

## CHAPTER 1:01

### INTERPRETATION ACT

*Acts 25/1962, 78/1963, 22/1964 (s. 54), 71/1964 (s. 9), 93/1964, 19/1969 (s. 4), 57/1969 (s. 6), 40/1972 (s. 20), 11/1973 (s. 13), 28/1975, 44/1975 (s. 12), 41/1976 (s. 139), 42/1976 (s. 2), 39/1977, 5/1979 (s. 31), 17/1979 (s. 2), 39/1979 (s. 19), 29/1981 (s. 54), 20/1982 (s. 19), 13/1983 (s. 19), 31/1983 (s. 2), 12/1985 (s. 47), 23/1986 (s. 18), 8/1988, 12/1988, 2/1990, 11/1991 (s. 2), 20/1994 (s. 2), 12/1997 (s. 2), 22/2001 (s. 4), 23/2001 (s. 49), 14/2002 (s. 2); 9/2004, 23/2004, 28/2004 (s. 28); (s. 282); Ord. 17/1980 (s. 43); R.G.N.s 214/1964, 386/1964, 217/1970, 1092/1970, 1135/1975; S.I. 236/1980.*

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**AN ACT to define certain terms when used in legislative enactments; to make provision with respect to the operation, commencement and interpretation of legislative enactments; to shorten the language of legislative enactments; and for other purposes.**

[Date of commencement: 1st November, 1962.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Interpretation Act [*Chapter 1:01*].

#### 2 Application of this Act

(1) The provisions of this Act shall extend and apply to every enactment as defined in this Act, including this Act, which was in force in Zimbabwe immediately before the 1st November, 1962, or thereafter comes into force in Zimbabwe, except in so far as any such provisions—

- (a) are inconsistent with the intention or object of such enactment; or
- (b) would give to any word, expression or provision of any such enactment an interpretation inconsistent with the context; or
- (c) are in such enactment declared not applicable thereto.

(2) Nothing in this Act shall exclude the application to any enactment of any rule of construction applicable thereto and not inconsistent with this Act.

## PART II

### DEFINITIONS

#### 3 Definitions

(1) In every Act—

“Minister” means a Minister of the Government;

“prescribed” means prescribed by the Act or by statutory instrument made thereunder;

“this Act” includes any statutory instrument made and in force under the Act.

(2) In all statutory instruments—

“the Act” means the Act under which the statutory instrument is made.

(3) In every enactment—

“Act” means—

- (a) any law included in the Revised Edition of the Statute Law of Southern Rhodesia prepared under the authority of the Revised Edition of the Laws Act, 1937; and
- (b) any law of the Legislature of Zimbabwe made on or after the 1st January, 1939; and
- (c) any law of the Legislature of the former Federation in force in Zimbabwe by virtue of the provisions of an Order in Council made under the Federation of Rhodesia and Nyasaland Act 1963 of the United Kingdom;

“Administrative Court” means the Administrative Court established by section 3 of the Administrative Court Act [*Chapter 7:01*];

“African” means—

- (a) any member of the aboriginal tribes or races of Africa and the islands adjacent thereto, including Madagascar and Zanzibar; or
- (b) any person who has the blood of such tribes or races and who lives as a member of an aboriginal native community;

“amend” includes vary, alter, modify, add to, delete or adapt;

“children’s court” means a children’s court established by or in terms of section 3 of the Children’s Act [*Chapter 5:06*];

[Definition amended by section 49 of Act 23 of 2001]

“Christian name” means any name prefixed to a surname, whether received at Christian baptism or not;

“civil proceedings”, “civil suits”, “civil causes” or “civil actions” means all proceedings other than criminal proceedings;

“Communal Land” means land set aside as such in terms of the Communal Land Act [*Chapter 20:04*];

“community court” means a community court constituted in terms of the Customary Law and Local Courts Act [*Chapter 7:05*];

“Consolidated Revenue Fund” means the Consolidated Revenue Fund established by section 101 of the Constitution;

“Constitution” means the Constitution of Zimbabwe;

“contravention”, in relation to a provision in an enactment, includes a failure to comply with that provision;

“court” means any court in Zimbabwe of competent jurisdiction;

“Criminal Law Code” means the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];

[Definition inserted by section 282 of Act 23 of 2004]

“customary law” means the customary law of the people of Zimbabwe, or of any section or community of such people, before the 10th June, 1891, as modified and developed since that date;

“date of commencement” means the date upon which an enactment comes into operation;

“Deeds Registry” means—

- (a) when used in relation to immovable property, the deeds registry established by subsection (1) of section 3 of the Deeds Registries Act [*Chapter 20:05*] which serves the area in which the property is situate;
- (b) when used in relation to any deed or other document, the deeds registry established by subsection (1) of section 3 of the Deeds Registries Act [*Chapter 20:05*] wherein that deed or other document is registered or registrable;

“Defence Forces” means the Defence Forces referred to in section 96 of the Constitution;

“district” means a district established in terms of section 6 of the Rural District Councils Act [*Chapter 29:13*];

“enactment” means—

- (a) any Act; or
- (b) any statute included in a revised edition of the laws of Zimbabwe prepared under an Act; or
- (c) any statutory instrument; or
- (d) any regulations made in terms of an Order in Council made under the Federation of Rhodesia and Nyasaland Act 1963 of the United Kingdom; or
- (e) any ordinance made in terms of the Southern Rhodesia Act 1979 of the United Kingdom and having the force of law within Zimbabwe; or
- (f) any provision contained in an enactment mentioned in paragraph (a), (b), (c), (d), or (e);

“Federation” means—

- (a) the Federation of Southern Rhodesia, Northern Rhodesia and Nyasaland established by the Federation of Rhodesia and Nyasaland (Constitution) Order in Council, 1953; and
- (b) the area included within the external boundaries of the Territories comprising the Federation;

“financial year”, in respect of any matter relating to the Consolidated Revenue Fund, or moneys provided by Parliament, or to the finances of Zimbabwe, means the twelve months ending on the 31st December;

[Definition amended by section 2 of Act 14 of 2002.]

“fixed date” means the date fixed as the date of commencement of an Act;

[Definition inserted by section 2 of Act 22 of 2001.]

“Forest Estate” means the Forest Estate as described in the Forest Act [*Chapter 19:05*];

“forest land” means forest land as described in the Forest Act [*Chapter 19:05*];

“functions” includes powers and duties;

“*Gazette*” means the Government Gazette;

“Government” means the Government of Zimbabwe;

“Government Printer” means—

(a) the person appointed as Government Printer by the President; or  
 (b) the person appointed by the President to print any particular matter;

“Health Service” means the Health Service constituted in terms of section 9 of the Health Service Act [*Chapter 15:16*];  
 [Definition inserted by section 28 of Act 28 of 2004]

“Health Service Board” means the Health Service Board established by section 3 of the Health Service Act [*Chapter 15:16*];  
 [Definition inserted by section 28 of Act 28 of 2004]

“High Court” means the High Court of Zimbabwe referred to in subsection (1) of section 81 of the Constitution;  
 “immigration officer” means a person who is an immigration officer for the purposes of the Immigration Act [*Chapter 4:02*];  
 “juvenile court” ...  
 [Definition repealed by section 49 of Act 23 of 2001.]

“law” means any enactment and the common law of Zimbabwe;

“level”, in relation to a fine, means a level on the standard scale;  
 [Definition inserted by section 2 of Act 22 of 2001.]

“local authority” means—  
 (a) a municipal council, town council or rural district council; or  
 (b) such other body constituted, established or appointed by or under any Act as the President may by statutory instrument declare to be a local authority for the purposes of this Act;

“local board” means a local board established or deemed to have been established in terms of the Urban Councils Act [*Chapter 29:15*] and any reference to a local government area or the area of a local board shall be construed accordingly;

“magistrate” means any magistrate appointed in terms of the Magistrates Court Act [*Chapter 7:10*], whether as chief magistrate, regional magistrate, provincial magistrate, senior magistrate or magistrate, and, to the extent that section 52 of the Act makes provision for the assistance of a magistrate by assessors, means a magistrate as assisted by such assessors;

“municipality” means a municipality established or deemed to have been established in terms of the Urban Councils Act [*Chapter 29:15*], including a municipality that has been declared to be a city in terms of that or any other Act, and any reference to a municipal council, a municipal area or the area of a municipal council shall be construed accordingly;

“oath” or “affidavit”, in the case of persons allowed by law to affirm instead of swearing, includes affirmation, and the expression “swear” in such a case includes “affirm”;

“offence” means a criminal offence;

“Parks and Wild Life Estate” means the Parks and Wild Life Estate as described in the Parks and Wild Life Act [*Chapter 20:14*];

“parks and wild life land” means parks and wild life land as described in the Parks and Wild Life Act [*Chapter 20:14*];

“person” or “party” includes—  
 (a) any company incorporated or registered as such under an enactment; or  
 (b) any body of persons, corporate or unincorporated; or  
 (c) any local or other similar authority;

“Police Force” means the Police Force referred to in section 93 of the Constitution;

“police officer” means any Regular Force member as defined in section 2 of the Police Act [*Chapter 11:10*];

“primary court” means a primary court constituted in terms of the Customary Law and Local Courts Act [*Chapter 7:05*];

“prison” means a prison established under the Prisons Act [*Chapter 7:11*];

“Prison Service” means the Prison Service referred to in subsection (1) of section 99 of the Constitution;

“provincial council” means a provincial council established in terms of the Provincial Councils and Administration Act [*Chapter 29:11*];

“public holiday” or “holiday” means a public holiday specified in terms of subsection (1) or declared in terms of subsection (2) of section 2 of the Public Holidays and Prohibition of Business Act [*Chapter 10:21*];

“Public Service” means the Public Service referred to in subsection (1) of section 73 of the Constitution;

“Public Service Commission” means the Public Service Commission referred to in subsection (1) of section 74 of the Constitution;

“Registrar of Deeds” means any person who has the power to do any act or thing in a deeds registry in terms of subsection. (2) of section 4 of the Deeds Registries [*Chapter 20:05*];

“regulation”, “rule”, “by-law”, “order” or “notice” means respectively a regulation, rule, by-law, order or notice in force under the enactment under which it was made;

“repeal” includes rescind, revoke and cancel;

“rules of court”, when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;

“rural district council” means a rural district council established in terms of the Rural District Councils Act [Chapter 29:13], and any reference to a rural district council area or the area of a rural district council shall be construed accordingly;

“sign”, with reference to a person who is unable to write his name, includes make his mark;

“standard scale” means the standard scale of fines referred to in section 280 of the Criminal Law Code, as amended or replaced from time to time;

[Definition inserted by section 2 of Act 22 of 2001 and amended by section 282 of Act 23 of 2004]

“statutory instrument” means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law, made by the President or any other person or body under any enactment;

“Supreme Court” means the Supreme Court of Zimbabwe referred to in subsection (1) of section 80 of the Constitution;

“town” means a town established or deemed to have been established in terms of the Urban Councils Act [Chapter 29:15] and any reference to a town council, a town area or the area of a town council shall be construed accordingly;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

(4) References to Rhodesia, Zimbabwe Rhodesia or Southern Rhodesia in any enactment shall be construed as references to Zimbabwe.

### **PART III**

#### GENERAL PROVISIONS REGARDING ENACTMENTS

#### **4 Enactments to apply to whole of Zimbabwe**

Every enactment shall, unless the contrary intention appears, apply to the whole of Zimbabwe.

#### **5 Forms**

(1) Where a form is prescribed or specified by any enactment, deviations therefrom not materially affecting the substance nor calculated to mislead shall not invalidate the form used.

(2) It shall not be necessary to publish in the *Gazette* any form which is prescribed by a statutory instrument if there is published in the *Gazette* a notice specifying an office or offices in Zimbabwe where such form may be inspected free of charge.

#### **6 Preamble and punctuation to form part of enactments**

The preamble to an enactment and any punctuation in an enactment shall form part of the enactment and may be used as aids to the construction of the enactment.

#### **7 Headings, notes, tables and indexes**

In an enactment—

(a) headings and marginal notes and other marginal references therein to other enactments; and

(b) notes, tables, indexes and explanatory references inserted therein as part of any compilation or revision in terms of the Statute Law Compilation and Revision Act [Chapter 1:03];

shall form no part of the enactment and shall be deemed to have been inserted for convenience of reference only.

#### **8 Writing**

Writing and expressions referring to writing shall be construed as including printing, typewriting, lithography, photography and any other modes of representing or reproducing words or figures in a visible form.

#### **9 Rules as to gender and number**

(1) Unless the context otherwise requires, words importing female persons include male persons and juristic persons and words importing male persons include female persons and juristic persons.

[Subsection amended by Act 9 of 2004]

(2) Words in the singular include the plural and words in the plural include the singular.

#### **10 References in enactments**

(1) For the purpose of subsection (5)—

“division” means Schedule, Appendix, Part, section, clause, subsection, subclause, definition, proviso, paragraph or subparagraph, as the case may be, and “subdivision” shall be construed accordingly.

(2) A reference in an enactment to a provision in another enactment shall be construed as a reference to that provision as for the time being amended by or under any other enactment, including the enactment in which the reference is made.

(3) A reference in an enactment by number or letter to two or more Parts, Appendices, divisions, sections, sub-sections, paragraphs, subparagraphs, Schedules, instruments or forms shall be read as including the number or letter first mentioned and the number or letter last mentioned.

(4) Where in an enactment reference is made to a Part, Appendix, division, section, Schedule or form without anything in the context to indicate that a reference to a Part, Appendix, division, section, Schedule or form of some other enactment is intended, the reference shall be construed as a reference to a Part, Appendix, division, section, Schedule or form of the enactment in which the reference is made.

(5) Where a division of an enactment contains subdivisions, a reference in any such subdivision to another subdivision shall, unless the context indicates that a reference to a subdivision of another division is intended, be construed as a reference to a subdivision of that division.

(6) Where in an enactment reference is made to a statutory instrument without anything in the context to indicate that reference to a statutory instrument made under some other enactment is intended, the reference shall be construed as a reference to a statutory instrument made under the enactment in which the reference is made.

## **11 Enactments always speaking**

Every enactment shall be construed as always speaking, and if anything is expressed in the present tense it shall be applied to the circumstances as they occur so that effect may be given to each enactment according to its true spirit, intent and meaning.

## **12 Application of interpretation provisions in enactments**

(1) Definitions or rules of interpretation contained in an enactment shall apply to the construction of the provisions of the enactment which contain those definitions or rules of interpretation as well as to the other provisions of the enactment.

(2) An interpretation section or provision contained in an enactment shall be read and construed as being applicable only if a contrary intention does not appear in the enactment.

(3) Definitions or rules of interpretation contained in an enactment shall apply to the construction of any statutory instrument made thereunder.

## **13 Corresponding meanings of parts of speech**

Where a word is defined in an enactment, grammatical variations and any parts of speech of that word and cognate expressions shall have corresponding meanings in that enactment.

## **14 Description of area by reference to official diagram, etc.**

Where in any enactment an area is required to be prescribed, defined or described, the area may be prescribed, defined or described by reference to an official diagram, map or plan which may be inspected free of charge at a specified office or at specified offices in Zimbabwe.

## **15 References to applications and petitions**

(1) Where an enactment requires or permits an application to be made to a court—

- (a) the application may be made to a judge, magistrate or other judicial officer of the court if rules of the court so provide; and
- (b) the application may be made in any appropriate form, whether by way of action, application or otherwise, permitted by rules of the court.

(Subsection as substituted by section 2 of Act 12 of 1997)

(2) Any reference in an enactment to a petition to a court shall be construed as a reference to an application to the court or to a judge, magistrate or other judicial officer of the court, made in accordance with rules of the court.

(3) Where an enactment requires or permits anything to be done by way of action in a court, the thing may be done by any appropriate form of proceeding permitted by rules of the court.

(Subsection inserted by section 2 of Act 12 of 1997)

## **15A References to things done by notice in the *Gazette* or by statutory instrument**

Where an enactment requires or permits anything to be done—

- (a) by notice in the *Gazette*, the thing may be done by statutory instrument published as a supplement to the *Gazette*;
- (b) by statutory instrument, the instrument may be published as a notice in the *Gazette* rather than as a supplement to the *Gazette*.

(Section inserted by section 2 of Act 12 of 1997)

## **15B Use of extrinsic material in the interpretation of enactments**

(1) Subject to subsection (3), in the interpretation of a provision of an enactment consideration may be given to the material referred to in subsection (2) for the purpose of—

- (a) confirming that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment; or
- (b) determining the meaning of the provision when—
  - (i) the provision is ambiguous or obscure; or

- (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment leads to a result that is manifestly absurd or unreasonable.
- (2) The following material may be used for the purposes of subsection (1)—
- (a) the material referred to in section *seven*;
  - (b) any relevant report of a commission of inquiry appointed in terms of the Commissions of Inquiry Act [*Chapter 10:07*], or the Law Development Commission established in terms of the Law Development Commission Act [*Chapter 1:02*], or any relevant report of a committee of inquiry or other similar body that was laid before Parliament before the time when the provision was enacted;
  - (c) any relevant report of a committee of Parliament that was made to Parliament before the time when the provision was enacted;
  - (d) any treaty, convention or other international agreement that is referred to in the enactment;
  - (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before or furnished to members of Parliament by a Minister before the time when the provision was enacted;
  - (f) the speech made to Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time, and the committee stage proceedings relating to the Bill containing the provision, as recorded in the Votes and Proceedings of Parliament or in any official record of debates in Parliament;
  - (g) any document, whether or not a document to which a preceding paragraph applies, that is declared by the enactment to be a relevant document for the purposes of this section;
  - (h) any relevant material in the Votes and Proceedings of Parliament or in any official record of debates in Parliament.
- (3) In determining whether consideration should be given to any material in accordance with subsection (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to—
- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the enactment and the purpose or object underlying the enactment; and
  - (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

(Section inserted by section 2 of Act 14 of 2002.)

## PART IV

### REPEAL, RE-ENACTMENT AND AMENDING LEGISLATION

#### 16 Repeal of enactment to include amendments

Where an enactment which has been amended is repealed, such repeal shall repeal all enactments by which such first-mentioned enactment has been amended.

#### 17 Effect of repeal of enactment

- (1) Where an enactment repeals another enactment, the repeal shall not—
- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
  - (b) affect the previous operation of any enactment repealed or anything duly done or suffered under the enactment so repealed; or
  - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the enactment so repealed; or
  - (d) affect any offence committed against the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect thereof; or
  - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy shall be exercisable, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the enactment had not been so repealed.
- (2) Nothing in subsection (1) shall be taken to authorize the continuance in force, after the repeal of an enactment, of any statutory instrument made under that enactment.
- (3) Where an enactment repeals and re-enacts, with or without modification, any provision of any other enactment, all proceedings commenced under any provision so repealed shall be continued under and in conformity with the provision so repealed.
- (4) Where, prior to the 1st January, 1976, an Act of the Legislature of Rhodesia or an Act of the Legislature of the former Federation repealed and re-enacted, with or without modification, any provision of an Act of the Legislature of the former Federation, any proclamation, regulations, rule, by-law, order, notice, scheme or other instrument made and in force under any provision so repealed shall continue in force in so far as it is not inconsistent with the substituted provision or until it is repealed or replaced.

(5) Where at any time an enactment expires, lapses or otherwise ceases to have effect, this section shall apply as if that enactment had then been repealed.

### **18 Effect of substituted provisions**

Where an enactment repeals and re-enacts, with or without modification, any provision of another enactment, the references in any other enactment to the provisions so repealed or to any person, authority or matter mentioned in such repealed provisions, shall be construed as references to the provisions, person, authority or matter respectively substituted therefor.

### **19 Construction of amending enactment**

Where an enactment amends or adds to another enactment, the amending enactment shall, so far as is consistent with the tenor thereof, be construed as one with the amended enactment and as forming part thereof.

## **PART V**

### STATUTORY INSTRUMENTS

### **20 Date of commencement of statutory instruments**

(1) Every statutory instrument shall be published in or with or as a supplement to the *Gazette* and shall come into operation on the date of its publication unless some other date is fixed by or under the statutory instrument for the coming into operation thereof.

(Subsection as amended by section 2 of Act 12 of 1997)

(2) Where by virtue of any law a statutory instrument comes into operation on the date of its publication in the *Gazette* or a statutory instrument is expressed to come into operation on a particular day, such statutory instrument shall be construed as coming into operation immediately on the expiration of the day preceding the date of such publication or, as the case may be, such particular day:

Provided that, unless the Act under whose authority the statutory instrument is made expressly provides to the contrary, where the date of such publication or, as the case may be, such particular day, is the same as that on which the statutory instrument is made, it shall be construed as coming into operation at the time when it is made or, if a later time is specified in the statutory instrument, at that later time.

### **21 Power to make statutory instruments**

(1) When an enactment confers the power to make a statutory instrument, the following provisions shall apply in relation to the making and operation of such statutory instrument—

- (a) the power shall be construed as including power, executable in the like manner and subject to the like consent and conditions, if any, to amend or repeal such statutory instrument and to make another statutory instrument in place thereof;
- (b) when any enactment confers power to make a statutory instrument for any general purpose and also for any special purpose, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

(2) Any power conferred by an enactment to make a statutory instrument may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised—
  - (i) the full provision to which the power extends, or any less provision, whether by way of exception or otherwise; and
  - (ii) the same provision for all cases in relation to which the power is exercised, or a different provision for different cases or classes of case, or a different provision as respects the same case or class of case for different purposes of the enactment; and
- (iii) any such provision either unconditional or subject to any specified condition.

### **22 References in statutory instruments to standard publications**

(1) In this section—

“standard publication” means any—

- (a) publication embodying a standard or code of practice laid down by the Standards Association of Zimbabwe, the South African Bureau of Standards or the British Standards Institution; or
- (b) any other publication specified by the President by notice in the *Gazette* for the purposes of this definition.

(2) When an enactment confers the power to make a statutory instrument the power shall be construed as authorizing the making of a statutory instrument prescribing requirements merely by reference to a standard publication.

(3) Any amendment or replacement of a standard publication, whether before or after the coming into operation of the statutory instrument incorporating a reference to that standard publication, shall be of force for the purposes of that statutory instrument as if incorporated therein in terms of subsection (2).

(4) While any statutory instrument in which reference is made to a standard publication is in force, copies of—

- (a) the standard publication or any replacement thereof; and

- (b) any other standard publication or other specification or document incorporated by reference in the first-mentioned standard publication; and
  - (c) any amendment of the standard publication, specifications or documents;
- shall be kept at such offices in Zimbabwe as may be specified in the statutory instrument, where they may be inspected free of charge:

Provided that failure to comply with this subsection shall not affect the validity of the statutory instrument.

### **23 Application of this Act in relation to model by-laws or regulations**

(1) Where an enactment confers the power to make model by-laws or regulations, this Act shall apply in respect of—

- (a) the power as if it were a power to make a statutory instrument; and
- (b) model by-laws or regulations made in terms of the power as if they were statutory instruments.

(2) Subsection (1) shall apply in respect of a power to make model by-laws or regulations, or any by-laws or regulations made in terms of such a power, whether that power or those regulations or by-laws, as the case may be, existed before the 15th August, 1975, or come into existence on or after that date.

## **PART VI**

### **POWERS AND APPOINTMENTS**

#### **24 Statutory powers and duties generally**

(1) Where an enactment confers a power, jurisdiction or right, or imposes a duty, the power, jurisdiction or right may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where an enactment empowers any person or authority to do any act or thing, all such powers shall be deemed to be also given as are reasonably necessary to enable that person or authority to do that act or thing or are incidental to the doing thereof.

(3) Where an enactment authorizes or requires an act or thing to be done collectively by more than two persons, a majority of those persons may do that act or thing, unless a quorum fixed by that enactment has not been formed.

#### **25 Exercise of powers before Act comes into operation**

(1) Where an Act, whether or not it has been promulgated, confers power—

- (a) to make appointments; or
- (b) to hold elections; or
- (c) to make statutory instruments; or
- (d) to publish documents or give any notices; or
- (e) to prescribe forms; or
- (f) to give directions; or
- (g) to do any act or thing;

that power may be exercised at any time after the President has assented thereto, but, except in so far as may be necessary or expedient, a statutory instrument made under that power shall not have effect before the date of commencement of the Act conferring the power.

(2) Where a statutory instrument confers power to make other statutory instruments, that power may be exercised so that the statutory instruments so made are published in the same *Gazette* as the enabling statutory instrument and have effect from the date of their publication.

#### **26 Holders of offices**

Where any enactment confers a power, jurisdiction or right, or imposes a duty, on the holder of an office as such, then the power, jurisdiction or right may be exercised and the duty shall be performed, from time to time, by the holder for the time being of the office or the person lawfully acting in the capacity of such holder.

#### **27 Appointment by name or office**

An appointment made under an enactment may be made either by name or by reference to the holder of an office or post.

#### **28 Appointments**

An enactment which confers power to make an appointment of a person to any office or post shall confer on the appointing authority—

- (a) power at the discretion of that authority to remove or suspend him; or
- (b) power exercisable in the like manner and subject to the like consent and conditions, if any, applicable on his appointment—
  - (i) to reappoint or reinstate him; or
  - (ii) to appoint another person in his stead or to act in his stead, and to provide for the remuneration of the person so appointed; or
  - (iii) to fix or vary his remuneration, to withhold his remuneration in whole or in part during any period of suspension from office, and to terminate his remuneration on his removal from office.

## **29 Appointment of alternate members**

(1) Where an authority is conferred by or under any enactment to appoint a person as a member of or the person presiding over any tribunal, board, committee, council or commission or other similar body, such authority shall include the power to appoint a person as an alternate to the first-mentioned person.

(2) Where any person has, in terms of any enactment as read with subsection (1), been appointed an alternate to any other person, any provision of that enactment referring to the person to whom he is alternate shall be read and construed as including a reference to the alternate:

Provided that the alternate shall act as the person to whom he is alternate only when that person is unable for any reason to perform his duties.

## **30 Power of appointment subject to laws relating to Public Service**

Where any enactment confers a power to appoint a person to any office or post and the power is expressed to be subject to any law relating to the Public Service, the power shall not be construed as requiring that an officer or employee in the Public Service be appointed to that office or post.

## **PART VII**

### EVIDENCE

## **31 Evidence of exercise of statutory power**

(1) A certificate alleging the material particulars of anything of an administrative, judicial or executive character done in the exercise of a statutory power or duty shall, if purporting to be signed by the person authorized or required to do such thing, be received in any court, on production by any person and without further proof, as *prima facie* proof of the doing of such thing and of such particulars.

(2) When any act, matter or thing is by an enactment directed to be done by the President or by any Minister, notification that such act, matter or thing has been done may, unless a specified instrument or method is by that enactment prescribed for the notification, be by notice published in the *Gazette* which shall for all purposes whatsoever be *prima facie* proof that such act, matter or thing has been done.

## **32 Evidence of enactments**

(1) It shall be presumed, unless the contrary is proved, that any enactment which has been published in the *Gazette* or the Federation of Rhodesia and Nyasaland Government Gazette has been duly made, and all courts shall take judicial notice of any such enactment.

(2) For the purpose of ascertaining the content of any enactment or other matter published in the *Gazette* or the Federation of Rhodesia and Nyasaland Government Gazette, reference may be made to a copy of the *Gazette* or the Federation of Rhodesia and Nyasaland Government Gazette, as the case may be, containing such enactment or other matter, or to a copy of such enactment or other matter purporting to be printed by or under the authority of the Government printer or by a person appointed or authorized to print matter for the Government of the former Federation, and either such copy shall be *prima facie* proof for all purposes whatsoever of the content of such enactment or other matter.

(3) Any form upon which are printed words indicating that such form is prescribed by a statutory instrument shall be presumed, unless the contrary is proved, to have been duly prescribed and judicial notice shall be taken of such form.

(4) Where by any enactment it is provided that a statutory instrument may be made or that any appointment may be made or function performed with the approval or consent of, or after consultation with, the President, a Minister or any other authority, a notification in the *Gazette* or Federation of Rhodesia and Nyasaland Government Gazette stating that such approval or consent has been given, or that consultation has taken place, shall be *prima facie* proof for all purposes whatsoever of such approval, consent or consultation.

## **PART VIII**

### TIME AND DISTANCE

## **33 Time**

(1) Words in an enactment relating to time, and references therein to a point of time, shall be construed as relating to standard time as used in Zimbabwe, that is to say, two hours in advance of Greenwich Mean Time.

(2) Where in an enactment a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall not be included in the period.

(3) Where in an enactment a period of time is expressed to end on, or to be reckoned to, a particular day, that day shall be included in the period.

(4) Where the time limited by an enactment for the doing of any thing expires or falls upon a Saturday, a Sunday or a public holiday, the time so limited shall extend to, and the thing may be done on, the first following day that is not a Saturday, a Sunday or a public holiday.

(5) Subsections (2), (3) and (4) shall apply whether or not the number of days concerned is expressed to be clear days.

(6) In an enactment—

- (a) a reference to midnight in relation to any particular day shall be construed as a reference to the point of time at which that day ends;
- (b) a reference to a weekday shall be construed as a reference to any day which is not a Saturday or Sunday;
- (c) a reference to a month shall be construed as a reference to a calendar month;
- (d) a reference without qualification to a year shall be construed as a reference to a period of twelve months.

### **34 Distance**

In the measurement of any distance for the purposes of any enactment, that distance shall be measured in a straight line on a horizontal plane.

## **PART IX**

### MISCELLANEOUS

### **35 Amendment of enactments**

(1) An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

(2) An amending enactment shall, so far as is consistent with the tenor thereof, operate and be construed as part of any enactment which it amends and, without prejudice to subsection (2) of section *ten*, shall, as from the date on which it comes into operation, have effect accordingly for the purpose of the construction and operation of any other enactment which refers to, or is incorporated with, the provision which it amends.

### **36 Regulations, rules and by-laws to be placed before Parliament**

Where the President, a Minister or any other person or body is by any enactment authorized to make regulations, rules or by-laws for purposes stated in such enactment, copies of such regulations, rules or by-laws shall be laid before Parliament on one of the thirty days on which Parliament next sits after the publication of such regulations, rules or by-laws in the *Gazette*.

### **37 Assignment of Vice-Presidential or Ministerial functions**

(1) Where under any Act functions are conferred or imposed on a Vice-President, the President, acting in terms of section 31D of the Constitution, may from time to time assign all or any of those functions to such Minister as he may designate.

(2) Where under any Act functions are conferred or imposed on a Minister, whether or not the Minister is specifically named in the Act, the President, acting in terms of section 31C or 31D, as the case may be, of the Constitution, may from time to time assign all or any of those functions to a Vice-President or to any other Minister.

(3) Where functions are assigned as provided in subsection (1) or (2), any reference to a Vice-President or a Minister in the Act concerned shall be construed accordingly.

(4) Where under any Act functions are conferred or imposed on a Minister, whether or not the Minister is specifically named in the Act, and the President, acting in terms of section 31D of the Constitution, has authorized a Deputy Minister to perform all or any of those functions, any reference to the Minister in the Act concerned shall be construed accordingly.

### **38 Transfer of functions of State employees**

(1) Where by or under any enactment functions are conferred or imposed upon any specified officer in the employment of the State, the President may, subject to subsection (3), by order in the *Gazette*, transfer those functions, or such of them as may be specified in the order, to any other officer in the employment of the State, and may make such consequential amendments to the enactment as may arise from the transfer.

(2) Where by or under any enactment any officer in the employment of the State is a member of a council, board or other body, the President may, subject to subsection (3), by order in the *Gazette*, substitute any other officer in the employment of the State for the first-mentioned officer, and may make such consequential amendments to the enactment as may arise from the substitution.

(3) The powers conferred upon the President under subsections (1) and (2) shall not be exercised in respect of any function, or of any officer who is a member of any body, which is of a judicial nature.

### **39 Validity of acts done before assignment or transfer of functions.**

Where a function conferred or imposed on any person by any enactment is assigned or transferred to another person, whether in terms of this Act or any other enactment, any statutory instrument or other thing made or done before the date of the assignment or transfer and in force on that date shall be deemed to have been made or done by the person to whom the function has been assigned or transferred, and may be amended or repealed accordingly.

### **40 Service of documents**

(1) Where an enactment authorizes or requires a document to be served by post, and where the word “serve” or any of the words “give”, “deliver” or “send” or any other word is used, the service of the document may be effected by prepaying, registering and posting an envelope addressed to the person on whom the document is to be served at his usual or last-known place of abode or business, and containing such document, and, unless the contrary is proved,

the document shall be deemed to have been served at the time at which such envelope would have been delivered in the ordinary course of post.

(2) Where an enactment authorizes or requires a document to be served on any person without directing it to be served in a particular manner, the service of that document may be effected—

- (a) by personal service; or
- (b) by post in accordance with subsection (1); or
- (c) by leaving it for him with some person apparently over the age of sixteen years at his usual or last-known place of abode or business; or
- (d) in the case of a corporate body, or an association of persons whether incorporated or not, by delivering it to a director, the secretary or clerk of the body or association at the registered or principal office of the body or association, or serving it by post on such director, secretary or clerk at such office; or
- (e) if it is not practicable, after reasonable inquiry, to discover the name or address of an owner, lessee or occupier of premises on whom the document should be served, by addressing the document to him by the description of owner or lessee or occupier of the premises (naming them) to which the document refers and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### 41 Affirmation in lieu of an oath

(1) Whenever any person who is or may be required to take an oath as to any matter objects to doing so it shall be lawful for such person to make an affirmation in respect of that matter in lieu of taking an oath.

(2) An affirmation referred to in subsection (1) shall be made in the following form—

*'I, A.B., do truly affirm that (here follows the matter to be affirmed).'*;

and, when in writing, shall in addition be endorsed at the end of the writing in the following form—

‘.....  
(Signature of affirmant)

Affirmed at  
this day of  
before me

.....  
(Signature of person taking the affirmation  
and his designation.)’.

(3) An affirmation referred to in subsection (1) shall—

- (a) be of the same effect as if the person making it had taken an oath; and
- (b) be accepted in lieu of an oath by any person authorized, required or qualified by law to take or administer an oath.

(4) The same penalties, punishment and disability which are respectively in force and are attached to any neglect or refusal to take or subscribe, and to any false or corrupt taking or subscribing of, any oath shall apply and attach in like manner in respect of the neglect or refusal to make or subscribe, and the false or corrupt making or subscribing respectively of, any affirmation referred to in sub-section (1).