragraph 7 if it fails to avail itself of the amnesty before the 1st April, 2018.

*Administration of amnesty and powers of Governor of Reserve Bank*

3. (1) The Unit shall be responsible for administering the amnesty and for ensuring compliance by successful applicants therefor with the terms of their amnesties.

(2) The Governor of the Reserve Bank shall have the authority to do anything necessary for the efficient and effective application or implementation of this Schedule.

*Non-application of certain criminal and other laws in respect of amnestied conduct*

4. (1) Subject to this Schedule, for the purpose of this amnesty, the contravention of section 10 or 11 for which an amnestied person would, but for this Schedule, be liable to be prosecuted by the National Prosecuting Authority shall not be deemed to be criminal conduct.

(2) Section 10 of this Act, and section 34B ("Reward for information") of the Revenue Authority Act [*Chapter 23:11*] (No. 17 of 1999) shall not apply to any information provided or measure taken which relates to an offence for which an amnestied person is not liable by virtue of this Schedule to be prosecuted by the National Prosecuting Authority.

*Scope of amnesty*

5. (1) The amnesty applies in respect of any violation of section 10 or 11 within the scope of this section.

(2) In order to qualify for the amnesty a person who—

- (a) being a trader, parastatal or moneylender, had failed, before the 1st January, 2018, to open and keep open an account with a financial institution, must open such account before the 1st April, 2018, and deposit any hoarded cash; or
- (b) being a trader, and parastatal, had failed before the 1st January, 2018, to deposit hoarded cash in an account with a financial institution, must deposit the cash in a financial institution by the 1st April, 2018.

(3) An amnesty granted to a trader, parastatal or moneylender does not affect the liability for tax of the trader, parastatal or moneylender on any hoarded cash, provided that the trader, parastatal or moneylender shall not be subject to any penalty by way of interest or enhanced tax on the hoarded tax in question;

*Proof and modalities of compliance*

6. (1) The receiving local financial institution shall immediately notify the Unit of the deposit of any hoarded cash, furnishing it with documentary proof of the same that discloses—

- (a) the name of the trader or parastatal to which the hoarded cash belongs and its value; and
- (b) that the trader or parastatal is making the deposit pursuant to this amnesty.

*Confidentiality*

7. (1) Any information reported to the Unit or gathered or discovered by any employee, inspector or agent of the Unit in

the course of exercising his or her functions under this Schedule shall be confidential to the Unit, and no person shall disclose any such information to any other person or body except—

- (a) in the course of exercising his or her functions under this Act; or
- (b) to a judicial officer for the purposes of any legal proceedings under this Act; or
- (c) in accordance with the order of any court; or
- (d) for the purposes of any prosecution or criminal proceedings;

or where the disclosure is authorised or required by or under this Schedule or any other law.

(2) Any officer, employee, inspector or agent of the Unit who discloses any information referred to in subparagraph (1) otherwise than in accordance with that subsection, or makes use of it for personal gain, 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 to both such fine and such imprisonment.

(3) The Director shall ensure that the Unit maintains adequate systems and procedures to maintain the confidentiality of information referred to in subsection (1).

*Failure to avail oneself of the amnesty*

8. Any trader, parastatal or moneylender in possession of hoarded cash who or which fails to avail itself, herself or himself of the amnesty under this Part shall be guilty of an offence and liable—

- (a) in a case of a contravention of section 10 of the Act, to a fine not exceeding level eight for each day during which it is in default of compliance with that provision, calculated from the 1st April, 2018; and
- (b) in a case of a contravention of section 11 of the Act, to a fine equivalent to the value of the hoarded cash.”.

**SCHEDULE (Section 20)**

AMENDMENTS TO PENALTIES IN INCOME TAX ACT [CHAPTER 23:06]

<i>Provision</i>	<i>Extent of Amendment</i>
Section 61(8)	By the repeal of paragraph (a)
Section 61	By the repeal of subsection (8a)
Section 80	By the repeal of subsection (10)
Thirteenth Schedule paragraph 10	By the repeal of subparagraph (4)
Seventeenth Schedule paragraph 6	By the repeal of subparagraph (3)
Eighteenth Schedule paragraph 4	By the repeal of subparagraph (3)

Nineteenth Schedule paragraph 6	By the repeal of subparagraph (3)
Twenty-First Schedule paragraph 6	By the repeal of subparagraph (3)
Twenty-Fourth Schedule paragraph 5	By the repeal of subparagraph (3)
Twenty-Fifth Schedule paragraph 6	By the repeal of subparagraph (3)
Twenty-Sixth Schedule	By the repeal of paragraph 15