

## CHAPTER 29:06

# DISTRICT DEVELOPMENT FUND ACT

*Acts 58/1981, 8/1988, 22/2001 (s. 4).*

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**AN ACT to provide for the control and application of a fund to be used for the purpose of developing Communal Land and such other areas as may be declared by the Minister; to provide for the raising of revenue for such fund; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement: 1st January, 1982.]

#### **1 Short title**

This Act may be cited as the District Development Fund Act [*Chapter 29:06*].

#### **2 Interpretation**

In this Act—

“development area” means an area declared to be a development area in terms of section *five*; “fixed date” means the 1st January, 1982;

“Fund” means the District Development Fund referred to in subsection (1) of section three;

“Minister” means the Minister of Local Government, Rural and Urban Development or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“produce” means—

- (a) any kind of livestock or poultry; and
- (b) any crops or horticultural products; and
- (c) the produce of any kind of husbandry of livestock or poultry, including the carcasses, hides or wool of animals, bacon, cheese, butter or other dairy produce and eggs;

“repealed Act” means the African Development Fund Act [*Chapter 232 of 1974*];

“Secretary” means the Secretary of the Ministry for which the Minister is responsible; “surcharge” means a surcharge raised in terms of subsection (1) of section *thirteen*.

#### **3 District Development Fund**

(1) The fund established in terms of section 3 of the repealed Act shall, on and after the fixed date, continue in existence and shall be known as the District Development Fund.

(2) The trustee of the Fund shall be the Minister, in whom the Fund shall be vested and who shall, subject to this Act, have the sole management, control and use of the Fund.

(3) Subject to this Act, the objects to which the Fund may be applied shall be the development of Communal Land and development areas.

#### **4 Assets, liabilities, income and expenditure of Fund**

(1) The Fund shall consist of—

- (a) money appropriated for the purpose by Act of Parliament as a grant to the Fund; and
- (b) any gifts or grants made to the Fund by any person or authority or by the government of any country; and
- (c) any fees imposed by the Minister in terms of section *seventeen*; and
- (d) payments made in terms of section 188 of the Mines and Minerals Act [*Chapter 21:05*] by the holders of registered mining locations situated on Communal Land; and
- (e) levies paid in terms of section 232 of the Mines and Minerals Act [*Chapter 21:05*] in respect of Communal Land; and
- (f) any levies imposed in terms of regulations referred to in subsection (2) of section *nineteen*; and
- (g) any interest or increase in value derived from the holding of money or any assets of the Fund in any form whatsoever; and
- (h) any revenue, other than revenue referred to in paragraphs (a) to (g), pertaining to the Fund; and
- (i) all money and other assets which, immediately before the fixed date, pertained to the general and special accounts of the fund established in terms of section 3 of the repealed Act.

(2) The following expenditure, losses and liabilities shall be charged to and discharged from the Fund— (a) any expenditure incurred by the Minister in terms of this Act;

- (b) the repayment of loans made to the Minister in terms of section *nine* and any interest on such loans;
- (c) any losses incurred on the realization of any assets of the Fund and any decrease in the value of any assets of the Fund;
- (d) any other expenditure lawfully appertaining to the Fund;
- (e) all liabilities which, immediately before the fixed date, pertained to the general and special accounts of the fund established in terms of section 3 of the repealed Act.

#### **5 Development areas**

(1) If the Minister, after consultation with the Minister responsible for agriculture, considers, taking into account the existing state of development in any rural area of Zimbabwe and the resources available to the inhabitants thereof, that such rural area is in need of development by the Fund, he may, by statutory instrument, declare such rural area to be a development area for the purposes of this Act.

(2) The Minister may at any time, after consultation with the Minister responsible for agriculture, by statutory instrument, revoke any declaration in terms of subsection (1).

#### **6 Application of Fund**

(1) In order to give effect to the objects of the Fund as described in subsection (3) of section *three*, the Minister may, in his capacity as trustee of the Fund—

- (a) upon the recommendation of the Public Service Commission, appoint and employ such persons as he may consider requisite:

Provided that no recommendation of the Public Service Commission shall be required in regard to such categories of employment as it may specify to the Minister;

- (b) grant to his employees such leave or pay in lieu of leave as he thinks fit;
- (c) suspend or dismiss his employees;
- (d) pay to his employees such salary, wages or other remuneration as he thinks fit;
- (e) make to his employees such gifts, bonuses or the like as he thinks fit;
- (f) provide for his employees or their dependants, by means of insurance with an insurance company or pension or provident fund or otherwise, pecuniary benefits upon leave, retirement, death or termination of service or in the event of sickness or injury;
- (g) by grants of money, contribute towards the funds of any medical aid society, sick fund or similar institution for the benefit of his employees or their dependants, or contribute towards the establishment or maintenance of any such medical aid society, sick fund or similar institution;
- (h) in determining the gratuities to be paid to any of his employees upon their retirement or termination of service, recognize any past service of such employees while they were employed as dip supervisors or dip attendants by—
- (i) the trustees of the Native Area Dipping Tank Trust established in terms of Part VI of the Land Apportionment General Regulations, 1938 (Government Notice 251 of 1938); or (ii) a district commissioner; or
  - (iii) a provincial authority, district council or rural district council;

- (i) purchase, construct, take on lease or in exchange, hire or otherwise acquire, maintain, alter or repair, manage, work and control any movable or immovable property;
- (j) sell, exchange, let, mortgage, dispose of, turn to account, develop, manage or otherwise deal with any property or rights acquired by him or any part thereof for such consideration as he thinks fit;
- (k) lend money to any persons on such terms as he thinks expedient, and guarantee the performance of contracts by any persons;
- (l) insure with any person against any losses, damage, risks or liabilities which he may incur;
- (m) invest and deal with money of the Fund not immediately required upon such security and any such manner as he may determine;
- (n) carry on any experiment, investigation, research or instruction;
- (o) within Communal Land or any development area, construct works, dams, roads, bore-holes, buildings, structures or fences or carry on pasture improvement and management;
- (p) generally, apply the money and other assets of the Fund for any purpose which he considers to be in the interests of the development of Communal Land or development areas or the inhabitants thereof.

(2) Before carrying out any work or doing anything within any area in terms of paragraph (n), (o) or (p) of subsection (1), the Minister shall, if he considers it appropriate to do so, consult any rural district council established for the area.

## **7 Estimates of expenditure**

(1) The Minister shall prepare a statement showing in respect of each financial year the estimated—

- (a) receipts and accruals of the Fund; and
- (b) expenditure of the Fund, the purpose for which such expenditure is to be made and the estimated amount that will be expended on each such purpose; and
- (c) balance of the Fund at the close of such financial year.

(2) The Minister shall, as soon as possible after the completion of the statement referred to in subsection (1), lay copies thereof before Parliament.

## **8 Limits on expenditure from Fund**

(1) Subject to this section, the expenditure incurred by the Fund in any financial year shall not exceed such amount as Parliament may by resolution have approved for that financial year, and the amount of the expenditure on any purpose shall not exceed the amount so approved by Parliament for that purpose:

Provided that the Minister may, after consultation with the Minister responsible for finance, authorize any saving on any purpose so approved by Parliament to be expended to meet excess expenditure on any other such purpose.

(2) Until Parliament has approved the expenditure for a financial year, the Minister may, in anticipation of approval by Parliament, expend such amount as the President may authorize, not exceeding twenty-five *per centum* of the estimated expenditure for that financial year, on purposes approved by Parliament for the previous financial year.

(3) If at any time it appears to the President to be necessary—

- (a) on any purpose to incur unforeseen expenditure of a special character which has not been approved by Parliament and which cannot, without seriously prejudicing the achievement of the objects of the Fund, be postponed until Parliament has approved it; or
- (b) to incur expenditure in excess of the amount already approved by Parliament on a particular purpose; the President may authorize the Minister, in anticipation of the approval of Parliament, to expend such sums as may be required from time to time to meet the expenditure on such purpose: Provided that—
  - (i) the total sum so authorized shall not at any time exceed ten *per centum* of the total expenditure already approved by Parliament for that financial year;
  - (ii) the sums expended in terms of this subsection shall be submitted for approval by Parliament not later than during its next ensuing sitting.

## **9 Minister may borrow money**

(1) The Minister responsible for finance may, out of money appropriated for the purpose by Act of Parliament, lend to the Minister money to meet expenditure incurred by the Fund in terms of this Act.

(2) The Minister shall, out of the money and other assets of the Fund, pay interest on loans made in terms of subsection (1) at a rate to be fixed by the Minister responsible for finance.

(3) Subject to the approval of the Minister responsible for finance, the Minister may, in addition to borrowing money in terms of subsection (1), raise loans on behalf of the Fund in such amounts and on such terms as the Minister thinks fit.

## **10 Holding of Fund and advances from Fund**

The Minister—

- (a) shall cause to be paid into a banking account all money received by him on behalf of the Fund and no money shall be withdrawn therefrom except by means of cheques signed by such person or persons as may be specially authorized thereto in writing by the Minister;
- (b) may make advances from the money of the Fund to any person, who may pay therefrom any expenditure incurred on the authority of the Minister for any purpose referred to in section *six*.

### **11 Financial year**

The financial year of the Fund shall be the period of twelve months ending on the 30th June in each year:

Provided that the President may, by a statutory instrument, declare that the financial year of the Fund shall be a period of twelve months ending on a date other than the 30th June in each year.

### **12 Books of account and audit**

(1) The Minister shall—

- (a) keep proper accounts and other records relating thereto, in which he shall record all the financial transactions of the Fund; and
- (b) in respect of each financial year prepare—
  - (i) a balance-sheet; and
  - (ii) a statement of the transactions referred to in paragraph (a):

Provided that, if the President has made a declaration in terms of the proviso to section *eleven*, the Minister shall prepare the balance-sheet and statement relating to the financial year in which such declaration was made in respect of such period as the President may specify in such declaration.

(2) The accounts of the 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 in terms of section *six* were employees of the State.

### **13 Power of surcharge**

(1) Subject to subsection (3), if—

- (a) it appears to the Secretary that any person was responsible for—
  - (i) any deficiency in the collection of or accounting for money of the Fund; or
  - (ii) any improper payment of money of the Fund; or
  - (iii) any payment of money of the Fund which is not duly vouched and the Secretary is satisfied that such payment has resulted in a loss of money of the Fund or a further payment of money of the Fund in respect of the same matter; or
  - (iv) any deficiency in or destruction of money of the Fund; and
- (b) an explanation satisfactory to the Secretary is not, within a period specified by him, furnished to him with regard to such irregularity as is referred to in paragraph (a); the Secretary may surcharge against the said person the amount of any sums not collected or accounted for or the amount of any deficiency in or improper payment, payment not duly vouched or damage to or destruction of money of the Fund, as the case may be.

(2) The Secretary may at any time withdraw a surcharge—

- (a) in respect of which a satisfactory explanation has been received; or (b) if it otherwise appears to him that no surcharge should have been made.

(3) Subsection (1) shall apply to any person who is or was employed in terms of paragraph (a) of subsection (1) of section *six* at the time of any deficiency in or improper payment, payment not duly vouched or damage to or loss or destruction of money of the Fund for which he was responsible.

### **14 Appeals against surcharge**

(1) Any person who is dissatisfied with a surcharge may, within a period of one month after he has been notified thereof or such further period as the Secretary in special circumstances may allow, appeal in writing to the Minister against the surcharge, giving his reasons as to why he feels that he should not have been surcharged.

(2) After considering an appeal in terms of subsection (1), the Minister shall—

- (a) reject the appeal; or
- (b) make an order directing that the person concerned be released wholly or in part from the surcharge; as may appear to him to be just and reasonable.

### **15 Recovery of surcharge**

(1) A surcharge which has not been withdrawn or from which the person concerned has not been released in terms of section *fourteen* shall be a debt due to the Fund.

(2) A debt referred to in subsection (1) may be—

- (a) sued for and recovered by action in any court of competent jurisdiction at the suit of the Minister; or
- (b) subject to subsection (3), set-off against any amount due from the Fund to the person by whom the debt is due.

(3) In the case of a set-off in terms of paragraph (b) of subsection (2) against a salary payable to a person who remains in the employment of the Minister or against a pension, the debt may be recovered in full or in monthly instalments at a rate fixed by the Minister.

(4) Any amount of a surcharge which has been recovered shall be paid to the Fund.

#### **16 Loss, destruction of or damage to property of Fund**

(1) When it comes to the notice of the Secretary that there is any deficiency in, or has been any destruction of or damage to, property of the Fund he shall cause an investigation to be held into the circumstances of such deficiency, destruction or damage, as the case may be.

(2) If, after an investigation in terms of subsection (1) the Secretary considers that—

- (a) any person who is or was, at the time of the deficiency, destruction or damage occurred, in the employment of the Fund was responsible for the deficiency, destruction or damage, as the case may be; and
- (b) a satisfactory explanation in respect of the matter has not been furnished; the Secretary may make an order against that person, requiring him to pay to the Fund an amount equal to the cost of the replacement of the property concerned, if it has been lost or destroyed, or the cost of the repairs thereto, if it has been damaged, or such portion of that cost as he considers to be equitable in the circumstances.

(3) The Secretary may at any time withdraw an order made in terms of subsection (2)—

- (a) if a satisfactory explanation is furnished in respect of the deficiency, destruction or damage concerned; or
- (b) if it otherwise appears to him that no such order should have been made.

(4) Sections *fourteen* and *fifteen* shall apply, *mutatis mutandis*, in relation to any order made in terms of subsection (2) as they apply in relation to a surcharge.

(5) For the purposes of this section, property shall be deemed to have been destroyed the cost of repairing the damage to the property is estimated to be in excess of the cost of replacing the property.

#### **17 Minister may impose fees**

The Minister may impose fees to be paid by any person who makes use of services or facilities provided by him in the exercise of his powers in terms of this Act.

#### **18 Assignment of powers, duties and functions of Minister**

(1) The Minister may, subject to such conditions as he may impose, assign to—

- (a) the Secretary or any other person employed in the Ministry for which he is responsible; or
- (b) any person employed in terms of section *six*; all or any of the powers, duties and functions conferred or imposed upon him in his capacity as trustee of the Fund in terms of this Act or any other law, and may at any time amend or withdraw any such assignment.

(2) The assignment by the Minister in terms of this section of any power, duty or function shall not preclude the Minister from himself exercising that power or performing that duty or function, as the case may be.

#### **19 Regulations**

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

(2) Regulations made in terms of subsection (1) may provide for the imposition and collection of levies upon any produce grown, produced or sold within any Communal Land or development area and for the payment of all or any part of the revenue accruing from such levies to such persons or authorities as may be prescribed.

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof:

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

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