

## CHAPTER 15:11

# ZIMBABWE NATIONAL FAMILY PLANNING COUNCIL ACT

*Acts 1/1985, 29/1990 (s. 28), 22/2001 (s. 4), 19/2004.*

### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY

##### *Section*

1. Short title.
2. Interpretation.

#### PART II

##### ZIMBABWE NATIONAL FAMILY PLANNING COUNCIL AND ZIMBABWE NATIONAL BOARD OF FAMILY PLANNING

3. Establishment of Zimbabwe National Family Planning Council.
4. Zimbabwe National Board of Family Planning.
5. Executive Committee of Board.
6. Committees of Board.
7. Disqualifications for appointment to Board.
8. Tenure and conditions of office of appointed members of Board.
9. Vacation of office by appointed members of Board.
10. Minister may require appointed member of Board to vacate office.
11. Minister may suspend from office member of Board.
12. Filling of vacancies on Board.
13. Meetings and procedure of Board.
14. Meetings and procedure of Executive Committee and other committees of Board.
15. Minutes of proceedings of Board and committees.
16. Validity of decisions and acts of Board and of committees.
17. Execution of contracts and instruments by Council.
18. Remuneration and allowances of members of Board and of committees

#### PART III

##### PATRON, EXECUTIVE DIRECTOR AND STAFF OF COUNCIL

19. Patron of Council.
20. Executive Director of Council.
21. Staff of Council.

#### PART IV

##### FUNCTIONS OF COUNCIL AND SPECIAL RESPONSIBILITIES OF BOARD

22. Functions of Council.
23. Special responsibilities of Board.

#### PART V

##### PROVINCIAL BRANCHES OF COUNCIL AND PROVINCIAL COMMITTEES OF BOARD

24. [Repealed].
25. [Repealed].
26. [Repealed].

#### PART VI

##### FINANCIAL PROVISIONS

27. Funds of Council.
28. Financial year of Council.

29. Accounts of Council.
30. Audit of accounts of Council.
31. Powers of auditors.
32. Reports by Council.

## PART VII

### GENERAL PROVISIONS

33. Minister may give directions to Board.
34. Exemption of Council from liability.
35. Preservation of secrecy.
36. Regulations.

SCHEDULE: Powers of Council.

**AN ACT to establish the Zimbabwe National Family Planning Council and to provide for the structure, functions and powers thereof; to provide for reproductive health and family planning services in Zimbabwe and the promotion and implementation of population and development primary health care and other community-based development programmes relating to family health and for the integration and co-ordination of other relevant activities in Government departments, Nongovernmental organizations and the Private sector; and to provide for matters incidental to, or connected with, the foregoing.**

[Long title amended by section 7 of Act 19 of 2004]

[Date of commencement: 1st August, 1985.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Zimbabwe National Family Planning Council Act [*Chapter 15:11*].

#### 2 Interpretation

In this Act—

“appointed member of the Board” means a member of the Board referred to in paragraph (e), (f), (g), (h), (i), (j), (k), (l) or (m) of subsection (2) of section *four*;

“Board” means the Zimbabwe National Board of Family Planning referred to in subsection (1) of section *four*;

“Council” means the Zimbabwe National Family Planning Council established by section *three*;

“Executive Committee” means the Executive Committee of the Board referred to in subsection (1) of section *five*;

“Executive Director” means the Executive Director of the Council appointed in terms of subsection (1) of section *twenty*;

“member” means a member of the Board, and includes an alternate member appointed and acting in terms of subsection (5) of section *four*;

[Definition inserted by section 2 of Act 19 of 2004]

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

“Provincial Branch” means a Provincial Branch of the Council referred to in subsection (1) of section *twenty-four*.

“Provincial Committee” means a Provincial Committee of the Board referred to in subsection (1) of section *twenty-five*.

## PART II

### ZIMBABWE NATIONAL FAMILY PLANNING COUNCIL AND ZIMBABWE NATIONAL BOARD OF FAMILY PLANNING

#### 3 Establishment of Zimbabwe National Family Planning Council

There is hereby established a council, to be known as the Zimbabwe National Family Planning Council, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

#### 4 Zimbabwe National Board of Family Planning

- (1) There shall be a board of the Council, to be known as the Zimbabwe National Board of Family Planning, which, subject to this Act, shall be the governing body of the Council responsible for the general policy and the control of the operations of the Council.

- (2) The Board shall consist of not less than seven and not more than ten members of whom— (a) one shall be appointed by the Minister from the Ministry responsible for health;
- (b) one shall be the Executive Director of the Zimbabwe National Family Planning Council; (c) one shall be a registered legal practitioner;
- (d) not more than four persons representing an association, organisation or institution shall be appointed by the Minister for their knowledge, experience or expertise in any one or more of the following— (i) public health;
- (ii) reproductive health;
- (iii) demography;
- (iv) finance and human resources;
- (v) marketing and communications;
- (e) not more than three persons shall be appointed by the Minister to represent the interests of women, youths, religious and trade unions.

[Subsection substituted by section 3 of Act 19 of 2004]

(3) Every member of the Board representing an association, organisation or institution in terms of paragraphs (d) and (e) of subsection (2), shall be appointed by the Minister from among persons nominated for that purpose by the appropriate association, organisation or institution.

[Subsection substituted by section 3 of Act 19 of 2004]

(4) Before making an appointment in terms of subsection (3), the Minister after consultation and in accordance with any directions the President may give him may, in his discretion, call upon the association, organization or institution which is entitled to be represented in terms of that subsection, to nominate such number of persons as the Minister may determine who, in its opinion, are suitable and available for appointment as members of the Board:

Provided that the Minister may—

- (a) appoint a person to be a member of the Board who has not been so nominated and may decline to appoint any person so nominated;
- (b) where he has called for nominations in terms of this subsection in respect of any appointment to the Board and no nominations have been made in respect of such appointment within such period as he may determine when calling for such nominations, appoint any person to be a member of the Board whether or not, in his opinion, the person so appointed is able to represent the views of the association, organization or institution whose nominations were called for in terms of this subsection.

[Subsection substituted by section 3 of Act 19 of 2004]

(5) The Minister may appoint persons as alternate members to the members appointed by him in terms of subsection (2), and any such alternate member may act as a member during any period that a substantive member is unable to exercise his or her functions.

[Subsection inserted by section 3 of Act 19 of 2004]

## **5 Chairperson and Vice-chairperson of Board**

(1) The Minister shall appoint the chairperson and vice-chairperson of the Board.

(2) The chairperson and the vice-chairperson of the Board may at any time, by written notice to— (a) the Minister, in the case of the chairperson;

(b) the Chairperson, in the case of the vice chairperson; resign their offices as such.

(3) Within three months after being notified of a vacancy in the office of the chairperson or vice-chairperson of the Board, the Board shall elect another appointed member to fill the vacancy.

(4) The vice-chairperson shall exercise the functions of the chairperson whenever the office of the chairperson is vacant or whenever the chairperson is for any reason is unable to exercise his or her functions.

[Section inserted by section 3 of Act 19 of 2004]

## **6 Committees of Board**

[Heading amended by section 8 of Act 19 if 2004]

(1) For the better exercise of its functions, the Board may establish such number of other committees as it deems necessary and may vest in such committees such of the functions of the Board as the Board may direct: Provided that the vesting in a committee of any such functions shall not divest the Board of such functions and the Board may amend or rescind any decision of any such committee in the exercise of its functions.

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

- (a) shall appoint to that committee at least one member of the Board who shall be the chairman of that committee;
- (b) may appoint as members of that committee, on such terms and conditions as the Board may determine. persons who are not members of the Board.

## **7 Disqualifications for appointment to Board**

The Minister shall not appoint a person as a member of the Board and no person shall be qualified to hold office as a member of the Board who—

- (a) is not ordinarily resident in Zimbabwe; or
- (b) has, in terms of a law in force in any country—
  - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
  - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or
- (c) has, within the period of five years immediately preceding the date of his proposed appointment, been sentenced in any country to a term of imprisonment imposed without the option of a fine for an offence involving fraud or dishonesty.

## **8 Tenure and conditions of office of appointed members of Board**

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

(2) Subject to this Act, an appointed member of the Board shall hold office on such conditions as the Minister may fix for members of the Board generally.

## **9 Vacation of office by appointed member of Board**

An appointed member of the Board shall vacate his office and his office shall become vacant—

- (a) after the expiry of thirty days after the date upon which he gives notice in writing 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) on the date he begins to serve a sentence of imprisonment imposed in any country; or
- (c) if he becomes disqualified in terms of paragraph (a) or (b) of section *seven* to hold office as a member of the Board; or
- (d) if he is required in terms of section *ten* to vacate his office; or
- (e) if, after such member was given not less than seven days' notice of each meeting of the Board, he is absent from three consecutive meetings of the Board without the Board's permission.

## **10 Minister may require appointed member of Board to vacate office**

The Minister may require an appointed member of the Board to vacate his office if the Minister is satisfied that the member—

- (a) has conducted himself in a manner that is unbecoming of a member of the Board or is prejudicial to the interests or reputation of the Board or the Council; or
- (b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section *eight*; or
- (c) is mentally or physically incapable of efficiently performing his functions as a member of the Board.

## **11 Minister may suspend from office member of Board**

The Minister may suspend from office any member of the Board against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed, and whilst that member is so suspended he shall not perform any functions as a member of the Board.

## **12 Filling of vacancies on Board**

On the death of, or the vacation of office by, an appointed member of the Board, the Minister shall appoint a person to fill the vacancy until the expiry of the period during which the appointed member of the Board would, but for his death or the vacation of his office, have continued in office: Provided that—

- (i) the Minister shall appoint the new member of the Board from among persons nominated in terms of subsection (3) or (4) of section *four*, as the case may be;
- (ii) if the former appointed member of the Board would, but for his death or the vacation of his office, have continued to hold office for less than six months, the Minister need not appoint a person to fill the vacancy.

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

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

Provided that a meeting of the Board shall be held not less than three times in each financial year of the Council.

(2) The chairman of the Board may at any time and shall, at the request of six members of the Board, convene a special meeting of the Board, which meeting shall be convened for a date not less than seven days nor more than thirty days after receipt of such request.

(3) If at a meeting of the Board the chairman and the vice-chairman of the Board are both absent, the members of the Board present may elect one of the members to preside at that meeting as chairman.

(4) Ten members of the Board shall form a quorum at a meeting of the Board.

(5) All acts, matters or things authorized or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(6) For the better exercise of the functions of the Board, the chairman of the Board may, with the approval of the Board, invite to attend any meeting of the Board or of any committees of the Board established in terms of section *six*, any person who, in the opinion of the chairman of the Board, has special knowledge or experience in the matter concerned.

[Subsection amended by section 8 of act 19 of 2004]

(7) A person invited to attend a meeting of the Board or any committees of the Board in terms of subsection (6) may take part in the proceedings or of any Committees of the Board or as if he were a member thereof, but shall not have a vote on any question before the Board or any Committees of the Board as the case may be.

[Subsection amended by section 8 of act 19 of 2004]

(8) At all meetings of the Board each member of the Board present shall have one vote on a question before the Board and, in the event of an equality of votes, the chairman of the Board, or the vice-chairman of the Board or any other member of the Board presiding at the meeting, shall have a casting vote in addition to a deliberative vote.

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

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

#### **14 Meetings and procedure of committees of the Board**

(1) Meetings of the Committees of the Board may be convened at any time and at any place by the chairman of the Executive Committee or the chairman of that other committee.

(2) The procedure of the Executive Committee and of any other committee of the Board shall be determined by the Board.

[Subsection amended by section 8 of act 19 of 2004]

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

(1) The Board shall cause minutes of all proceedings of and decisions taken at a meeting of the Board, Executive Committee or any other committees of the Board to be entered in books kept for the purpose.

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

[Subsection amended by section 8 of act 19 of 2004]

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

No decision or act of the Board or of any committees of the Board or act done under the authority of the Board or any committees of the Board shall be invalid by reason only of the fact that there was a vacancy in the membership of the Board or any committees of the Board or that a disqualified person purported to act as a member thereof at the time the decision was taken or the act was done or authorized.

[Section amended by section 8 of act 19 of 2004]

#### **17 Execution of contracts and instruments by Council**

An agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Council by any person or persons generally or specifically authorized by the Board for that purpose.

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

A member of the Board or any committees of the Board shall be paid from the funds of the Council—

- (a) such remuneration, if any, as the Minister may, with the approval of the Minister responsible for finance, fix for members of the Board generally; and
- (b) such allowances as the Minister may fix to meet any reasonable expenses incurred by that member in connection with the business of the Board or any committees of the Board, as the case may be.

[Section amended by section 8 of act 19 of 2004]

### **PART III**

PATRON, EXECUTIVE DIRECTOR AND STAFF OF COUNCIL

#### **19 Patron of Council**

(1) The Board may, with the prior approval of the Minister, appoint as Patron of the Council a person approved by the Minister who is ordinarily resident in Zimbabwe on account of his outstanding, distinctive and distinguished service to Zimbabwe.

(2) Subject to subsection (3), the functions of the Patron in relation to the Council shall be such functions as are customarily attached to the office of Patron, and the Board may, with the approval of the Minister, confer on the Patron such honours, rights and privileges as the Board considers appropriate to the holder of the office of Patron.

(3) The Patron may at any time attend and address any meeting of the Board or of the Executive Committee and may take part in the proceedings of the Board or of the Executive Committee, but shall have no vote on any question before the Board or the Executive Committee, as the case may be.

## **20 Executive Director of Council**

(1) The Council shall have an Executive Director who, subject to this Act, shall be appointed by the Board with the approval of the Minister from among persons with qualifications and experience relevant to the functions of the Council.

(2) The Executive Director shall hold office for such period and upon such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the Minister responsible for finance and the Public Service Commission and specified in his contract of employment and, subject to the control of the Board, shall—

- (a) exercise such functions of the Council as the Board may, with the approval on the Minister, assign to him;
- (b) be responsible for the management of the operations, undertakings and property of the Council;
- (c) have a general responsibility to the Board for maintaining and promoting the efficiency of the Council;
- (d) exercise a general authority over the general conduct and discipline of the staff of the Council with power to suspend from duty any member of staff for just cause, reporting the matter without delay to the Board through the Executive Committee.

(3) No person shall be appointed as Executive Director and no person shall be qualified to hold office as Executive Director if he would be disqualified for appointment to the Board in terms of paragraph (a), (b) or (c) of section *seven* or if he would be required to vacate office as a member of the Board in terms of paragraph (a), (b) or (c) of section *ten* had those sections applied to him.

## **21 Staff of Council**

(1) The Board may employ, upon such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the Minister responsible for finance and the Public Service Commission, such persons as may be necessary for conducting the affairs of the Council and may confirm the suspension of such persons made by the Executive Director in terms of paragraph (d) of subsection (2) of section *twenty* or may discharge such persons.

(2) The persons employed in terms of subsection (1) may include a person who may act as the principal legal adviser to the Council:

Provided that the Board shall not employ a person to act as the principal legal adviser to the Council, unless such person would be recognized by virtue of the Legal Practitioners Act [*Chapter 27:07*] as entitled to do anything in a legal capacity had he been a person in the employment of the State.

## **PART IV**

### **FUNCTIONS OF COUNCIL AND SPECIAL RESPONSIBILITIES OF BOARD**

## **22 Functions of Council**

(1) The functions of the Council shall be—

- (a) to popularize and promote the provision of adequate and suitable facilities in Zimbabwe for reproductive health and family planning;
- (b) to provide facilities for the investigation and treatment of infertility among persons in need of such investigation or treatment;
- (c) to participate actively with other organizations or institutions in the formulation and implementation of primary health care programmes and other community development activities related to family health;
- (d) to carry out or assist in the carrying out of research into reproduction health and the effects of contraceptives on the health of the users of contraceptives and other persons;
- (e) to undertake work connected with the diagnosis and treatment of diseases, including, but not limited to, sexually transmitted infections including HIV and AIDS and cancers of the reproductive system;
- (f) to stimulate and develop an awareness among medical students and medical personnel generally regarding the scientific basis of reproductive health and family planning and the practical implementation of related programmes by medically acceptable methods and practices;
- (g) to provide and manage facilities for performing surgical operations for infertility and sterilization, and develop and provide a cytology service to persons in need of such service;
- (h) generally to encourage, foster and promote safe reproductive health practices and take such measures as are necessary or desirable for alleviating the problems associated with infertility among persons;
- (i) to co-ordinate and monitor the provision of integrated reproductive health and family planning services in Zimbabwe;
- (j) to plan, design and implement adequate and sustainable reproductive health and family planning services for special target groups such as men and youths in Zimbabwe;
- (k) to procure and distribute adequate and appropriate contraceptive and reproductive health commodities in Zimbabwe;

- (l) to provide leadership in sexual and reproductive health programmes in Zimbabwe;
- (m) to ensure that public, private and non governmental organisations providing reproductive health and family planning services in Zimbabwe adhere to prescribed standards, guidelines and procedures.

[Subsection amended by section 5 of Act 19 of 2004]

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

### **23 Special responsibilities of Board**

For the performance of the functions of the Council in terms of section *twenty-two*, the Board shall have special responsibility—

- (a) to ensure the involvement of the various disciplines associated, whether directly or indirectly, with child spacing and family planning and the application correspondingly of a multi-pronged approach in the implementation of related programmes;
- (b) to ensure that the policies, programmes and operations of the Council are formulated and implemented as an integral part of the overall national development programme;
- (c) within the scope of its competence. to provide effective liaison between the public and the appropriate governmental agencies engaged in activities relating to child spacing and family planning;
- (d) to tender advice and make recommendations to the appropriate governmental agencies on matters relating to or affecting the functions and operations of the Council;
- (e) to define policies on matters relating to the functions and operations of the Council and give directions to the Executive Committee as to strategies for implementation of such policies.

## **PART V**

### **24 – 26....**

[Part V sections 24 – 26 repealed by section 6 of At 19 of 2004]

## **PART VI**

### **FINANCIAL PROVISIONS**

### **27 Funds of Council**

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

- (a) such moneys as may be payable to the Council from moneys appropriated for the purpose by Parliament;
- (b) fees charged or levies raised in terms of subsection (2);
- (c) donations which may be accepted with the approval of the Minister;
- (d) loans which may be raised with the approval of the Minister and of the Minister responsible for finance; and
- (e) such other moneys as may vest in, or accrue to, the Council, whether in the course of its operations or otherwise.

(2) For the purpose of facilitating the carrying out of the functions of the Council in terms of this Act, the Board may, with the approval of the Minister and of the Minister responsible for finance, charge fees or raise levies at such rates as the Board may from time to time determine with the approval of those Ministers, in respect of any service or facility provided by the Council in the course of its operations.

### **28 Financial year of Council**

The financial year of the Council shall be the period of twelve months endings on the 31st December in each year or on such other date as the Minister may, with the approval of the Minister responsible for finance, direct.

[Section amended by section 8 of act 19 of 2004]

### **29 Accounts of Council**

The Board shall cause to be kept proper accounts and other records relating thereto in respect of all the operations, undertakings and property of the Council, including such particular accounts and records as the Minister may direct, and shall cause to be prepared and submitted to the Minister a statement of accounts in respect of each financial year of the Council or such other period as the Minister may direct.

### **30 Audit of accounts of Council**

(1) The Board shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

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

(3) The auditors shall make a report to the Comptroller and Auditor-General Board and the Minister on the statement of accounts prepared in terms of section *twenty-nine*, and such report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the state of the financial affairs of the Council.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Council as the Minister may consider expedient.

[Paragraph amended by section 8 of act 19 of 2004]

(5) If, in the opinion of the auditors—

- (a) they have not obtained the information and explanations they require; or
- (b) any accounts and records relating thereto have not been properly kept by the Council; or
- (c) the Board has not complied with the provisions of this Part; the auditors shall include in the report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.

### **31 Powers of auditors**

(1) The auditors appointed in terms of subsection (1) of section *thirty* shall be entitled at all reasonable times to require to be produced to them all accounts and other records relating thereto kept by the Council or its agents and require from any member of the Board or of the Executive Committee or any other committee of the Board or any employee or agent of the Council such information and explanations as in their opinion are necessary for the purposes of the audit.

(2) Any member of the Board or of the Executive Committee or any other committee of the Board or any employee or agent of the Council 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 No. 22 of 2001]

### **32 Reports by Council**

(1) In addition to any annual report which the Council may be required to submit to the Minister in terms of the Audit and Exchequer Act [*Chapter 22:03*], the Board—

- (a) shall cause to be prepared and submitted to the Minister such other reports as the Minister may require;
- (b) may prepare and submit to the Minister such other reports as the Board deems advisable; in regard to the operations, undertakings and property of the Council, and the Board shall give to the Minister all such information relating to, or affecting, the functions of the Council as the Minister may from time to time require.

(2) The Minister shall lay before Parliament a report submitted to him in terms of subsection (1).

## **PART VII**

### **GENERAL PROVISIONS**

### **33 Minister may give directions to Board**

The Minister may, if he considers that the public interest so requires, give to the Board directions of a general character, which are not inconsistent with this Act, relating to the exercise of the functions of the Council.

### **34 Exemption of Council from liability**

No liability shall attach to the Council or to any employee or agent of the Council or to the Board or to a member of the Board or of the Executive Committee or any other committee of the Board for any loss or damage sustained by any person as a result of the *bona fide* exercise by an employee or agent of the Council or by the Board or by a member of the Board or of the Executive Committee or any other committee of the Board of any function or power conferred upon the Council by this Act:

Provided that this section shall not be construed so as to prevent any person from recovering by action in any competent court compensation for any loss or damage sustained by him which was caused by negligence.

### **35 Preservation of secrecy**

Any person who discloses, except—

- (a) to the Minister or to any other person for the purposes of carrying out his duties or the performance of his functions under this Act; or
- (b) to a police officer for the purpose of an investigation or inquiry relating to the enforcement of this Act; or
- (c) when required to do so by any court or under any enactment; any information acquired by him in the performance of any function under this Act, in relation to the state of health or personal affairs of any other person, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section as amended by Act No. 22 of 2001]

### **36 Regulations**

The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for, in order to carry out or give effect to this Act.



## SCHEDULE (Section 22 (2))

### POWERS OF COUNCIL

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 therein and rights thereover and concessions, grants, powers and privileges 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 or pledge any assets or part of any assets and, with the approval of the Minister, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets or part of assets which are not required for the exercise of its functions for such consideration as the Board may, with the approval of the Minister, determine.
5. To draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To make contracts and to 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 enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or any of them and to obtain from such government or authority rights, privileges and concessions which the Board thinks desirable to obtain and carry out, exercise and comply with such arrangements, rights, privileges and concessions.
9. With the approval of the Minister and of the Minister responsible for finance—
  - (a) to raise loans or borrow money in such amounts and for such purposes and under conditions as may be approved by those Ministers;
  - (b) to establish and administer such funds and reserves as the Board may consider appropriate or necessary for the proper exercise of the functions of the Council.
10. With the approval of the Minister given after consultation with the Minister responsible for finance and the Public Service Commission, to pay such remuneration and allowances and grant such leave of absence and, with the approval of the Minister, to make such gifts and pay bonuses and the like to its employees as the Board deems fit.
11. 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.
12. With the approval of the Minister to purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.
13. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken in exchange, hired or otherwise acquired by the Council.
14. To sell or let dwellings and land for residential purposes to its employees.
15. With the approval of the Minister to guarantee loans to its employees or their spouses for the purchase of dwellings or land for residential purposes, the construction of dwellings and the improvement of dwellings or land which are the property of its employees or their spouses.
16. To provide security in respect of loans guaranteed in terms of paragraph 15 by the deposit of securities.
17. With the approval of the Minister and of the Minister responsible for finance, to make loans to any employee of the Council—
  - (a) for the purpose of purchasing vehicles, tools or other equipment used by him in carrying out his duties; or
  - (b) not exceeding three months' salary or wages payable to him, for any purpose on such security as the Board considers adequate.
18. 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.
19. With the approval of the Minister, to provide such services as the Board considers could properly be best provided by the Council.
20. With the approval of the Minister and of the Minister responsible for finance—
  - (a) to provide financial assistance to any person, association, organization or institution whose activities are such as to be, in the opinion of the Board, of benefit to the Council or to reproductive health and family planning;
  - (b) to grant such scholarships or bursaries as the Board considers to be in the interests of the Council, on such terms and conditions as the Board may fix in any particular case.

21. With the approval of the Minister, to engage in, establish, administer or manage schemes for—
  - (a) the development of research personnel or the training of persons engaged or to be engaged in the investigation and treatment of infertility and sterilization, research into reproduction health or the diagnosis and treatment of diseases, including sexually transmitted infections including HIV and AIDS and cancers of the reproductive system;
  - (b) the development of scientific knowledge and medically acceptable methods and practices relating to services connected with reproductive health and family planning.

[Paragraph amended by section 8 of Act 19 of 2004]
22. To do anything which by this Act is required or permitted to be done by the Council.
23. To do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the Council or the exercise of its powers in terms of this Act or any other law.