

CHAPTER 14:20

TOURISM ACT

Act 15/95, 22/2001 (s. 4), 23/2004 (s. 282), 3/2009.

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AN ACT to establish a Zimbabwe Tourism Authority and to provide for its functions; to provide for the appointment and functions of a board of the Authority; to establish a Zimbabwe Tourism Fund; to provide for the appointment of a Chief Executive of the Authority, licensing officers and other officers; to provide for the designation, registration and grading of tourist facilities and for the licensing of persons who provide services connected with tourism; to provide for the imposition and collection of levies in respect of designated tourist facilities; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 1st January, 1996.]

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Tourism Act [*Chapter 14:20*].

2 Interpretation

In this Act—

- “appointed member” means a member of the Board other than the Chief Executive;
- “Authority” means the Zimbabwe Tourism Authority established by section *three*;
- “Board” means the Board of the Authority constituted in terms of section *four*;
- “certificate of registration” means a certificate of registration issued in terms of this Act;
- “Chief Executive” means the Chief Executive of the Authority appointed under section *seventeen*;
- “committee” means a committee of the Board;
- “designated officer” means a person designated as such in terms of subsection (1) of section *fifty-two*;
- “designated tourist facility” means any service, premises, place or thing which the Minister has declared to be a designated tourist facility in terms of section *thirty-five*;
- “domestic excursionist or tourist” means a person whose usual place of residence is in Zimbabwe and who visits or travels to any part of Zimbabwe for the purpose of tourism or an excursion;
- “excursionist” means a visitor who does not spend one or more nights in Zimbabwe;
- “financial year” means the Financial year of the Zimbabwe Tourism Fund in terms of section *thirty-three*;
- “graded” means graded in terms of this Act;
- “levy” means a levy prescribed in terms of section *fifty-five* and includes any surcharge prescribed in terms of that section;
- “licence” means a licence issued in terms of this Act;
- “licensing officer” means a licensing officer referred to in subsection (1) of section *forty-six*;
- “member” means a member of the Board, including the chairman and deputy chairman of the Board;
- “Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “operator”, in relation to a tourist facility, means any person who conducts or operates the tourist facility or who is responsible for its management;
- “registered” means registered in terms of this Act;
- “registered tourist facility” means a designated tourist facility which has been registered;
- “tourist” means a visitor who spends at least one night in Zimbabwe and whose journey is for any one or more of the following purposes—
- (a) a holiday;
 - (b) recreation;
 - (c) health;
 - (d) study;
 - (e) religion; (f) sport;
 - (g) business;
 - (h) a meeting;
 - (i) visiting friends or relatives;
 - (j) work that is not remunerated from within Zimbabwe;
- “tourist industry” includes all businesses, enterprises and activities which provide tourist facilities, including any such businesses, enterprises and activities carried on by the State, a statutory body or a local authority;
- “visitor” means any person whose usual place of residence is outside Zimbabwe and who visits Zimbabwe for a period not exceeding one year for any reason other than immigration or employment remunerated from within Zimbabwe;
- “Zimbabwe Tourism Fund” means the Zimbabwe Tourism Fund established by subsection (1) of section *twenty-nine*.

PART II

ZIMBABWETOURISM AUTHORITY

3 Establishment of Zimbabwe Tourism Authority

There is hereby established an authority, to be known as the Zimbabwe Tourism 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 Board of Authority

- (1) Subject to this Act, the operations of the Authority shall be controlled by a board consisting of—
- (a) a chairman and deputy chairman appointed by the Minister in accordance with this Part; and
 - (b) the Chief Executive; and
 - (c) not fewer than six and not more than eight other members appointed by the Minister in accordance with this Part.

(2) The Minister shall appoint members in terms of paragraphs (a) and (b) of subsection (1) after consultation with the President and subject to such directions as the President may give him.

(3) Members shall be appointed for their knowledge of and ability and experience in the tourist industry or for their suitability otherwise for appointment as members.

5 Functions of Authority

(1) Subject to this Act, the functions of the Authority shall be—

- (a) to promote Zimbabwe as a destination for tourists, and to promote the tourist industry in overseas, regional and domestic markets;
- (b) to develop marketing skills and initiatives within the tourist industry;
- (c) to promote high standards in the tourist industry through the establishment of standards, training and human resource development;
- (d) to register and grade designated tourist facilities;
- (e) to promote the development of tourist facilities;
- {f} to undertake planning for the tourist industry, including the conduct of market research and the development of a tourism database;
- (g) to promote awareness in Zimbabwe of the benefits of tourism;
- (h) to provide consultancy and advisory services in relation to tourism;
- (i) to investigate and make recommendations to the Minister on any matter affecting the tourist industry and the administration of this Act;
- (j) on its own initiative or at the request of the Minister, to carry out any function that may be conferred or imposed on the Authority by or under this Act or any other enactment.

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

(3) In the performance of the Authority's functions, the Board shall have regard to the environmental, social and physical impact to any activity or undertaking referred to in subsection (1) or in the First Schedule.

6 Qualifications for appointment as member

(1) Subject to this section, a person shall be qualified for appointment as member if he is a citizen of Zimbabwe or ordinarily resident in Zimbabwe.

(2) The Minister shall not appoint a person as a member, and no person shall be qualified to hold office as a member if—

- (a) in terms of a law in force in any country—
 - (i) he has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) he has made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;

or

- (b) within the period of five years immediately preceding the date of his proposed appointment, he has been convicted in Zimbabwe or in any other country of an offence involving fraud or dishonesty and sentenced to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended.

(3) A member of Parliament shall not be qualified for appointment as a member, nor shall he hold office as a member.

7 Terms and conditions of office of appointed members

(1) Subject to this Part, an appointed member shall hold office for such period, not exceeding three years, as the Minister may fix on his appointment, and upon the expiry of his term of office he shall be eligible for reappointment as a member.

(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 a member shall not continue to hold office under this subsection for a period exceeding six months.

(3) Subject to this Part, an appointed member shall hold office on such terms and conditions as the Minister may fix for appointed members generally.

8 Vacation of office by members

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

- (a) one month after the date on which he gives notice to the Minister of his intention to resign, or after the expiry of such other period of notice as he and the Minister may agree; or
- (b) if he becomes a member of Parliament; or

- (c) if he ceases to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (d) on the date he begins to serve a sentence of imprisonment imposed in Zimbabwe or in any other country; or
- (e) if he becomes disqualified in terms of paragraph (a) of subsection (2) of section *six* to hold office as a member; or
- (f) if he is required in terms of section *nine* to vacate his office.

(2) The Chief Executive shall cease to be a member upon his ceasing to hold office as Chief Executive.

9 Minister may require appointed member to vacate his office or may suspend him

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

- (a) has been guilty of improper conduct as a member or guilty of conduct that is prejudicial to the interests or reputation of the Authority; or
- (b) has failed to comply with any condition of his office fixed by the Minister in terms of subsection (3) of section *seven*; or
- (c) is mentally or physically incapable of efficiently performing his functions as a member.

(2) 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 permission of the Board from three consecutive meetings of the Board, of which the member was given not less than seven days' notice, and that there was no just cause for the member's absence.

(3) The Minister—

- (a) may suspend from office an appointed member against whom criminal proceedings have been instituted in respect of an offence for which a sentence of imprisonment without the option of a fine, may be imposed; and
- (b) shall suspend from office an appointed 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 while the member is so suspended he shall not exercise any functions or be entitled to any remuneration as a member.

10 Filling of vacancies on Board

On the death of, or the vacation of office by, an appointed member, the Minister may, subject to this Part, appoint a person to fill the vacancy:

Provided that, if as a result of the vacancy the number of appointed members is fewer than the minimum specified in subsection (1) of section *four*, the Minister shall appoint a person to fill the vacancy.

11 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 six 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 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 *fourteen*, 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 Chief Executive shall not take part in the discussion of, and shall not vote on, any question before the Board which involves—

(a) his tenure of office or conditions of service; or

(b) advice which the Board is to give the Minister in regard to an appeal under section *fifty-one* against a decision of the Chief Executive.

(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.

12 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 *fourteen* and *fifteen*, 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.

13 Remuneration and allowances of members of Board and committees

Every member of the Board or of a committee shall be paid from the funds of the Authority—

(a) such remuneration, if any, as the Minister, with the approval of the Minister responsible for finance, may fix for members of the Board or of committees, as the case may be, generally; and

(b) such allowances as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business, of the Authority or the committee, as the case may be.

14 Members of Board and committees to declare connection with companies and firms dealing with authority

(1) If a member of the Board or of a committee, or a spouse of such a member—

(a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Authority; or

(b) knowingly acquires or holds a direct or indirect pecuniary interest in a company or association of persons applying or negotiating for a contract with the Authority; or

(c) owns immovable property or a right in immovable property or a direct or indirect pecuniary interest in a company or association of persons which results in his private interests coming or appearing to come into conflict with his functions as a member of the Board or of the committee, as the case may be; the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(2) A member referred to in subsection (1) 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 contract, right, immovable property or interest referred to in that subsection.

15 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.

16 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.

17 Appointment and functions of Chief Executive of Authority

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

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

(3) The appointment of the Chief Executive shall terminate if he would be required in terms of paragraph (c), (d) or (e) of subsection (1) of section *eight* to vacate his office had that section, and paragraph (a) of subsection (2) of section *six*, 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 Chief Executive shall—

(a) subject to the Board's directions—

(i) supervise and manage the Authority's staff, activities, funds and property and perform such other functions on behalf of the Board as the Board may assign to him; and

(ii) be responsible for the registration and grading of designated tourist facilities by the Authority; and

(b) administer the Fund in accordance with the Minister's instructions.

(5) Any assignment of functions in terms of subparagraph (i) of paragraph (a) 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.

18 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.

19 Reports of Authority

(1) In addition to any annual report which the Authority may be required to submit to the Minister in terms of the Audit and Exchequer Act [*Chapter 22:03*], 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 Authority considers desirable; in regard to the operations, undertakings and activities of the Authority.

(2) 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.

20 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 and other resources of the Authority.

(3) The Board shall, with all due expedition, comply with any direction given to it in terms of subsection (1).

(4) When any direction has been given to the Board in terms of subsection (1), the Board shall ensure that the direction and any views it has expressed thereon in terms of subsection (2) are set out in the Authority's annual report.

PART III

FINANCIAL PROVISIONS RELATING TO AUTHORITY

21 Annual programmes and 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) a programme of the projects and activities which the Board intends the Authority to undertake during that financial year; and
- (b) 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.

22 Grants to authority from Zimbabwe Tourism Fund

(1) At the beginning of each financial year, the Minister shall cause the Authority to be paid sufficient moneys from the Zimbabwe Tourism Fund to meet the expenditure which the Authority proposes to incur during that financial year, as shown in the budget approved by the Minister in terms of section *twenty-one* for that financial year.

(2) Where the Minister has approved a supplementary budget in terms of subsection (2) of section *twentyone*, he shall cause the Authority to be paid sufficient moneys from the Zimbabwe Tourism Fund to meet the Authority's proposed expenditure as shown in that supplementary budget.

23 Funds of authority

The funds of the Authority shall consist of—

- (a) moneys paid to the Authority from the Zimbabwe Tourism Fund in terms of section *twenty-two*; and
- (b) any moneys that the Authority may obtain, with the approval of the Minister and the Minister responsible for finance, by way of donations:

Provided that donations made in respect of bursaries for persons undergoing courses relating to the tourist industry may be accepted by the Board without such approval; and

- (c) any other moneys that may vest in or accrue to the Authority, whether in terms of this Act or otherwise.

24 Investment of moneys not immediately required by authority

Moneys not immediately required by the Authority may be invested in such manner as the Minister, acting on the advice of the Minister responsible for finance, may approve.

25 Authority to make certain changes to revenue account

(1) The Authority shall charge to its revenue account all charges which, in the normal conduct of business, are regarded as proper to be charged to revenue account and, in so doing, shall make proper provision in each financial year for—

- (a) the depreciation or diminution in value of its assets; and
- (b) the payment of interest on and all other charges and expenses incurred in connection with its activities.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be charged to revenue account as provided in subsection (1), the Board may, in each financial year, make provision for—

- (a) meeting in whole or in part increases in the cost of replacing assets to an extent approved by the Minister and the Minister responsible for finance; and
- (b) making payments to an insurance fund established by the Board to meet, wholly or in part, such of the Authority's liabilities as the Minister may approve; and
- (c) making payments to a pension fund to meet, wholly or in part, superannuation liabilities of the Authority.

26 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.

27 Audit of Authority's accounts

(1) Subject to the Audit and Exchequer Act [*Chapter 22:03*], the Authority shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts kept by the Authority in terms of subsection (1) of section *twenty-six* shall be examined by the auditors appointed in terms of subsection (1).

(3) The auditors appointed in terms of subsection (1) shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section *twenty-six*, and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Authority's financial affairs.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors appointed in terms of subsection (1) such other reports, statements or explanations in connection with the Authority's activities, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors appointed in terms of subsection (1)— (a) they have not obtained any information or explanation they require; or

(b) any accounts or records relating to any accounts have not been properly kept by the Authority; or

(c) the Authority has not complied with any provision of this Part; the auditors shall include in their report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.

(6) If in terms of the Audit and Exchequer Act [*Chapter 22:03*] the Authority's accounts are required to be audited by the Comptroller and Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Comptroller and Auditor-General.

28 Powers of auditors

(1) An auditor referred to in section *twenty-seven* shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Authority or its agents and to require from any member of the Board or employee or agent of the Authority such information and explanation as in the auditor's opinion are necessary for the purpose of his audit.

(2) Any member of the Board or employee or agent of the Authority who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001]

PART IV

ZIMBABWE TOURISM FUND

29 Establishment and object of Zimbabwe Tourism Fund

(1) There is hereby established a fund, to be known as the Zimbabwe Tourism Fund, the management and control of which shall, subject to this Act, be vested in the Minister as trustee of the Fund.

(2) Subject to this Act, the object of the Zimbabwe Tourism Fund shall be the development of the tourist industry.

30 Composition of Zimbabwe Tourism Fund

The Zimbabwe Tourism Fund shall consist of—

(a) levies, fees and other moneys paid under this Act; and

(b) any moneys that may be payable to the Zimbabwe Tourism Fund from moneys appropriated for the purpose by Act of Parliament; and

(c) any moneys that the Zimbabwe Tourism Fund may obtain, with the approval of the Minister and the Minister responsible for finance, by way of donations, loans or other financial assistance; and

(d) any other moneys that may vest in or accrue to the Zimbabwe Tourism Fund, whether in terms of this Act or otherwise.

31 Administration of Zimbabwe Tourism Fund

Subject to this Act, the Zimbabwe Tourism Fund shall be administered by the Chief Executive on behalf of the Minister.

32 Application of Zimbabwe Tourist Fund

Moneys in the Zimbabwe Tourism Fund shall be applied to the following purposes—

(a) meeting the expenses of the Authority;

Provided that no moneys shall be applied towards any expense that is not provided for in a budget approved under section *twenty-one*; and

- (b) reimbursing the Consolidated Revenue Fund for the remuneration of licensed officers in terms of section *forty-six*; and
- (c) any other purpose which the Minister, after consultation with the Authority, considers will promote the orderly development of the tourist industry.

33 Financial year of Zimbabwe Tourism Fund

The financial year of the Zimbabwe Tourism Fund shall be the period of twelve months ending on the 30th June each year or on such other date as may be fixed by the Minister with the concurrence of the Minister responsible for finance.

34 Books of account and audit of Zimbabwe Tourism Fund

- (1) The Minister shall ensure that—
 - (a) proper accounts and other records relating thereto are kept in relation to all the financial transactions of the Zimbabwe Tourism Fund; and
 - (b) in respect of each financial year—
 - (i) a balance-sheet; and
 - (ii) a statement of the transactions referred to in paragraph (a); are prepared without undue delay.

(2) The accounts of the Zimbabwe Tourism Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him by section 9 of the Audit and Exchequer Act [*Chapter 22:03*] as though the assets of the Fund were public moneys or State property and persons employed by the Authority were employees of the State.

PART V

DESIGNATED TOURIST FACILITIES

35 Designation of tourist facilities

The Minister, after consultation with the Board, may by statutory instrument declare that—

- (a) any service whatsoever provided for tourists; or
- (b) any premises or place in or on which a service referred to in paragraph (a) is provided, or
- (c) any premises, place or thing whatsoever which, in the Minister's opinion, affords an amenity to tourists; shall be a designated tourist facility.

PART VI

REGISTRATION AND GRADING OF DESIGNATED TOURIST FACILITIES

36 Designated tourist facilities to be registered and graded

(1) Where, in terms of regulations made under section *fifty-seven*, any designated tourist facility is required to be registered or graded, no person shall conduct or operate that designated tourist facility unless it is so registered or graded, as the case may be.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as substituted by section 4 of Act No.22 of 2001]

37 Authority to establish and keep appropriate registers

Before or as soon as possible after the publication of any regulations under section *fifty-seven* requiring the registration of any class of designated tourist facilities, the Authority shall establish and keep in a form approved by the Minister a register for the registration of that class of designated tourist facilities.

38 Applications for registration and grading of designated tourist facilities

(1) Any person who is conducting or operating or intends to conduct or operate a designated tourist facility which is required to be registered or graded shall apply to the Authority in the form and manner prescribed for the registration or grading, as the case may be, of that designated tourist facility.

(2) An application in terms of subsection (1) shall be accompanied by such fee, plans, documents and other information or particulars relating to the designated tourist facility as may be prescribed.

39 Registration and grading of designated tourist facilities

(1) Subject to subsections (3) and (4), on receipt of an application in terms of section *thirty-eight* which relates—

- (a) to the registration of an existing designated tourist facility, the Chief Executive shall, if he is of the opinion that the prescribed requirements for registration—

- (i) have been complied with, register the designated tourist facility by entering in the appropriate register such particulars as may be prescribed;
- (ii) have not been complied with, refuse to register the designated tourist facility:

Provided that, if the Chief Executive considers that special circumstances exist which make it desirable to do so, he may, with the approval of the Board, register a designated tourist facility in respect of which the prescribed requirements for registration have not been complied with;

- (b) to the registration of any service, premises, place or thing which is proposed to be conducted or operated as a designated tourist facility, the Chief Executive shall, if he is of the opinion that the prescribed requirements for registration—
 - (i) will be complied with, register the proposed designated tourist facility by entering in the appropriate register such particulars as may be prescribed;
 - (ii) have not been complied with, refuse to register the proposed designated tourist facility:

Provided that—

- (i) he may postpone the matter for further consideration for such period or periods as he may fix;
- (ii) if the Chief Executive considers that special circumstances exist which make it desirable to do so, he may, with the approval of the Board, register a proposed designated tourist facility in respect of which the prescribed requirements for registration have not been complied with.

(2) Subject to subsection (3), as soon as reasonably possible after receipt of an application for the grading of a designated tourist facility, the Chief Executive shall, subject to regulations made in terms of section *fifty-seven* cause it to be graded.

(3) Before registering or grading a designated tourist facility, the Chief Executive—

- (a) shall cause the designated tourist facility to be inspected;
- (b) may call for a report from the Chief Health Officer or a medical officer appointed under the Public Health Act [*Chapter 15:09*];
- (c) may make or cause to be made such further investigations in regard thereto as he considers necessary.

(4) The Chief Executive shall not register a designated tourist facility in any register if it is already registered in another register unless, at the same time as he registers the facility, he cancels its earlier registration.

40 Certificates of registration or grade of designated tourist facilities

(1) On the registration or grading of a designated tourist facility, the Chief Executive shall issue to the operator of the designated tourist facility a certificate in the prescribed form which shall specify that the designated tourist facility is registered or the grade into which it has been graded, as the case may be:

Provided that a single certificate may, where appropriate, specify both that a designated tourist facility has been registered and its grade.

(2) If any designated tourist facility ceases to be registered or graded or if its registration or grade is altered, the person who was the operator of the designated tourist facility immediately before it ceased to be registered or graded or its registration or grade was altered, as the case may be, shall forthwith return to the Authority the appropriate certificate referred to in subsection (1).

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

[Subsection as amended by section 4 of Act No.22 of 2001]

41 Publication of list of registered tourist facilities

(1) Subject to subsection (2), the Authority shall publish, once a year or at such other intervals as the Minister may direct, a list of designated tourist facilities that have been registered, together with such information as he thinks proper in relation to the grades and standards of such facilities, the charges made therein or therefor and any other matter of interest to tourists.

(2) If the operator of a registered tourist facility so requests, the Authority may omit the facility from the list referred to in subsection (1) if, having regard to all the circumstances, the Board thinks it proper to do so.

42 Notification of alterations to registered tourist facilities

(1) Any operator of a registered tourist facility who intends to make any addition or alteration to the facility which is likely to affect—

- (a) the accommodation or any service provided to tourists; or
- (b) the registration or grading of the facility;

shall notify the Authority in writing before commencing any such addition or alteration, and shall provide the Authority with such fee, plans, documents and other information or particulars relating to the addition or alteration as may be prescribed.

(2) Within thirty days after the completion of any addition or alteration notified in terms of subsection (1), or within such longer period as the Chief Executive may allow, the operator of the registered tourist facility concerned shall notify the Authority of such completion.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No.22 of 2001]

43 Cancellation of registration of designated tourist facilities

(1) Where the Board considers that there has been a failure in respect of a registered tourist facility to comply with any of the prescribed requirements for registration, the Board may give notice to the operator of the tourist facility that unless the requirement concerned is complied with within such reasonable period as the Board shall specify, he proposes to cancel the tourist facility's registration.

(2) The operator of a registered tourist facility in respect of which a notice has been given in terms of subsection (1) may, before the expiry of the period specified by the Board, make written representations to the Board in regard to the proposed cancellation of the tourist facility's registration.

(3) If, upon the expiry of the period specified in a notice given in terms of subsection (1), the Board considers that the requirement concerned has not been complied with and that no good reason has been shown as to why the tourist facility concerned should remain registered, the Board may direct the Chief Executive to cancel the registration of the tourist facility, and the Chief Executive shall forthwith comply with the direction and give notice of the cancellation to the tourist facility's operator.

(4) The Chief Executive shall give notice in the *Gazette* of the cancellation of a tourist facility's registration in terms of this section.

44 Regrading of designated tourist facilities

(1) The Board may at any time, after giving the operator of a designated tourist facility a reasonable opportunity of making written representations in the matter, direct the Chief Executive to regrade the designated tourist facility if, in the Board's opinion, reasonable and sufficient grounds exist for doing so.

(2) The operator of a designated tourist facility which has been graded may, subject to such conditions and accompanied by such fee as may be prescribed, apply to the Board in the prescribed form and manner for the regrading of the designated tourist facility.

(3) The Board shall consider any application made under subsection (2) and shall give such decision and take such action thereon as it considers appropriate.

PART VII

LICENSING OF OWNERS AND OPERATORS OF DESIGNATED TOURIST FACILITIES AND OTHER PERSONS

45 Persons required to be licensed

(1) Where, in terms of regulations made under section *fifty-seven*, any person who owns, conducts or operates a designated tourist facility, or who provides or assists in providing any service which is a designated tourist facility, is required to hold a licence, no person shall own or operate such a designated tourist facility, or provide or assist in providing such a service, as the case may be, unless he holds such a licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six month or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No.22 of 2001]

46 Licensing officers

(1) There shall be such number of licensing officers as may be necessary for the purposes of this Act, whose offices shall be public offices and form part of the Public Service.

(2) Subject to this Act and any general directions that the Minister may give him, a licensing officer shall—

(a) license all persons that are required to be licensed under this Act; and

(b) do such other things as he is required to do by or under this Act and any other enactment.

(3) The Consolidated Revenue Fund shall be reimbursed from the Zimbabwe Tourism Fund for all payments made in respect of the salary, wages and allowances of any licensing officer.

47 Application for licences

(1) Applications for licences shall be made to a licensing officer in the prescribed form and manner and shall be accompanied by the prescribed fee, if any.

(2) On receipt of an application referred to in subsection (1), a licensing officer shall, if he is satisfied that the applicant—

(a) has complied with the prescribed requirements and additionally, or alternatively, possesses the prescribed qualifications for possession of the licence concerned, issue a licence to the applicant;

- (b) has not-complied with the prescribed requirements or does not possess the prescribed qualifications for possession of the license concerned, refuse to issue a licence to the applicant.

48 Form and duration of licenses

Licences shall be in the prescribed form and, subject to section *forty-nine*, shall be valid for such period as may be prescribed.

49 Cancellation of licences

(1) If at any time a licensing officer is satisfied that the holder of a licence—

- (a) is no longer qualified to hold the licence; or
- (b) has been guilty of a contravention of this Act or conduct which renders him unsuitable to hold the licence; or
- (c) has failed to comply with any term or condition of the licence; the licensing officer may, by notice in writing to the holder, cancel the licence:

Provided that, before cancelling a licence, the licensing officer shall give the holder a reasonable opportunity to make representations in the matter.

(2) If any licence is cancelled, the holder thereof shall forthwith return the licence to a licensing officer.

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

[Subsection as inserted by section 4 of Act No.22 of 2001]

PART VII

GENERAL

50 Certain designated tourist facilities to keep registers of clients

Every operator of such designated tourist facilities as may be prescribed shall—

- (a) keep a register in the prescribed form in which he shall record such particulars as may be prescribed of every person who uses the services of his designated tourist facility; and
- (b) preserve the register referred to in paragraph (a) for such period as may be prescribed; and
- (c) on demand, produce the register referred to in paragraph (a) to any designated officer, police officer or immigration officer.

51 Appeals

(1) If any person is aggrieved by a decision of the Board or the Chief Executive with regard to—

- (a) an application for the registration of a designated tourist facility or for the renewal of its registration; or
- (b) the cancellation or alteration of the registration of a designated tourist facility; or
- (c) the grading of a designated tourist facility; he may, within twenty-eight days after being notified of the decision, appeal in writing to the Minister, submitting with his appeal such fee as may be prescribed.

(2) If any person is aggrieved by a decision of a licensing officer with regard to—

- (a) an application for a licence or for the renewal of a licence; or
- (b) the cancellation or alteration of a licence; he may, within twenty-eight days after being notified of the decision, appeal in writing to the Minister, submitting with his appeal such fee as may be prescribed.

(3) For the purpose of determining an appeal noted in terms of subsection (1) or (2), the Minister may require the Board, the Chief Executive or the licensing officer, as the case may be, to furnish him with the reasons for the decision that is the subject of the appeal and a copy of any evidence upon which the reasons are based.

(4) The Minister, after due and expeditious inquiry and, except where the Board's decision is the subject of the appeal, after consultation with the Board, may make such order on any appeal noted in terms of subsection (1) or (2) as he considers just.

(5) An appeal shall lie to the Administrative Court against any order of the Minister in terms of subsection (4).

(6) The Board, the Chief Executive or the licensing officer, as the case may be, shall take all necessary steps to comply with any order made by the Minister in terms of subsection (4) or by the Administrative Court on an appeal in terms of subsection (5).

(7) Where an appeal has been noted in terms of subsection (1) or (2) against—

- (a) the cancellation of any registration or licence, the decision of the Board, the Chief Executive or the licensing officer concerned, as the case may be, shall be suspended until the appeal has been finally determined;

- (b) a refusal to renew any registration or licence, the Minister may direct that the registration be temporarily renewed or that the licence be temporarily extended, as the case may be, until the appeal has been finally determined.

52 Designated officers

(1) The Minister may designate— (a) any employee of the Authority; and

(b) any licensing officer or other member of the Public Service employed in his Ministry; as a designated officer for the purposes of this Act.

(2) The Minister shall cause every designated officer to be provided with a certificate stating that he has been designated as such in terms of this Act.

53 Powers of Chief Executive, licensing officers and designated officers

(1) The Chief Executive, a licensing officer or a designated officer may, whenever it is reasonably necessary for the maintenance of standards in or at any designated tourist facility or otherwise for the enforcement of this Act—

(a) at all reasonable times, enter the premises of—

(i) any designated tourist facility—

A. in respect of which an application for registration has been made; or

B. in or on which any person who has applied for a licence carries on business or is employed;

or

(ii) any registered tourist facility; and, after having informed the person who is for the time being in charge or control of such premises of the purpose of his visit, make such examination and inquiry as he may consider necessary:

Provided that he may not enter any room that is occupied by any person without that person's permission:

(b) while he is in or on any premises referred to in paragraph (a) or at any other reasonable time, question any person who conducts or operates or intends to conduct or operate a designated tourist facility or any agent or employee of such person and require any such person, agent or employee to produce any book, notice, record, list or other document which is or has been upon or in the premises or in the possession or custody or under the control of such person, agent or employee if, in his opinion, it is necessary to examine that book, notice, record, list or document for the purpose of any investigation which he is carrying out;

(c) at any reasonable time, require any person who has the possession, custody or control of any book, notice, record, list or other document relating to a designated tourist facility or to any business conducted therein, to produce that book, notice, record, list or document if, in his opinion, it is necessary to examine that book, notice, record, list or document for the purpose of any investigation which he is carrying out;

(d) examine and make extracts from and copies of any book, notice, record, list or document referred to in paragraph (b) or (c) and require an explanation of any entry therein and seize any such book, record, list or document if he has reasonable grounds for believing that it may afford evidence of an offence under this Act.

(2) Any person who conducts or operates or intends to conduct or operate a designated tourist facility the premises of which have been entered by the Chief Executive, a licensing officer or a designated officer, and any agent or employee of such a person, shall furnish such reasonable facilities as the Chief Executive, the licensing officer or the designated officer, as the case may be, may require for the purpose of exercising his powers under this section.

(3) If any person, without just cause—

(a) refuses to permit the Chief Executive, a licensing officer or a designated officer to enter any premises in terms of subsection (1) or to conduct any, examination or inquiry in terms of that subsection; or

(b) fails or refuses to produce any book, notice, record, list or other document which the Chief Executive, a licensing officer or a designated officer has required him to produce in terms of subsection (1); or

(c) fails or refuses to explain any entry in a book, notice, record, list or other document which the Chief Executive, a licensing officer or a designated officer has required him to explain in terms of subsection (1); or

(d) fails or refuses to furnish the Chief Executive, a licensing officer or a designated officer with reasonable facilities for the exercise of his powers as required by subsection (2); or

(e) hinders or obstructs the Chief Executive, a licensing officer or designated officer in the exercise of his powers in terms of subsection (1);

such refusal, failure, hindering or obstruction, as the case may be, shall afford a ground for refusing to register the designated tourist facility concerned or cancelling its registration, or refusing to issue a licence to that person or cancelling his licence, as the case may be.

(4) A designated officer shall, on demand by any person affected by the exercise or performance of any function in terms of this Act, exhibit the certificate issued to him in terms of subsection (2) of section *fifty-two*.

54 Secrecy to be observed

(1) The Chief Executive and every licensing officer, designated officer and other person appointed or employed under this Act shall not disclose to any person, except in the performance of his functions under this Act or when required to do so by any law or by an order of court, any information which he may have acquired in the course of his duties in relation to the financial or business affairs of any person, establishment or business.

(2) Any person who obtains any information referred to in subsection (1) from the Chief Executive, a licensing officer, a designated officer or any other person appointed or employed under this Act shall not disclose or publish that information to any other person, unless required to do so by any law or by an order of court.

(3) Any person who contravenes subsection (1) or (2) 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.

[Subsection as amended by section 4 of Act No.22 of 2001]

55 Levies

(1) After consultation with the Minister responsible for finance and the Board, the Minister may make regulations in terms of section *fifty-seven* prescribing levies to be paid by any class of registered tourist facilities or licensed persons.

(2) In prescribing any levy in terms of subsection (1), the Minister— (a) shall prescribe—

- (i) the persons responsible for the payment, collection and remittal of the levy; and
- (ii) the manner in which and times at which the levy shall be paid, collected. and remitted; and

(b) may—

- (i) require any person conducting or operating a registered tourist facility to include in the price of any services rendered by him a surcharge at such rate as may be prescribed, and may require him to collect such surcharge;
- (ii) fix any other basis on which the levy shall be calculated.

(3) The Minister may, by proceedings in a competent court, recover the amount of any levy which is due in terms of this Act from any person required to pay the levy or to collect or remit the levy.

(4) All amounts remitted or collected by way of levy shall be paid into the Zimbabwe Tourism Fund.

56 Authority may require statistics and information

(1) The Authority may require every operator of a designated tourist facility, whether or not the facility is registered or the person is licensed, to furnish the Authority with such information and statistics in regard to— (a) tourists, excursionists and other visitors; and

(b) domestic excursionists or tourists; and

(c) designated tourist facilities; as the Board considers necessary.

(2) Any person who, when required to furnish the Authority with any information or statistic in terms of subsection (1)—

- (a) without just cause, fails or refuses to furnish the Authority with the information or statistic concerned; or
- (b) knowingly furnishes the Authority with any information or statistic which is false in a material respect or misleading;

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.

[Subsection as inserted by section 4 of Act No.22 of 2001]

57 Regulations

(1) Subject to subsection (3), the Minister may make regulations prescribing anything which in terms of this Act is required or permitted to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for— (a) the registration of any designated tourist facility:

Provided that regulations shall not require any class of designated tourist facilities to be registered for the first time sooner than six months after the date of commencement of the regulations:

- (b) the requirements to be complied with before any, designated tourist facility may be registered;
- (c) the grades of designated tourist facilities and the requirements to be complied with before a designated tourist facility can qualify for any particular grade;
- (d) the licensing of any person who owns, conducts or operates a designated tourist facility, or who provides or assists in providing any service which is a designated tourist facility:

Provided that regulations shall not require the licensing of any class of such persons for the first time sooner than six months after the date of commencement of the regulations;

- (e) the requirements to be complied with or the qualifications to be held by a person before he may be issued with a licence referred to in paragraph (d);
- (f) the period of validity of certificates of registration;
- (g) the issue of replacement licences and certificates of registration; (h) insignia for the various groups and grades of—
 - (i) designated tourist facilities; and
 - (ii) licensed persons; and the circumstances under which and the manner in which they shall be used or displayed;
- (i) duties of licensed persons and operators of designated tourist facilities in relation to the provision of services;
- (j) the publication and display of particulars relating to the nature, grade, name or style of designated tourist facilities and licensed persons;
- (k) the declaration of tourist development zones for the orderly development of the tourist industry in such zones and, for that purpose, providing for the rights, privileges and obligations of persons who establish or operate or propose to establish or operate tourist facilities in such zones;
- (l) particulars to be provided by persons when paying a levy;
- (m) records and accounts to be kept by licensed persons and operators of designated tourist facilities;
- (n) insurance to be taken out by licensed persons and operators of designated: tourist facilities in respect of the death or injury of, or loss sustained by, clients and other persons;
- (o) the fees and charges payable for registration certificates, licences and other documents issued, inspections carried out and other things done in terms of this Act;
- (p) the provision of bonds or other security by licensed persons in respect of their operations or business;
- (q) the manner in which non-resident persons who provide services in Zimbabwe :relating to the tourist industry shall receive payment for those services;
- (r) the compulsory undertaking of training or instruction by persons employed in the tourist industry; (s) penalties for any contravention of the regulations:

Provided that no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment;

[Paragraph as amended by section 4 of Act No.22 of 2001]

- (t) generally, any matter which, in the opinion of the Minister, is calculated to improve the services and facilities provided by the tourist industry.

(3) The Minister shall consult the Board before making regulations in terms of subsection (1):

Provided that he shall obtain the Board's approval of any regulations made for a purpose described in paragraphs (a) to (e) of subsection (2).

58 Offences and penalties

(1) Any person who, being responsible therefor, fails or refuses to pay any levy or to collect or remit any levy in terms of this Act, shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) Any person who—

- (a) hinders or obstructs the Chief Executive, a licensing officer or a designated officer in the exercise of his or her functions under this Act; or
- (b) without just cause, fails or refuses to answer to the best of his or her ability any question which the Chief Executive, a licensing officer or a designated officer, in the exercise of his or her functions under this Act, has put to him or her; or
- (c) without just cause, fails or refuses to comply to the best of his or her ability with any requirement which the Chief Executive, a licensing officer or a designated officer, in the exercise of his or her functions under this Act, has made or imposed;

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

(3) Any person who—

- (a) publishes or causes to be published in any manner whatsoever any information relating to a designated tourist facility or licensed person, knowing such information to be false or misleading or not having reasonable grounds for believing it to be true; or
- (b) falsely asserts or in any manner pretends that—
 - (i) he or she is the holder of a licence; or

(ii) any tourist facility is registered; unless he or she has reasonable grounds for believing that he or she is the holder of such a licence or that the tourist facility is registered, as the case may be; shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) Any person who knowingly furnishes to the Authority, the Chief Executive, a licensing officer or a designated officer any information which is false in a material respect or misleading 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.

[Section inserted by Act 3 of 2009]

59 Summary judgment for unpaid levies in criminal proceedings

(1) On the conviction of a person for an offence involving a failure to pay any levy, the court convicting him may, on the application of the prosecutor and in addition to any other penalty which it may impose, give summary judgment in favour of the Minister, for the benefit of the Zimbabwe Tourism Fund, for the amount of the levy to which the conviction relates.

(2) Summary judgment given by a court in terms of subsection (1) shall have the same effect and may be executed in the same manner as if it had been given in civil proceedings instituted in the court by the Minister.

60 Registers and certificates to be evidence

(1) Any register kept in terms of this Act shall be to be *prima facie* proof of all matters directed or authorized by this Act to be entered therein.

(2) A document purporting to be an extract from a register kept in terms of this Act and purporting to be signed by the Chief Executive shall be admissible in evidence in any proceedings in any court on its production by any person as *prima facie* proof of the matters stated therein.

(3) A certificate purporting to be signed by the Chief Executive and stating that any premises, place, service or thing is or is not a registered tourist facility shall be admissible in evidence in any proceedings in any court on its production by any person as *prima facie* proof of the matters stated therein.

(4) A certificate purporting to be signed by a licensing officer and stating that any person is or is not licensed shall be admissible in evidence in any proceedings in any court on its production by any person as *prima facie* proof of the matters stated therein.

61 Special provisions relating to dissolution of Zimbabwe Tourist Development Corporation

The provisions of the Second Schedule shall apply to the dissolution of the Zimbabwe Tourist Development Corporation established under the repealed Act.

FIRST SCHEDULE (Section 5)

POWERS OF AUTHORITY

1. To acquire premises necessary or convenient for the exercise of its functions and, for that purpose, to buy, take in exchange, hire or otherwise acquire immovable property and interests in and rights over such property.
2. To buy, take in exchange, hire or otherwise acquire movable property.
3. To maintain, alter and improve any of its property.
4. To mortgage or pledge any of its assets and, with the Minister's approval, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets which are not required for the exercise of its functions for such consideration as the Board may determine.
5. To draw, make, accept, indorse, discount, execute and issue cheques, promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To make contracts and enter into suretyships or give guarantees, and to modify or rescind such contracts or rescind such suretyships or guarantees.
8. With the Minister's approval—
 - (a) to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise; and
 - (b) to obtain from such government or authority rights, privileges and concessions; and to carry out and exercise such arrangements, rights, privileges and concessions.
9. With the approval of the Minister and the Minister responsible for finance, to establish and administer funds and reserves.
10. To employ, on such terms and conditions as the Board thinks fit, such persons as are necessary for conducting the Authority's affairs, and to suspend or discharge any such employees:

Provided that the Board shall obtain the Minister's approval before appointing or promoting any person to a post of such class or grade as the Minister may designate for the purpose of this paragraph by notice in writing to the Board.

11. With the approval of the Minister and the Minister responsible for finance, to pay such remuneration and allowances and grant such leave of absence and to make such gifts and bonuses and the like to its employees as the Board thinks fit.
12. 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 the pecuniary benefits to which this paragraph relates.
13. With the Minister's approval, to purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.
14. To construct buildings and other improvements for use or occupation by its employees on land which it has purchased, taken in exchange, hired or otherwise acquired.
15. To sell or let land or dwellings for residential purposes to its employees.
16. With the Minister's approval, to make or guarantee loans to its employees or their spouses for— (a) the purchase of dwellings or land for residential purposes; or (b) the construction or improvement of dwellings on land which is the property of its employees or their spouses.
17. To provide security in respect of loans such as are described in paragraph 16 by the deposit of securities, in which it may invest such moneys as the Board considers necessary for the purpose.
18. With the approval of the Minister and the Minister responsible for finance, to make loans to its employees— (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the employees in carrying out their duties; or (b) not exceeding three months' salary or wages payable to the employees concerned, for any purpose on such security as the Board thinks adequate.
19. 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.
20. With the Minister's approval, to provide such services as the Board considers could properly be provided by the Authority, and to charge for such services such fees as the Board may determine from time to time.
21. With the approval of the Minister and the Minister responsible for finance, to grant such scholarships or bursaries as the Board considers to be in the interests of the whole or any part of the tourist industry, on such terms and conditions as the Board may fix in any particular case.
22. With the Minister's approval, to engage in, establish, operate or manage schemes for— (a) the training of persons engaged in or to be engaged in any part of the tourist industry; (b) the development of the tourist industry or any part of that industry.
23. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the performance of its functions under this Act or any other enactment.

SECOND SCHEDULE (Section 61)

DISSOLUTION OF ZIMBABWE TOURIST DEVELOPMENT CORPORATION

1. Interpretation

- (1) In this Schedule—
 - “Corporation” means the Zimbabwe Tourist Development Corporation established under the repealed Act;
 - “fixed date” means the date fixed in terms of subsection (2) of section *one* as the date of commencement of sections *two to sixty-two*;
 - “successor company” means a company established under the Companies Act [*Chapter 24:03*] which the Minister, by notice to the Corporation, directs shall be the successor company to the Corporation for the purposes of this Schedule;
 - “transfer date”, in relation to any asset or liability of the Corporation, means the date fixed in terms of subparagraph (1) of paragraph 2 as the date on which that asset or liability is transferred to the successor company, the Authority or the Zimbabwe Tourism Fund.
 - (2) References to the Zimbabwe Tourism Fund in this Schedule shall be construed, where appropriate, as references to the Minister in his capacity as trustee of the Fund.
- 2. Distribution of assets and liabilities of Corporation between successor company, Authority and Zimbabwe Tourism Fund*
- (1) Subject to subparagraph (2), the Minister shall, by written directions to the Corporation, direct which of the assets and liabilities of the Corporation shall be transferred to the successor company, which to the Authority and which to the Zimbabwe Tourism Fund, and shall fix the date on which the assets and liabilities shall be so transferred:
 - Provided that the Minister may fix different dates for the transfer of different assets and liabilities.

- (2) In giving directions under subparagraph (1), the Minister shall ensure so far as practicable that—
 - (a) all assets and liabilities of the Corporation which relate to the carrying on of hotels, restaurants and other tourist facilities shall be transferred to the successor company; and
 - (b) all other assets and liabilities of the Corporation shall be transferred to the Authority or the Zimbabwe Tourism Fund, due regard being had to their respective functions and objects under this Act.
- (3) On the relevant transfer date, every asset and liability of the Corporation which the Minister has directed shall be transferred to—
 - (a) the successor company, shall vest in the successor company;
 - (b) the Authority, shall vest in the Authority;
 - (c) the Zimbabwe Tourism Fund, shall vest in that Fund.
- (4) All bonds, hypothecations, deeds, contracts, instruments, documents and working arrangements that subsisted immediately before the relevant transfer date and to which the Corporation was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the successor company, the Authority or the Zimbabwe Tourism Fund, as the case may be, as if, instead of the Corporation, the successor company, the Authority or the Zimbabwe Tourism Fund, as the case may be, 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 successor company, the Authority or the Zimbabwe Tourism Fund under this paragraph, but the Registrar of Deeds, when so requested in writing by the successor company, the Authority or the Zimbabwe Tourism Fund, as the case may be, in relation to any particular such property, right or obligation, shall cause the name of the successor company, the Authority or the Zimbabwe Tourism Fund, as the case may be, to be substituted, free of charge, for that of the Corporation 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 Corporation immediately before the relevant transfer date—
 - (a) in respect of any asset or obligation which is transferred from the Corporation to the successor company, may be enforced or continued, as the case may be, by or against the successor company;
 - (b) in respect of any asset or obligation which is transferred from the Corporation to the Authority, may be enforced or continued, as the case may be, by or against the Authority;
 - (c) in respect of any asset or obligation which is transferred from the Corporation to the Zimbabwe Tourism Fund, may be enforced or continued, as the case may be, by or against that Fund; in the same way that it might have been enforced or continued, as the case may be, by or against the Corporation had this Act not been passed.
- (7) Any guarantee or suretyship which was given or made by the Government or any other person in respect of any debt or obligation of the Corporation and which was effective immediately before the transfer date shall remain fully effective against the guarantor or surety on and after that date in relation to the repayment of the debt or the performance of the obligation, as the case may be, by the successor company, the Authority or the Zimbabwe Tourism Fund, as the case may be.

3. Conversion of loans transferred to successor company

- (1) In this paragraph—

“transferred loan” means any moneys lent to the Corporation by the State, the liability to repay which vests in the successor company by virtue of subparagraph (3) of paragraph 2.
- (2) The successor company, if directed to do so by the Minister, shall issue such debentures as the Minister may require—
 - (a) to the Minister or a person nominated by the Minister; or
 - (b) to any person entitled to require the issue of the debentures following their initial allotment to a person referred to in paragraph (a);

up to an amount equal to the amount of any transferred loan.
- (3) The issue of debentures in terms of subparagraph (2) shall have the effect of extinguishing by novation the transferred loan in respect of which the debentures were issued, up to the nominal value of the debentures.
- (4) Debentures issued pursuant to a direction under subparagraph (2)—
 - (a) shall be issued or allotted at such times and on such terms and conditions, whether as to interest or otherwise, as the Minister may direct; and
 - (b) shall be regarded as fully paid and treated for the purposes of the Companies Act [*Chapter 24:03*] as if the successor company had been paid their nominal value in cash.
- (5) Any interest or other moneys received by the Minister or by any other person on behalf of the State in right of or on the disposal of any debenture acquired by virtue of this paragraph shall be paid into the Consolidated Revenue Fund.
- (6) Stamp duty shall not be chargeable under the Stamp Duties Act [*Chapter 23:09*]—
 - (a) in respect of any debenture issued in compliance with a direction under subparagraph (1); or

- (b) where any convertible debentures were issued in compliance with a direction under subparagraph (1), in respect of the exercise of the conversion rights attached to any such debenture. {7} The Minister shall not—
- (a) give a direction under subparagraph (1) at a time when the successor company has ceased to be wholly owned by the State; or
- (b) exercise any power conferred on him by this paragraph, or dispose of any debenture issued or allotted to him pursuant to this paragraph, or dispose of any right in such a debenture, without the consent of the Minister responsible for finance.

4. Special provisions for employees of Corporation

The successor company shall endeavour to employ as many of the employees of the Corporation as is possible without prejudicing the efficiency and economic viability of the successor company.

5. Minister may give directions to Corporation

- (1) Notwithstanding anything to the contrary in the repealed Act, the Minister may give the Board of the Corporation directions in writing in order to ensure the proper transfer of the assets and liabilities of the Corporation to the successor company, the Authority and the Zimbabwe Tourism Fund, and the Board of the Corporation shall without delay comply with every such direction.
- (2) Without derogation from subparagraph (1), directions given under that subparagraph may provide for—
 - (a) the cessation of all or any of the functions of the Corporation;
 - (b) the termination of any contract entered into between the Corporation and any person:
Provided that no such direction shall authorize the Corporation to commit an unlawful breach of any such contract;
 - (c) the production of any report and the provision of any information concerning the conduct of the Corporation or the Board of the Corporation or anything done by or on behalf of the Corporation or the Board of the Corporation.

6. Liability of State if successor company is wound up

- (1) If—
 - (a) a resolution is passed, in accordance with the Companies Act [*Chapter 24:03*], for the voluntary winding up of the successor company; or
 - (b) an order is made under the Companies Act [*Chapter 24:03*] for the compulsory winding up of the successor company;the Minister on behalf of the State shall become liable on the commencement of the winding up to discharge any outstanding liability of the successor company which vested in that company by virtue of paragraph 2.
- (2) Any moneys required to discharge any liability imposed on the Minister by this paragraph shall be paid out of moneys appropriated for the purpose by Act of Parliament.
- (3) Where the Minister has made a payment to any person in discharge of a liability imposed on him by this paragraph, he shall thereupon become a creditor of the successor company to the extent of the amount paid, his claim being treated for the purposes of the winding up as a claim in respect of the original liability.
- (4) Any moneys received by the Minister in respect of any claim made by virtue of subparagraph (3) shall be paid into the Consolidated Revenue Fund.