

## CHAPTER 23:11

# REVENUE AUTHORITY ACT

*Acts 17/1999, 27/2001, 12/2002, 2/2005.*

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**To establish the Zimbabwe Revenue Authority for the collection of certain revenues of the State and to provide for the Authority's functions, powers and management; to provide for the funds of the Authority; to amend the Betting and Totalizator Control Act [Chapter 10:02], the Capital Gains Tax Act [Chapter 23:01], the Customs and Excise Act [Chapter 23:02], the Fiscal Appeal Court Act [Chapter 23:05], the Income Tax Act [Chapter 23:06], the Income Tax (Transitional Period Provisions) Act [Chapter 23:07], the Stamp Duties Act [Chapter 23:09] and the Tax Reserve Certificates Act [Chapter 23:10]; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement: 19th January 2001.]

## PART I

### PRELIMINARY

#### 1 Short title and date of commencement

(1) This Act may be cited as the Revenue Authority Act [Chapter 23:11].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

#### 2 Interpretation

In this Act—

“appointed member” means a member of the Board appointed in terms of paragraph (c) of subsection (2) of section *five*;

“Authority” means the Zimbabwe Revenue Authority established by section *three*;

“Board” means the Revenue Board established by section *five*;

“Commissioner-General” means the Commissioner-General of the Authority appointed in terms of section *nineteen*;

“committee” means a committee of the Board established in terms of section *fourteen*;

“department” means a department of the Authority established in terms of subsection (1) of section *twenty-one*;

“financial year” means the financial year of the Authority referred to in section *thirty*;

“member”, means a member of the Board, including the chairman;

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

“revenues” means taxes, duties, fees, levies, charges, penalties, fines or any other moneys levied, imposed, collected or received in terms of any of the Acts specified in the First Schedule.

## PART II

### ZIMBABWE REVENUE AUTHORITY

#### 3 Establishment of Zimbabwe Revenue Authority

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

#### 4 Functions and powers of Authority

(1) The functions of the Authority shall be—

(a) to act as an agent of the State in assessing, collecting and enforcing the payment of all revenues; and

(b) to advise the Minister on matters relating to the raising and collection of revenues; and

(c) to perform any other function that may be conferred or imposed on the Authority in terms of this Act or any other enactment.

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

## **5 Board of Authority**

(1) The operations of the Authority shall, subject to this Act, be controlled and managed by a board to be known as the Revenue Board.

(2) The Board shall consist of—

- (a) the Secretary of the Ministry responsible for finance; and
- (b) the Commissioner-General; and
- (c) not more than five other members appointed, subject to subsection (3), by the Minister after consultation with the President and in accordance with such directions as the President may give him.

(2) Members referred to in paragraph (c) of subsection (2) shall be appointed for their knowledge of and experience in finance, commerce, economics, taxation or law.

## **6 Disqualifications for appointment as member**

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

- (a) he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he has, in terms of a law in force in any country—
  - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated therefrom; or
  - (ii) made an assignment or composition with his creditors which has not been rescinded or set aside;or
- (c) he has been convicted in Zimbabwe or in any other country—
  - (i) of any offence involving dishonesty; or
  - (ii) of any other offence, in the period of five years before his appointment, for which a term of imprisonment without the option of a fine has been imposed, whether or not any portion of that sentence has been suspended.

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

- (a) he is a member of two or more other statutory bodies; or
- (b) he is a member of Parliament.

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

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
  - (i) any commission established by the Constitution; or
  - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other statutory body or by a Commission established by the Constitution.

## **7 Terms of office and conditions of service of members**

(1) An appointed member shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his appointment.

(2) On the expiry of the period for which an appointed member has been appointed, he shall continue to hold office until he has been re-appointed or his successor has been appointed:

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

(3) The Secretary of the Ministry responsible for finance and the Commissioner-General shall be members for so long as they hold office as Secretary or Commissioner-General, as the case may be.

(4) A person who ceases to be a member shall be eligible for re-appointment.

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

## **8 Vacation of office by appointed members**

(1) An appointed member shall vacate his office and his office shall become vacant—

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

- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
  - (i) in Zimbabwe, in respect of an offence; or
  - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

- (c) if he becomes disqualified in terms of subsection (1) or (2) of section *six* to hold office as a member; or
- (d) if he is required in terms of subsection (2) or (3) to vacate his office as a member.

(2) The Minister may require an appointed member to vacate his office if—

- (a) the member has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or
- (b) the member has failed to comply with any condition of his office fixed in terms of section *seven*; or
- (c) the member has ceased to possess any qualification by reason of which he was appointed; or
- (d) the member is mentally or physically incapable of efficiently performing his duties as a member; or
- (e) the member contravenes section *sixteen*; or
- (f) the member or his spouse engages in any occupation, service or employment, or holds any asset, which in the Minister's opinion is inconsistent with his duties as a member.

(3) The Minister, on the recommendation of the Board, may require an appointed member to vacate his office if the Minister is satisfied that the member has been absent without the consent of the chairman of the Board from three consecutive meetings of the Board, of which he has been given at least seven days' notice, and that there was no just cause for the member's absence.

## 9 Suspension of members

The Minister—

- (a) may suspend from office a member against whom criminal proceedings are instituted for an offence involving dishonesty; and
- (b) shall suspend from office a member who has been sentenced by a court to imprisonment without the option of a fine, whether or not any portion has been suspended, pending determination of the question whether the member is to vacate his office;

and, whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as a member.

## 10 Dismissal of Board

(1) Subject to subsection (2), if the Minister considers that—

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or
- (b) the Board has failed to comply with a direction in terms of section *twenty-five*; or
- (c) whether through disagreements amongst its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act;

and that it is in the national interest to do so, the Minister may, by written notice to the chairman and Commissioner-General, dismiss all the appointed members, and their offices shall become vacant as soon as the Commissioner-General receives the notice.

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

## 11 Filling of vacancies on Board

(1) Subject to this Part, within three months after an appointed member's death or vacation of office in terms of section *eight*, the Minister shall appoint a person to fill the vacancy.

(2) Within one month after dismissing all the appointed members in terms of section *ten*, the Minister shall, subject to this Part, appoint persons to fill the vacancies.

## 12 Chairman and vice-chairman of Board

(1) The Minister shall designate one of the appointed members to be chairman of the Board.

(2) At its first meeting, the Board shall elect an appointed member, other than the chairman, to be vice-chairman of the Board.

(3) The chairman and vice-chairman of the Board may at any time, by written notice to—

- (a) the Minister, in the case of the chairman;
- (b) the Commissioner, in the case of the vice-chairman;

resign their offices as such.

(4) Within three months after being notified of a vacancy in the office of—

- (a) chairman of the Board, the Minister shall appoint another member to fill the vacancy;
- (b) vice-chairman of the Board, the Board shall elect another member to fill the vacancy.

(5) The vice-chairman shall perform the functions of the chairman whenever the chairman is unable to perform them or the office of chairman is vacant.

### **13 Meetings and procedure of Board**

(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least four times in each financial year.

(2) The chairman of the Board—

(a) may convene a special meeting of the Board at any time; and

(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairman's receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than—

(a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of paragraph (a) of subsection (2); or

(b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of paragraph (b) of subsection (2).

(5) The chairman of the Board or, in his absence, the deputy chairman shall preside at all meetings of the Board:

Provided that, if the chairman and deputy chairman are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

(6) Four members shall form a quorum at any meeting of the Board.

(7) Subject to subsection (12), anything authorized or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board or of a committee, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board or the committee, as the case may be, at that meeting.

(9) A person invited to attend a meeting of the Board or of a committee in terms of subsection (8) may take part in the proceedings of the Board or the committee as if he were a member thereof, but shall not have a vote on any question before the Board or committee, as the case may be.

(10) Subject to subsection (11) and to section *sixteen*, at all meetings of the Board each member present shall have one vote on any question before the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(11) The Commissioner-General shall not take part in the discussion of, and shall not vote on, any question before the Board which involves his tenure of office or conditions of service.

(12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:

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

### **14 Committees of Board**

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

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

(2) On the establishment of a committee in terms of subsection (1), the Board—

(a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairman of the committee; and

(b) may appoint as members of the committee, on such terms and conditions as the Board may fix, persons who are not members of the Board.

(3) Meetings of a committee may be convened at any time and at any place by the chairman of the Board or the chairman of the committee.

(4) Subject to subsection (3) and to sections *sixteen* and *seventeen*, the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Board.

### **15 Remuneration and allowances of members of Board and committees**

Members of the Board and of committees shall be paid—

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

## **16 Members of Board and committees to disclose certain connections and interests**

- (1) In this section—  
“relative”, in relation to a member of the Board or a committee, means the member’s spouse, child, parent, brother or sister.
- (2) Subject to subsection (4)—
  - (a) if a member of the Board or of a committee—
    - (i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or committee; or
    - (ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his functions as a member; or
    - (iii) knows or has reason to believe that a relative of his—
      - A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or
      - B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his functions as a member;
  - or
  - (b) if for any reason the private interests of a member of the Board or a committee come into conflict with his functions as a member;

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

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

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

(5) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding two thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

## **17 Minutes of proceedings of Board and committees**

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

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

## **18 Validity of decisions and acts of Board and committees**

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

## **19 Appointment and functions of Commissioner-General**

(1) Subject to this section, the Board shall appoint, on such terms and conditions as the Board may fix, a person to be the Commissioner-General of the Zimbabwe Revenue Authority.

(2) Without the authority of the Minister, no person shall be appointed as Commissioner-General and no person shall be qualified to hold office as Commissioner-General if he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe.

(3) The appointment of the Commissioner-General shall terminate if he would be required in terms of subsection (1) or (2) of section *six* to vacate his office had that section applied to him:

Provided that his appointment shall not terminate on the ground that he has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority under subsection (2).

- (4) The Commissioner-General shall be responsible, subject to the Board’s control, for—
  - (a) supervising and managing the Authority’s staff, activities, funds and property; and

- (b) performing such other functions as the Board may assign to him or as may be conferred or imposed on him by or under this Act or any other enactment.
- (5) An assignment of functions by the Board in terms of subsection (4)—
  - (a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;
  - (b) may be revoked by the Board at any time;
  - (c) shall not preclude the Board itself from exercising the functions.

## **20 Commissioners and other staff of Authority**

The Board shall appoint, on such terms and conditions as it may fix, such Commissioners and other officers and members of staff as the Board considers to be necessary for the proper exercise of the Authority's functions.

## **21 Departments of Authority and functions thereof**

- (1) The Authority shall have such departments or divisions as the Board may establish from time to time.
- (2) For each department or division the Board shall—
  - (a) assign such officers as may be necessary to carry out the department's or division's functions; and
  - (b) appoint a Commissioner, who shall be responsible, subject to the direction and control of the Commissioner-General, for managing the department's or division's officers and ensuring the proper exercise of the department's or division's functions.
- (2) The Minister, with the approval of the Board, may by statutory instrument declare that a department or division specified in the instrument shall be responsible for assessing, collecting and enforcing the payment of all or any revenues in terms of any of the Acts specified in the First Schedule.
- (3) Where the Minister has published a statutory instrument in terms of subsection (2)—
  - (a) the Authority's officers assigned to the department or division concerned shall be responsible, subject to the direction and control of their Commissioner, for assessing, collecting and enforcing the payment of the revenues to which the instrument relates; and
  - (b) the Commissioner in charge of the department or division concerned may exercise, subject to the direction and control of the Commissioner-General, all the functions conferred upon a commissioner by or in terms of the Act concerned:
 

Provided that the Commissioner-General may exercise any such function to the extent that the Minister, by statutory instrument, has authorised him to exercise the function concerned.
- (4) Where any of the Acts specified in the First Schedule has been assigned to a Minister other than the Minister responsible for the administration of this Act, any statutory instrument in terms of subsection (3) shall be made with the approval of that other Minister in addition to the approval of the Board.

[Section as amended by Act 27 of 2001.]

## **22 Execution of contracts and instruments by Authority.**

An agreement, contract or instrument approved by the Board may be entered into or executed on the Authority's behalf by any person generally or specially authorized by the Board for that purpose.

## **23 Reports of Authority**

- (1) As soon as possible after the end of each financial year, the Board shall submit to the Minister a report on the Authority's operations, undertakings and activities during that year.
- (2) In addition to the annual report referred to in subsection (1), the Board—
  - (a) shall submit to the Minister such other reports as the Minister may require; and
  - (b) may submit to the Minister such other reports as the Board considers desirable;
 in regard to the Authority's operations, undertakings and activities.
- (3) The Minister—
  - (a) shall lay the annual report referred to in subsection (1) before Parliament at the same time as he lays the Authority's statement of accounts before Parliament in terms of section *thirty-one*; and
  - (b) may lay before Parliament a report submitted to him in terms of subsection (2)
- (4) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Authority that the Minister may at any time require.

## **24 Minister may require statistics and information**

The Minister may from time to time direct the Board to furnish him with such information and statistics as the Minister may require in regard to revenues and additionally, or alternatively, the activities, funds and property of the Authority, and the Board shall forthwith comply with any such direction.

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

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

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

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

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

### PART III

#### FINANCIAL PROVISIONS RELATING TO AUTHORITY

#### **26 Annual budgets of Authority**

(1) On or before such date before the beginning of every financial year as the Minister may direct, the Board shall prepare and submit to the Minister for his approval a budget showing the expenditure which the Board proposes that the Authority will incur in respect of that financial year.

(2) During any financial year the Board may submit to the Minister for his approval a supplementary budget relating to expenditure which—

(a) was not, for good reason, provided for in the annual budget; or

(b) was inadequately provided for in the annual budget due to unforeseen circumstances.

(3) A supplementary budget approved by the Minister shall be deemed to form part of the annual budget of the Authority for the financial year to which it relates.

(4) The Board shall furnish the Minister with such additional information in regard to any budget submitted under subsection (1) or (2) as the Minister may require.

(5) In approving any budget under this section the Minister may impose such terms and conditions as he considers to be necessary or desirable.

(6) With the approval of the Minister, the Board may vary a budget approved under this section:

Provided that no variation may be made which has the effect of increasing the total amount of expenditure provided for in the budget.

(7) The Minister may withdraw, vary or modify his approval of any budget under this section or any of the terms and conditions of such approval.

#### **27 Retention of revenue by Authority**

At the beginning of each financial year, the Minister shall cause the Authority to retain sufficient moneys from the revenue collected to meet the expenditure which the Authority proposes to incur during that financial year, as shown in the budget or supplementary budget approved by the Minister in terms of section *twenty-six* for that financial year.

#### **28 Funds of Authority**

(1) The funds of the Authority shall consist of—

(a) any moneys that may be payable to the Authority from moneys appropriated for the purpose by Act of Parliament; and

(b) any loans, donations and grants made to the Authority by any person or authority or by any government of any country; and

(c) any other moneys that may accrue to the Authority, whether in the course of its operations or otherwise.

(2) Subject to section *twenty-seven* and paragraph (b) of subsection (3) of section *thirty-four B*, revenues collected by the Authority in terms of any enactment shall be paid into the Consolidated Revenue Fund and shall not form part of the Authority's funds.

[Subsection substituted by Act 27 of 2002]

#### **29 Investment of moneys not immediately required by Authority**

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

#### **30 Financial year of Authority**

The financial year of the Authority shall be the period of twelve months ending on the 31st December in each year.

### **31 Accounts of Authority**

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

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

(3) The Minister shall lay the statement of accounts submitted to him by the Board in terms of subsection (2) before Parliament.

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

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

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

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

(b) hinders or obstructs the Comptroller and Auditor-General in the conduct of an audit in terms of subsection (1);

shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

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

(a) subsections (1) and (2) shall apply in respect of the person so appointed as if he were the Comptroller and Auditor-General; and

(b) any expenses incurred by the person so appointed in carrying out his audit shall be met from the funds of the Authority.

### **33 Internal auditor**

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

## **PART IV**

### **GENERAL**

### **34 Investigation into affairs of Authority**

(1) The Minister may at any time cause an investigation to be made into the affairs of the Authority by one or more persons appointed by him in writing.

(2) Any person appointed in terms of subsection (1) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, *mutatis mutandis*, in relation to an investigation made in terms of subsection (1) and to any person summoned to give or giving evidence at that investigation.

### **34A Preservation of secrecy**

(1) Any person who—

(a) is employed in carrying out the provisions of this Act; or

(b) is authorised to receive payment of any revenues in terms of any of the Acts specified in the First Schedule; or

(c) examines records under the control or in the custody of the Commissioner-General in terms of the laws relating to the collection and safe custody of public moneys and the audit of public accounts;

shall, subject to subsections (2) and (3), keep secret, and aid in keeping secret, all information coming to their knowledge in the exercise of their functions.

(2) No person referred to in subsection (1) shall, except in the exercise of his functions under this Act or unless he is required to do so by order of a competent court —

(a) communicate information coming to his knowledge in the exercise of his functions to any person who is not —

(i) the taxpayer or other person to whom the information relates or by whom the information was furnished; or

- (ii) the lawful representative of the taxpayer or other person to whom the information was furnished; or
  - (iii) a person to whom the provisions of the laws referred to in paragraphs (a) and (b) of subsection (1) require the information to be communicated;
- or
- (b) allow any person who is not person referred to in subparagraph (i), (ii) or (iii) of paragraph (a) to have access to any record under the control or in the custody of the Commissioner-General which contains information referred to in that subparagraph.
- (3) The Commissioner-General shall, if he is required or authorised, as the case the case may be, to do so by the Minister or the Board—
- (a) inform the Minister or the Board of the total amount of taxable income which according to the records under the control or in the custody of the Commissioner-General accrued during such periods to such classes of persons from such sources as the Minister or the Board may specify;
  - (b) disclose such information for such statistical purposes as he considers to be desirable;
  - (c) disclose such information as is required and to the extent that is necessary in order to give effect to any obligation of Zimbabwe in terms of any international convention, treaty or agreement.
- (4) The Commissioner-General may—
- (a) in the exercise of his functions under the Income Tax Act [*Chapter 23:06*], use any information coming to his knowledge in the exercise of his functions under the Capital Gains Tax Act [*Chapter 23:01*];
  - (b) in the exercise of his functions under the Capital Gains Tax Act [*Chapter 23:01*], use any information coming to his knowledge in the exercise of his functions under the Income Tax Act [*Chapter 23:06*].
- (5) All persons referred to in subsection (1) shall, before commencing to exercise the functions conferred or imposed upon them by the laws referred to in paragraphs (a) and (b) of that subsection, take and subscribe before a magistrate, justice of the peace or commissioner of oaths the prescribed oath of secrecy.
- (6) Every person who, in contravention of this section or the true intent of the oath of secrecy taken by him and without lawful excuse, reveals to any person whomsoever any matter or thing which has come to his knowledge in the course of his official duties, or suffers or permits any person to have access to any records in the possession or custody of the Commissioner, shall be guilty of an offence and liable to imprisonment for a period not exceeding two years.
- (7) Any person who acts in the execution of his office before he has taken the oath prescribed in terms of this section shall be guilty of an offence and liable to a fine not exceeding ten thousand dollars.

[Section inserted by Act 27 of 2001]

### **34B Reward for information**

- (1) In this section —
- “near relative” means—
- (a) a lineal ascendant of an individual, including a step-father or step-mother; or
  - (b) a child or a lineal descendant of an individual other than a child; or
  - (c) a brother, half-brother, step-brother, sister, half-sister, step-sister, uncle, aunt, nephew or niece of an individual; or
  - (d) the adopter or adopters of an individual; or
  - (e) the spouse of a relative of an individual referred to in paragraphs (a) to (d).
- (2) The Commissioner-General may, with the approval of the Minister, award to any person, not being an employee of the Authority or a near relative of an employee of the Authority, a monetary reward for information provided or any measure taken which results in detection of smuggling or any other offence against any of the Acts specified in the First Schedule, and the recovery of revenue which would otherwise have been lost.
- (3) Any amount to be awarded in terms of subsection (1)—
- (a) shall be at the rate of ten *per centum* of the revenue or fine recovered; and
  - (b) may be deducted from the revenue recovered and paid to the person referred to in subsection (2).

[Section inserted by Act 27 of 2001]

### **34C Tax clearance certificates**

- (1) At the request of a person liable to pay any tax under the Income Tax Act [*Chapter 23:06*] or any of the Acts specified in the First Schedule (“the Scheduled Acts”) the Commissioner-General shall, if such person is entitled to such a certificate in terms of any of those Acts, issue to him or her a certificate (called a “tax clearance certificate”) signed by or on behalf of the Commissioner-General to any effect as follows, namely that the person—
- (a) has furnished a return under section 37 of the Income Tax Act [*Chapter 23:06*] for the last year of assessment for which such a return is due; or
  - (b) has made arrangements satisfactory to the Commissioner-General for the furnishing of a return referred to in paragraph (a) or

- (c) has paid the appropriate presumptive tax in terms of the Twenty-Sixth Schedule to the Income Tax Act [Chapter 23:06] on the last date or occasion on which such tax was due before the certificate is presented for any purpose under that Act, or has made arrangements satisfactory to the Commissioner-General for the payment of such tax; or
- (d) in the case of new or proposed company or private business corporation, has appointed a public officer of the company or private business corporation in accordance with section 61 of the Income Tax Act [Chapter 23:06]; or
- (e) has furnished any return required to be furnished under any of the Scheduled Acts on the last date or occasion on which such return was due before the certificate is presented for any purpose under those Acts, or has made arrangements satisfactory to the Commissioner-General for the furnishing of such a return; or
- (f) has paid the appropriate tax in terms of any of the Scheduled Acts on the last date or occasion on which such tax was due before the certificate is presented for any purpose under those Acts, or has made arrangements satisfactory to the Commissioner-General for the payment of such tax.

(2) The Commissioner-General may make the issuance of any tax clearance certificate in terms of subsection (1) conditional on the payment of any tax arrears that may be due from the person who requests that certificate, notwithstanding that such person has furnished any return required to be furnished under section 37 of the Income Tax Act [Chapter 23:06] or under any of the Scheduled Acts for the period in respect of which the certificate is requested.

(3) No fee shall be charged for the issuance of a tax clearance certificate except the prescribed fee for a duplicate tax clearance certificate or the replacement of a lost or destroyed tax clearance certificate.

[Section inserted by Act 2 of 2005]

### 35 Regulations

The Minister, after consultation with the Board, may make regulations providing for all matters which in terms of this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## PART V

### AMENDMENTS, TRANSITIONAL PROVISIONS AND SAVINGS

### 36 Amendment of Acts

The Act specified in each Part of the Third Schedule is amended to the extent set out in that Part.

### 37 Transfer of certain assets, obligations, etc., of State to Authority

(1) In this section—

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date on which this Act comes into operation;

“transfer date”, in relation to any property, right, liability or obligation which is transferred to the Authority in terms of this section, means the date with effect from which it is so transferred.

(2) The assets and rights of the State which—

(a) before the fixed date, were used or otherwise connected with the functions of the Department of Taxes and the Department of Customs and Excise; and

(b) are specified by the Minister;

together with any liabilities or obligations attaching to them, shall be transferred to the Authority with effect from such date as the Minister may specify.

(3) On the relevant transfer date, every asset and right of the State which the Minister has directed shall be transferred to the Authority, together with any liability or obligation attaching to it, shall vest in the Authority.

(4) All bonds, hypothecations, deeds, contracts, instruments, documents and working arrangements which subsisted immediately before the relevant transfer date in relation to any asset, right, liability or obligation transferred to the Authority under this section and to which the State was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the Authority as if, instead of the State, the Authority had been named therein.

(5) It shall not be necessary for the Registrar of Deeds to make any endorsement on title deeds or other documents or in his registers in respect of any immovable property, right or obligation which passes to the Authority under this section, but the Registrar of Deeds, when so requested in writing by the Authority in relation to any particular such property, right or obligation, shall cause the name of the Authority to be substituted, free of charge, for that of the State on the appropriate title deed or other document or in the appropriate register.

(6) Any cause of action or proceeding which existed or was pending by or against the State immediately before the relevant transfer date in respect of any asset, right, liability or obligation which passes to the Authority under this section, may be enforced or continued, as the case may be, by or against the Authority in the same way that it might have been enforced or continued, as the case may be, by or against the State had this Act not been passed.

(7) Subsection (6) shall not apply to any cause of action or proceedings existing or pending immediately before the relevant transfer date between the State and a person employed by the State.

(8) Subject to the Public Service Act [*Chapter 16:04*] and with the consent of the employees concerned, the Authority shall engage such of the persons who on the fixed date were employed in the State's Department of Taxes and Department of Customs and Excise as the Public Service Commission, after consultation with the Board and the Minister, may direct.

(9) Persons engaged in terms of subsection (8)—

- (a) shall be engaged on such terms and conditions as may be fixed by the Board with the agreement of the persons concerned;
- (b) without derogation from paragraph (a), may be permitted to continue contributing towards a pension in terms of the Public Service (Pensions) Regulations, 1992 (Statutory Instrument 124 of 1992), or any other enactment, subject to such terms and conditions as the Public Service Commission may fix with the approval of the Minister and the Board.

(10) Terms and conditions fixed in terms of subsection (9) may provide for—

- (a) payments by the Board to the Consolidated Revenue Fund to compensate the State, wholly or partially, for pensions and other paid or payable to or in respect of persons engaged in terms of subsection (8); and
- (b) the application, non-application or modification of the provisions of the Public Service (Pensions) Regulations, 1992 (Statutory Instrument 124 of 1992), in regard to persons engaged in terms of subsection (8).

(11) Notwithstanding any other provision of this Act, a person who—

- (a) as a member of the Public Service, was afforded an opportunity of engagement by the Authority in terms of subsection (8) and declined to avail himself of the opportunity; and
- (b) subsequently left the Public Service and as a consequence became entitled to pension benefits in respect of the abolition of his post;

shall not be engaged in any capacity by the Authority for a period of ten years from the date on which he left the Public Service, unless the Minister and the Public Service Commission consent to his engagement.

### **38 Savings**

Where, before the fixed date—

- (a) the Commissioner of Taxes; or
- (b) the Director of Customs and Excise; or
- (c) an officer, proper officer or revenue officer;

made any assessment or decision, or issued any notice or directive, or did any other thing whatsoever in terms of an Act specified in the First Schedule, and that assessment, decision, notice, directive or other thing had or was capable of acquiring effect immediately before the fixed date, it shall be deemed to have been made, issued or done, as the case may be, by the appropriate Commissioner or officer in terms of the Act concerned as amended by this Act, and shall continue to have effect or to be capable of acquiring effect, as the case may be, accordingly.

### **39 Construction of certain references**

Any reference in any enactment, other than a provision of an Act amended by the Third Schedule, or in any document to—

- (a) the Director or Controller of Customs and Excise, shall be construed as a reference to the Commissioner in charge of the department which is declared in terms of subsection (2) of section *twenty-one* to be responsible for assessing, collecting and enforcing the payment of duties under the Customs and Excise Act [*Chapter 23:02*];
- (b) the Department of Customs and Excise, shall be construed as a reference to the department referred to in paragraph (a);
- (c) the Commissioner of Taxes—
  - (i) in relation to value added tax, shall be construed as a reference to the Commissioner in charge of the department which is declared in terms of subsection (3) of section *twenty-one* to be responsible for assessing, collecting and enforcing the payment of the value-added tax leviable under the Value Added Tax Act [*Chapter 23:12*];;
  - (ii) in relation to any other tax or impost, shall be construed as a reference to the Commissioner in charge of the department which is declared shall be construed as a reference to the Commissioner in charge of the department which is declared in terms of subsection (2) of section *twenty-one* to be responsible for assessing, collecting and enforcing the payment of the taxes leviable under the Income Tax Act [*Chapter 23:06*];
- (d) the Department of Taxes, shall be construed as a reference to the department referred to in paragraph (c).

## FIRST SCHEDULE (Sections 2, 21, 34A, 34B and 38)

### SPECIFIED ACTS

1. Betting and Totalizator Control Act [*Chapter 10:02*]
2. Capital Gains Tax Act [*Chapter 23:01*]
3. Customs and Excise Act [*Chapter 23:02*]
4. Income Tax Act [*Chapter 23:06*]
5. Income Tax (Transitional Period Provisions) Act [*Chapter 23:07*]
6. Stamp Duties Act [*Chapter 23:09*]
7. Tax Reserve Certificates Act [*Chapter 23:10*]
8. Value Added Tax Act, 2002

## SECOND SCHEDULE (Section 4)

### POWERS OF AUTHORITY

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interest therein and rights thereof and concessions, grants, powers and privileges in respect thereof.

2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.

3. To maintain, alter or improve property acquired by it.

4. To mortgage any assets or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.

5. To open bank accounts in the name of the Authority and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, securities and other negotiable or transferable instruments.

6. To insure against losses, damages, risks and liabilities which it may incur.

7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such contracts or rescind such suretyships or guarantees.

8. With the approval of the Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Board considers appropriate or necessary for the proper exercise of the Authority's functions.

9. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to its employees as it considers fit.

10. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

11. To purchase, take on lease or in exchange or otherwise acquire land or dwelling-houses for use or occupation by its employees.

12. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken on lease or in exchange or otherwise acquired by it.

13. To sell or lease dwelling-houses and land for residential purposes to its employees.

14. To provide or guarantee loans made to its employees for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling-houses or land which are the property of its employees, subject to any conditions that may be imposed by the Board from time to time.

15. To provide security in respect of loans by the deposit of securities, in which the Authority may invest such money as the Board may consider necessary for the purpose.

16. To provide loans to any employee of the Authority for the purpose of purchasing vehicles or other property, subject to any conditions that may be imposed by the Board from time to time.

17. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training.

18. To provide such service as the Authority, with the approval of the Board, considers could properly be provided by the Authority and to charge for services such fees as the Board may from time to time determine.

19. To engage in any activity, either alone or in conjunction with other organisations or international agencies, to promote better understanding of revenue issues.

20. To provide technical advice or assistance, including training facilities, to revenue authorities of other countries.

21. To accept, with the approval of the Board, any donations, gifts, or assistance from any organisation or person.

22. On behalf of the State, to institute and maintain proceedings in any court or tribunal for the recovery of any revenues, and to take such other steps as may be necessary to recover revenues.

23. To do anything which by this Act is required or permitted to be done by the Authority.

24. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the function of the Authority in terms of this Act or any other enactment.