

## TOURISM AMENDMENT BILL, 2024

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### MEMORANDUM

This Bill will make amendments to the Tourism Act [*Chapter 14:20*]. In more detail, the individual clauses of the Bill provide as follows:—

#### *Clause 1*

This clause sets out the Bill's short title.

#### *Clauses 2*

This clause seeks to explicitly mention that the Chief Executive shall now be called Chief Executive Officer and is an ex-officio member of the Board. The clause also broadens the definition of tourism to include domestic and international tourists.

#### *Clause 3*

This clause aligns the Act to the Public Entities Corporate Governance Act [*Chapter 10:31*] in terms of the appointment and composition of Board.

#### *Clause 4*

This clause repeals sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 which are matters relating to the Board. These provisions are clarified in the new Schedule inserted as the Third Schedule.

#### *Clause 5*

This clause aligns the Act to the Public Entities Corporate Governance Act [*Chapter 10:31*] in relation to the appointment and functions of the Chief Executive Officer.

#### *Clause 6*

The clause establishes the Zimbabwe Tourism Fund Board, which is responsible for the administration of the Fund, taking over from the chief executive of the Authority. The clause also repeals the statutory requirement on the Zimbabwe Tourism Authority to reimburse the Consolidated Revenue Fund for the remuneration of licensing officers in terms of section 46 of the principal Act.

#### *Clause 7*

This clause empowers the Authority to shut down all unregistered facilities offering tourism facilities. This clause also increases the penalty level to a more deterrent level.

#### *Clause 8*

This clause makes it mandatory for all registered tourist facilities to be published.

#### *Clause 9*

This clause makes clear that online accommodation platforms must register with the Authority in order to receive guests.

#### *Clause 10*

This clause makes clear that Licensing Officers are under the employment of the Zimbabwe Tourism Authority.

*Clause 11*

This clause removes references to the Public Service.

*Clause 12*

This clause empowers the Authority to recover the amount of any levy due in terms of this Act from any person to pay, collect or remit this levy and removes reference to the Minister.

*Clause 13*

This clause inserts a new section on civil penalty orders.

*Clause 14*

This clause makes it mandatory for operators to submit to the Authority statistics and information for tourism planning purposes. This clause also introduces a more deterrent penalty for non-compliance.

*Clause 15*

This clause repeals the section which provides for summary judgement, since this will be now done through the means of civil penalties.

*Clause 16*

This clause repeals the Second Schedule which no longer speaks to the Act as it was promulgated to cater for the dissolution of the Zimbabwe Tourism Development Corporation more than 20 years ago and substitutes it with a new Schedule that sets out the framework of civil penalties that are provided for in clause 8.

*Clause 17*

This clause inserts a new Schedule covering matters relating to appointment, procedures and meetings of the Board.

# BILL

To provide for the amendment of the Tourism Act [*Chapter 14:20*]; to provide for broadening and outlining the scope and thrust of the principal Act; to align the Act with the Constitution; to enhance the regulatory responsibilities of the Zimbabwe Tourism Authority; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament of Zimbabwe and the President.

## **1 Short title**

(1) This Act may be cited as the Tourism Amendment Act, 2024.

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

## **2 Amendment of section 2 of Cap. 14:20**

Section 2 (“Interpretation”) of the of the Tourism Act [*Chapter 14:20*] (hereinafter referred to as the “principal Act”) is amended—

- (a) in the definition of “Chief Executive” by the insertion of “Officer” after “Executive” and anywhere else it appears;
- (b) in the definition of “member” by the deletion of “chairman” and substitution with “chairperson” and anywhere else it appears; and
- (c) in the definition of “Minister” by the deletion of “Environment and”;
- (d) by the repeal of “Tourist” and the substitution of—

“tourist” means a person travelling away from their place of usual residence and staying in the visited place in Zimbabwe whose journey is for any one or more of the following purposes—

- (a) a holiday;
- (b) recreation;
- (c) health;
- (d) study;
- (e) religion;
- (f) sport;
- (g) business;
- (h) meeting;
- (i) visiting friends or relatives;
- (j) work that is not remunerated from within Zimbabwe; and
- (k) any other purpose.”.

## **3 Amendment of section 4 of Cap. 14:20**

Section 4 (“Board of Authority”) of the principal Act is repealed and the substitution of—

### **“4 Appointment and composition of Board**

- (1) Subject to this Act, the operations of the Authority shall be controlled by a Board.
- (2) Subject to the section on qualification of members, the Board shall consist of not less than eight and not more than twelve members appointed by the Minister, in consultation with the President.
- (3) Members shall be appointed for their knowledge or expertise in administration, management and the fields relevant to the operation and management of the Authority as follows—
  - (a) two shall be persons holding a recognised qualification or demonstrable knowledge in tourism and hospitality;
  - (b) persons recognised for their qualification, ability or experience in the following—
    - (i) economics or business administration;

- (ii) marketing;
- (iii) finance or accounting;
- (iv) conservation; and
- (v) human resources management;
- (c) one shall be a legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*];
- (d) one shall be an accountant registered in terms of the Public Accountants and Auditor's Act [*Chapter 27:12*];
- (e) one shall be a representative of the Ministry responsible for Tourism; and
- (f) the chief executive officer shall be an ex-officio member without the right to vote.
- (4) Amongst the members appointed in terms of subsection (3), the Minister shall appoint—
  - (a) one member as chairperson;
  - (b) one member as vice-chairperson who must be of opposite gender to the chairperson.
- (5) In making appointments in terms of subsection (3) the Minister shall endeavour to ensure that, in so far as is practicable—
  - (a) at least half of the membership so appointed shall consist of women;
  - (b) there is fair regional representation; and
  - (c) all appointments are made primarily on merit.’’.

#### **4 Repeal of sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Cap 14:20**

Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of the principal Act are hereby repealed and substituted in the Third Schedule.

#### **5 Amendment of section 17 of Cap 14:20**

Section 17 (“Appointment and functions of Chief Executive of Authority”) is repealed and the substitution of the following—

##### **“17 Appointment of chief executive officer**

- (1) The Board shall with the approval of the President appoint a chief executive officer.
- (2) The chief executive officer shall hold office for such period not exceeding a five-year term and may be eligible for reappointment for only one further such term.
- (3) The appointment of the chief executive officer shall terminate if he or she would be required in terms of paragraph 3(1)(a) and (b) of the Third Schedule to vacate office.
- (4) The chief executive officer shall subject to the Board’s directions—
  - (a) supervise and manage the Authority’s staff, activities, funds and property and perform such other functions on behalf of the Board as the Board may assign to him or her; and
  - (b) be responsible for the registration and grading of designated tourist facilities by the Authority.
- (5) Any assignment of functions in terms of subsection (4)(a) may be made generally or specifically and subject to such conditions, restrictions, reservations and exceptions as the Board may determine.’’.

## 6 Amendment of Part IV of Cap. 14:20

Part IV (“Zimbabwe Tourism Fund”) of the principal Act is repealed and the substitution of—

### “PART IV

#### ZIMBABWE TOURISM FUND

##### 29 Interpretation in Part IV

In this Part—

“Board” means the Zimbabwe Tourism Board established by section 32(1);

“Fund” means the Zimbabwe Tourism Fund established by section 30(1).

##### 30 Establishment, object and administration of Zimbabwe Tourism Fund

(1) There is hereby established a Fund, to be known as the Zimbabwe Tourism Fund, whose object shall be the development of the tourism and hospitality industry.

(2) The Zimbabwe Tourism Fund shall be administered by the Zimbabwe Tourism Fund Board.

##### 31 Composition of Zimbabwe Tourism

The Fund shall consist of—

- (a) levies, fees and other moneys paid under this Act; and
- (b) moneys appropriated for the purpose by Act of Parliament; and
- (c) any moneys that the Fund may obtain, with the approval of the Minister and the Minister responsible for Finance, by way of donations, loans or other financial assistance; and
- (d) any other moneys that may vest in or accrue to the Fund, whether in terms of this Act or otherwise;

which sums shall be public funds and are to be administered as such in terms of the Public Finance Management Act [*Chapter 22:19*].

##### 32 Application of Fund

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

- (a) meeting the expenses of the Authority:

Provided that no moneys shall be applied towards any expense that is not provided for in a budget approved under section 21;

- (b) invest any moneys of the Fund that are not immediately required for the purposes of the Fund;

- (c) any other purpose which the Minister, after consultation with the Board considers will promote the orderly development of the tourism and hospitality industry.

PART IVA  
BOARD OF ZIMBABWE TOURISM FUND

### 33 Zimbabwe Tourism Fund Board

(1) There is hereby established a Board, to be known as the Zimbabwe Tourism Board, which shall be a body corporate capable of suing and being sued in its own name, and subject to this Act, of doing anything that bodies corporate may do by law.

(2) There shall be a chairperson of the Board who shall be appointed by the President after consultation with the Minister responsible for administering this Act.

(3) The Board shall consist of the chairperson, and—

- (a) a representative of the Zimbabwe Tourism Authority, nominated by the Authority and appointed by the Minister; and
- (b) a representative of the Ministry responsible for Finance nominated by the Minister responsible for Finance and appointed by the Minister; and
- (c) a representative of the Ministry responsible for administering this Act, appointed by the Minister; and
- (d) two representatives of the tourism and hospitality industry recognised registered associations, appointed by the Minister; and
- (e) two members appointed by the Minister for their professional qualifications or knowledge of and experience in tourism and hospitality, finance, or for their suitability otherwise for appointment as members; and
- (f) a legal practitioner employed by the State, nominated by the Attorney General and appointed by the Minister.

(4) In appointing members of the Zimbabwe Tourism Fund Board, the Minister shall observe the provisions of sections 17 and 18 of the Constitution.

(5) The Third Schedule shall regulate terms and conditions of service and procedures of meetings for the Board.

### 34 Functions of Board

The Board shall be responsible for—

- (a) administering the Fund;
- (b) levying contributions; and
- (c) performing any other function that may be conferred or imposed on the Board in terms of this Act or any other enactment.

### 34A Staff of Board of Trustees

(1) The Board shall—

- (a) appoint a chief executive officer of the Zimbabwe Tourism Fund; and

(b) employ directors and such other staff as may be necessary for the proper exercise of its functions.

(2) The chief executive office and other members of staff shall be public officers but not form part of the Public Service.

(3) The chief executive officer shall, subject to the general control of the Board—

(a) be responsible for carrying out the decisions of the Board and the day-to-day administration and management of the affairs, staff and property of the Board and the Fund; and

(b) be the custodian of the Board's records; and

(c) attend all meetings of the Board but shall have no vote on any matter before the Board; and

(d) perform such other functions as may be assigned by the Board.

(4) Any remuneration, allowances and any benefits to which the persons referred to in subsections (1) and (2) are entitled shall be chargeable to the Fund:

Provided that expenditure for the purposes of this subsection shall not exceed two point five *per centum* of the total monies of the Fund for the financial year in question.

(5) Notwithstanding subsection (1), if the Board so requests and the Authority so permits, the Authority may assign on secondment members of the Zimbabwe Tourism Authority Secretariat to perform all or any of the functions of the members of staff referred to in that subsection.

#### 34B Minister may give policy directions to Board

(1) Subject to subsection (2), the Minister may give the Board such general directions relating to the policy the Board is to observe in the exercise of its functions as the Minister considers to be necessary in the national interest, which policy directions must—

(a) not be inconsistent with any provision of this Act; and

(b) be issued in good faith, apply prospectively and not retrospectively, and be of general applicability; and

(c) clearly delimit the scope of their application and must otherwise not be vague or ambiguous in their terms; and

(d) clearly express the national interest at stake; and

(e) must be clear (whether expressly or by necessary implication) that they apply or are in force for a fixed or indefinite period, or that they expire on the happening of any event.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal.

(3) The Board shall take all necessary steps to comply with any directions given to in terms of subsection (1).



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

(5) To avoid any doubt, it is declared that the Minister may, in consultation with the Minister responsible for Finance, from time to time, give policy directions to the Board requiring it to invest any part or proportion of the Fund in specified prescribed securities and assets.”.

## **7 Amendment of section 36 of Cap. 14:20**

Section 36 (“Designated tourist facilities to be registered and graded”) of the principal Act is amended—

(a) by the insertion of a subsection after subsection (1)—

“(1a) The Authority shall have the power of shutting down all unregistered facilities offering tourism services.”;

(b) in subsection (2) by the deletion of “level six” and the substitution of “level twelve” and the deletion of “six months” and the substitution of “one year”.

## **8 Amendment of section 41 of Cap. 14:20**

Section 41 (“Publication of list of registered tourist facilities”) of the principal Act is amended—

(a) in subsection (1) by the deletion of the words “Subject to subsection (2)”;

(b) by the repeal of subsection (2).

## **9 New section inserted in Cap. 14:20**

The principal Act is amended by the insertion after section 45 of the following section—

“45A Online Accommodation Platform

(1) in this section—

“accommodation booking platform” means a digital platform whose business it is to—

- (a) enable persons having accommodation for letting (in this Part called “the host”), whether privately or on a commercial basis, to list or register with the operator of the platform (in this Part called “the platform host”); and
- (b) introduce for the payment of a fee, commission or other compensation—
  - (i) international tourists to hosts; or
  - (ii) local residents to hosts who are registered or required to be registered as designated tourist facilities;

“platform guest” means an international tourist referred to in paragraph (b)(i) of the definition of “accommodation booking platform”, or a local resident referred to in (b)(ii) of that definition;

“family type accommodation” in relation to a facility, means a housing unit consisting of—

- (a) at least one room and not more than eight bedrooms for the accommodation of not more than eight platform guests; and
- (b) at least one bathroom and one toilet; and
- (c) at least one kitchen and one dining room; and
- (d) unless such facility is provided in a separate building, a room or rooms for use by the management and staff of the facility for administrative purposes that is clearly separated or distinct from the part of the housing unit used for the accommodation of the platform guests; and
- (e) ventilation that is satisfactory to the Chief Health Officer;

“dormitory type accommodation” in relation to a facility, bears the same meaning as that for family type accommodation except that instead of paragraph (a) of that definition the place where the guests sleep consists of a hall (or two halls in the case where guests of both sexes are accommodated) such that each guest in the dormitory shall have a sleeping space of not less than 3 metres by 2 metres, or where bunks are provided, each bunk shall occupy a space of 3 metres by 2 metres and not have more than two levels.

(2) Subject to subsection (3), no person shall receive any guest in a facility unless that facility has been registered in terms of this section in the name of that person or otherwise than in accordance with the conditions on which that facility has been so registered.

(3) Application for the registration of a facility in terms of this section shall be made to the Zimbabwe Tourism Authority.”.

#### **10 Amendment of section 46 of Cap. 14:20**

Section 46 (“Licensing Officers”) of the principal Act is amended—

- (a) in subsection (1) by the deletion of words “whose offices shall be public offices and form part of the Public Service” and the substitution of “who shall be under the employment of the Authority.”;
- (b) by the repeal of subsection (3).

#### **11 Amendment of section 52 of Cap. 14:20**

Section 52(1)(b) (“Designated Officers”) of the principal Act is amended by the deletion of the words “of the Public Service”.

#### **12 Amendment of section 55 of Cap. 14:20**

Section 55 (“Levies”) of the principal Act is amended—

- (a) by the insertion of a new subsection after subsection (2)—

“(2a) Any person who fails to pay the prescribed levy required to be paid in terms of subsection (1) shall be liable to pay a civil penalty as set forth in the Second Schedule.”;

(b) in subsection (3) by the deletion of “Minister” and the substitution of “Chief Executive Officer”.

### **13 New section inserted in Cap. 14:20**

The principal Act is amended by the insertion after section 55 of the following section—

#### **“55A Civil penalty orders**

(1) The provisions of the Second Schedule apply to any infringement of this Act in respect of which it is provided that a civil penalty is payable.

(2) Subject to section 57 (3), the Minister, after consultation with the President may by notice in a Statutory Instrument amend or replace the Schedule.”.

### **14 Amendment of section 56 of Cap. 14:20**

Section 56 (“Authority may require statistics and information”) of the principal Act is repealed and the substitution of—

#### **“56 Authority shall require statistics and information**

(1) The Authority shall require every operator of a tourist facility to furnish the Authority with such information and statistics regarding—

- (a) tourists, excursionists and other visitors;
- (b) domestic excursionists or tourists; and
- (c) designated tourists facilities.

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

- (a) fails or refuses to furnish the Authority with the information or statistics; or
- (b) knowingly furnishes the Authority with any information or statistics which is false or misleading;

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

### **15 Repeal of section 59 of Cap. 14:20**

Section 59 (“Summary judgement for unpaid levies in criminal proceedings”) of the principal Act is repealed.

### **16 New Schedule substituted for (Second) Schedule of Cap. 14:20**

The Second Schedule (“Dissolution of the Zimbabwe Tourism Development Corporation”) of the principal Act is amended by the repeal of (“Dissolution of the Zimbabwe Tourism Development Corporation”) and the substitution of—

**“SECOND SCHEDULE (Sections 55, 55A)**

CIVIL PENALTY ORDERS

ARRANGEMENT OF PARAGRAPHS

*Paragraph*

1. Interpretation in Schedule.
2. Power of Authority to issue civil penalty orders.
3. Specific civil infringements.
4. Limitation on issuance and enforcement of civil penalty orders.
5. Service and enforcement of civil penalties and destination of proceeds thereof.
6. When hearings on question whether to serve civil penalty orders may be held.
7. Evidentiary provisions in connection with civil penalty orders.
8. Designated officers.

*Interpretation in Schedule*

1. In this Schedule, unless the context otherwise requires—

“citation clause”, in relation to a civil penalty order, is the part of the order in which the authority names the defaulter and cites the provision of this Act in respect of which the default was made or is alleged, together with (if necessary) a brief statement of the facts constituting the default;

“civil penalty register” means the register referred to in paragraph 7 (“Evidentiary provisions in connection with civil penalty orders”);

“corporate defaulter” means a defaulter which is a company, syndicate or other corporate person (and includes a partnership for the purpose of paragraph 4(3) and (6));

“date of issuance”, in relation to the service of a civil penalty order, means the date on which it is served in any of the ways specified in paragraph 4(1);

“defaulter” means the person on account of whose default a civil penalty order is served, and includes an alleged defaulter;

“penalty clause”, in relation to a civil penalty order, is the part of the order that fixes the penalty to be paid by the defaulter, and “fixed penalty clause” and “cumulative penalty clause” shall be construed accordingly;

“remediation clause”, in relation to a civil penalty order, is the part of the order that stipulates the remedial action to be taken by the defaulter;

“show cause clause”, in relation to a civil penalty order is the part of the order that requires the defaulter to show cause why the civil penalty order should not have been served or should be withdrawn.

*Power of Authority to issue civil penalty orders*

2. Where default is made in complying with any provision of this Act or of regulations or orders made under this Act for which a civil penalty is specified in this Schedule to be leviable,

the Authority may, in addition to, and without derogating from, any criminal or non-criminal penalty that may be imposed by this Act or any other law for the conduct constituting the default, serve upon the defaulter a civil penalty order of the appropriate description specified in this paragraph.

*Specific civil infringements*

3.(1) A natural or legal authorised person shall be guilty of a civil infringement if he or she fails to pay the prescribed levy, contrary to section 55.

(2) In the event of default in complying with subparagraph (1), the civil penalty shall provide for—

- (a) a combination of—
  - (i) a fixed penalty of twice the levy that person would have paid had such person paid the levy timeously; and
  - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of forty-eight hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period; or
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

*Limitation on issuance and enforcement of civil penalty orders*

4.(1) No civil penalty order may be issued more than twenty-four months from the date when the default or alleged default occurred or ceased to occur.

(2) A single civil penalty order may (in terms of paragraph 5(4)) be served in respect of two or more defaults committed by the defaulter within a single period not exceeding six months, but if the aggregate of such defaults results in the defaulter becoming liable (either immediately or within seven days from the service of the civil penalty order) to a penalty or combined penalties in excess of the equivalent to more than twice the highest monetary penalty for which that person is liable in respect of any of those civil defaults, the Authority may select one or any combination of those defaults which will not result in the defaulter becoming so liable, while reserving the right to serve a second or further additional civil penalty orders in respect of the defaults not so selected if the defaulter does not comply with the first civil penalty order.

*Service and enforcement of civil penalties and destination of proceeds thereof*

5.(1) References to the designated officer serving upon a defaulter any civil penalty order in terms of this Schedule, are to be interpreted as requiring the designated officer to serve such order in writing to the defaulter concerned—

- (a) by hand delivery to the defaulter or his or her director, manager, secretary or accounting officer in person, or to a responsible individual at the place of business of the defaulter; or
- (b) by delivery through a commercial courier service to the defaulter's place of business or his or her principal office in Zimbabwe or other place of business of the defaulter; or
- (c) by electronic mail to the defaulter whose electronic mail address is known to the designated officer.

(2) The designated officer shall not extend the period specified in a civil penalty order for compliance therewith except upon good cause shown to him or her by the defaulter, and any extension of time so granted and the reasons therefor (not exceeding in any case thirty days) shall be noted by the designated officer in the civil penalty register.

(3) The designated officer may, if the defaulter is a corporate defaulter—

- (a) in the same civil penalty order, name the corporate defaulter and every officer of the company, syndicate, other corporate person or partnership concerned as being so liable separately, or issue separate civil penalty orders in respect of the defaulter and each of the officers concerned; or
- (b) choose to serve the order only upon the corporate defaulter without naming the officers if, in his or her opinion (which opinion the designated officer shall note in the civil penalty register), there may be a substantial dispute of fact about the identity of the particular officer or officers who may be in default:

Provided that nothing in this subparagraph affects the default liability of officers of the defaulter mentioned in subparagraph (6).

(4) Subject to paragraph 4(2), the designated officer may, in the citation clause of a single civil penalty order, cite two or more defaults relating to different provisions of this Schedule if the defaults in question—

- (a) occurred concurrently or within a period not exceeding six months from the first default or defaults to the last default or defaults; or
- (b) arose in connection with the same set of facts.

(5) Where in this Act the same acts or omissions are liable to both criminal and civil penalty proceedings, the designated officer may serve a civil penalty order at any time before the commencement of the criminal proceedings in relation to that default, that is to say at any time before—

- (a) summons is issued to the accused person for the prosecution of the offence; or
- (b) a statement of the charge is lodged with the clerk of the magistrate's court before which the accused is to be tried, where the offence is to be tried summarily; or
- (c) an indictment has been served upon the accused person, where the person is to be tried before the High Court;

as the case may be, but may not serve any civil penalty order after the commencement of the criminal proceedings until after those proceedings are concluded (the criminal proceedings are deemed for this purpose to be concluded if they result in a conviction or acquittal, even if they are appealed or taken on review), (For the avoidance of doubt it is declared that the acquittal of

an alleged defaulter in criminal proceedings does not excuse the defaulter from liability for civil penalty proceedings).

(6) Every officer of a corporate defaulter mentioned in the civil penalty order by name or by office, is deemed to be in default and any one of them can, on the basis of joint and several liability, be made by the designated officer to pay the civil penalty in the event that the corporate defaulter does not pay.

(7) Upon the expiry of the ninety-day period within which any civil penalty order of any category must be paid or complied with, the defaulter 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 (in the case of a corporate defaulter, every one of its officers is liable to the penalty of imprisonment, and to the fine if the corporate defaulter fails to pay it).

(8) The amount of any civil penalty shall—

- (a) be payable in the manner directed by the designated officer in the civil penalty order and shall form part of the funds of the Authority; and
- (b) be a debt due to the Authority and shall be sued for in any proceedings in the name of the Authority in any court of competent civil jurisdiction:

Provided that for this purpose, the court of the magistrate in the district where the defaulter has his or her principal place of business shall be deemed to have jurisdiction to hear the suit even if the monetary amount sought would otherwise exceed its prescribed jurisdiction.

(9) Proceedings in a court for the recovery of a civil penalty shall be deemed to be proceedings for the recovery of a debt as if the defaulter had acknowledged the debt in writing.

(10) If the designated officer in terms of subparagraph (8)(b) desires to institute proceedings to recover the amounts of two or more civil penalties in any court of competent civil jurisdiction, the designated officer may, after notice to all interested parties, bring a single action in relation to the recovery of those penalties if the orders relating to those penalties—

- (a) were all served within the period of twelve months preceding the institution of the proceedings; and
- (b) were served—
  - (i) on the same defaulter; or
  - (ii) in relation to the same default or set of defaults, whether committed by the same defaulter or different defaulters; or
  - (iii) on two or more defaulters whose registered offices are in the same area of jurisdiction of the court before which the proceedings are instituted.

(11) Unless the designated officer has earlier recovered in civil court the amount outstanding under a civil penalty order, a court convicting a person of an offence against subparagraph (7), may on its own motion or on the application of the prosecutor and in addition to any penalty which it may impose, give summary judgement in favour of the designated officer for the amount of any outstanding civil penalty due from the convicted defaulter.

*When hearings on question whether to serve civil penalty orders may be held*

6.(1) If, in response to a show cause clause, an alleged defaulter satisfies the designated officer, that it is not possible within forty-eight hours to demonstrate that the civil penalty order

was issued in error, the designated officer shall afford the alleged defaulter an opportunity to be heard by making oral representations to the designated officer, for which purpose—

- (a) no later than ninety-six hours after the issuance of the civil penalty order, the alleged defaulter must furnish to the designated officer an affidavit sworn by him or her giving reasons to show that the civil penalty order was issued in error:

Provided that the designated officer shall not entertain ignorance of the law or any alleged impossibility of compliance with it as grounds for withdrawing a civil penalty order;

- (b) within a reasonable period from the receipt of an affidavit referred to in paragraph (a) the designated officer may serve copies of the affidavit on any person who, in the designated officer's opinion, is affected by or may be a party to the default, together with an invitation to the parties to attend at a meeting to be presided over by the designated officer (giving particulars of its time and venue) to enable the parties to make oral and written representations at that meeting on the question whether the civil penalty order was issued in error to the alleged defaulter and whether it should be issued to some other person or not issued at all:

Provided that in such invitation or at the meeting the designated officer may restrict the parties to submitting written representations only, before or no later than forty-eight hours after the conclusion of the meeting.

(2) The following provisions apply to every meeting convened under this paragraph in connection with the issuance of a civil penalty order—

- (a) if the alleged defaulter fails to attend at the meeting the designated officer may proceed to issue the civil penalty order;
- (b) the alleged defaulter bears the burden of showing on a balance of probabilities that the civil penalty order was issued in error;
- (c) at the conclusion of the meeting the designated officer may in the presence of the parties (if any) at the meeting verbally—
  - (i) confirm that the civil penalty order was properly issued and is to have effect from—
    - A. the date on which it was initially issued if the designated officer finds that the defaulter's objections to its issuance were baseless, vexatious or frivolous; or
    - B. in any other case, post-date the date of commencement of the civil penalty order to the date of his or her decision; or
  - (ii) cancel the civil penalty order; or
  - (iii) re-issue the civil penalty order to the same or another defaulter and on the same or different terms with effect from the date of his or her decision;

and, in the case of subparagraph (i) or (iii), may extend the period specified in a civil penalty order for compliance therewith by a further specified period:

Provided that the designated officer may defer making a decision by no more than forty-eight hours after the conclusion of the meeting and give notice of his or her



decision, and the reasons for it (together with the civil penalty order, if any), to the alleged defaulter or any other person found to be liable for the civil penalty.

*Evidentiary provisions in connection with civil penalty orders*

7.(1) For the purposes of this Schedule the designated officer shall keep a civil penalty register wherein shall be recorded—

- (a) the date of service of every civil penalty order, the name and the physical or registered office address of the person upon whom it was served, the civil penalty provision in relation to which the defaulter was in default, and the date on which the civil penalty order was complied with or the penalty thereunder was recovered as the case may be;
- (b) if the alleged defaulter responded to the show cause clause in the civil penalty order with the result that—
  - (i) the order was cancelled because it was issued in error, the fact and the date of such cancellation; or
  - (ii) a meeting was held in accordance with paragraph 6, then—
    - A. a record or an adequate summary of any representations made at the meeting by way of an entry or cross-reference in, or annexure to, the register (and if recorded by way of annexure or cross-reference, the representations must be preserved for a period of at least six years from the date when they were made to the designated officer);
    - B. a record of the outcome of the meeting, that is to say, whether or not the civil penalty order was cancelled, and if not the date from which it was to have effect and whether a different defaulter was served with it.

(2) A copy of—

- (a) any entry in the civil penalty register, and of any annexure thereto or record cross-referenced therein, authenticated by the designated officer as a true copy of the original, shall on its mere production in any civil or criminal proceedings by any person, be *prima facie* proof of the contents therein; or
- (b) any civil penalty order that has been served in terms of this Act, authenticated by the designated officer as a true copy of the original, shall on its mere production in any civil or criminal proceedings by any person, be *prima facie* proof of the service of the order on the date stated therein upon the defaulter named therein, and of the contents of the order.

*Designated officers*

8.(1) Any reference to the Authority in this Schedule shall be construed as a reference to a designated officer.

(2) The Chief executive Officer shall furnish each designated officer with a certificate signed by or on behalf of the Minister stating that he or she has been appointed as a designated officer for the purpose of this Schedule.

(3) A designated officer shall, on demand by any person affected by the exercise of the powers conferred upon the Authority under this Schedule, exhibit the certificate issued to him or her in terms of subparagraph (2).”.

**17 New Schedule in Cap. 14:20****“THIRD SCHEDULE (Sections 4, 17, and 33(5))****ZIMBABWE TOURISM AUTHORITY****ARRANGEMENT OF PARAGRAPHS***Paragraph*

1. Disqualification from membership of Board
2. Terms and conditions of office of appointed members
3. Vacation of office by members
4. Filling of vacancies on Board
5. Meetings and procedure of Board
6. Committees of Board
7. Remuneration and allowances of members of Board and committees
8. Members of Board and committees to declare connection with firms and companies dealing with authority
9. Minutes of proceedings of Board and committees
10. Validity of decisions and acts of Board and committees
11. Dismissal of appointed members
12. Execution of contracts and instruments by authority
13. Reports of Authority

*Disqualification from membership of Board*

1. (1) A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as a member if—

- (a) he or she is not a citizen of Zimbabwe ordinarily resident in Zimbabwe; or
- (b) he or she has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (c) he or she has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (d) he or she has been sentenced—
  - (i) in Zimbabwe, in respect of an offence; or
  - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

- (e) he or she has been convicted—
  - (i) in Zimbabwe of a sexual offence or an offence involving dishonesty (and in any cases has not received a pardon from the President or Parliament); or
  - (ii) outside Zimbabwe, in respect of any conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty;

and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two (2) or more other statutory bodies;

shall not be appointed as a member of the Board nor shall he or she be qualified to hold office as a member.

(1) For the purposes of subparagraph (2)(b), a person who is appointed to a board or other Authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body.

(2) In this paragraph

“convicted of a sexual offence”, in relation to the disqualification of a person as a Board member, means convicted of—

- (a) rape or aggravated indecent assault in contravention of section 65 or 66 of the Criminal Law Code
- (b) contravening section 67, 70, 73, 74 or 75 of the Criminal Law Code and sentenced to imprisonment for six months or more without the option of a fine or without the option of any other non-custodial punishment (whether or not the whole or any part of the sentence of imprisonment has been suspended);

and the phrase “sexual offender” shall be construed accordingly.”

*Terms and conditions of office of appointed members*

2. (1) A member of the Board shall hold office for such period, not exceeding four years.

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

Provided that a member shall not continue to hold office in terms of this subparagraph for more than six months.

(3) A Board member whose term has expired shall be eligible for re-appointment for only one further such term.

(4) No member shall be appointed or re-appointed to the Board if he or she has already served on the Board for one or more periods, whether consecutively or not, amounting to an aggregate of eight years.

(5) Members of the Board shall hold office on such conditions as the Minister may fix for members generally.

*Vacation of office by members*

3. (1) A member of the Board shall vacate his or her office and his or her office shall become vacant—

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

- (a) on the date the member begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
  - (ii) in Zimbabwe, in respect of an offence; or
  - (iii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence; and
- (b) if the member becomes disqualified in terms of paragraph 1 to hold office as a member; or
- (c) if the member is required in terms of subparagraph (2) or (3) to vacate his or her office as a member.

(2) The Minister may suspend or require a member of the Board to vacate his or her office if the member—

- (a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any condition of his or her office fixed in terms of paragraph 2(5); or
- (c) is mentally or physically incapable of efficiently exercising his or her functions as a member.

(3) The Minister may require a member of the Board to vacate his or her office if the Minister is satisfied that the member has been absent without the express leave of the chairperson of the Board from three consecutive meetings of the Board, of which the member has been given at least seven days' notice, and that there was no just cause for the member's absence.

#### *Filling of vacancies on Board*

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

Provided that, if as a result of the vacancy the number of appointed members is fewer than the minimum specified in section 4(2), the Minister shall appoint a person to fill the vacancy.

#### *Meetings and procedure of Board*

5. (1) Subject to this Act, the Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit:

Provided that the Board shall meet at least four times annually on a quarterly basis.

(2) The chairman of the Board—

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

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

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

- (a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of subparagraph (2)(a); or
- (b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of subparagraph (2)(a).

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

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

- (6) A majority of the sitting members shall form a quorum at any meeting of the Board.
- (7) Subject to subparagraph (12), anything authorised or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.
- (8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board or a committee, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board or the committee, as the case may be, at that meeting.
- (9) A person invited to attend a meeting of the Board or of a committee in terms of subparagraph (8) may take part in the proceedings of the Board or the committee as if he or she were a member thereof but shall not have a vote on any question before the Board or committee, as the case may be.
- (10) Subject to subparagraph (11) and to paragraph 8, at all meetings of the Board each member present shall have one vote on any question before the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.
- (11) The Chief Executive shall not take part in the discussion of, and shall not vote on, any question before the Board which involves—
- (a) his or her tenure of office or conditions of service; or
  - (b) advice which the Board is to give the Minister in regard to an appeal under section 51 against a decision of the Chief Executive.
- (12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:
- Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subparagraph shall not apply to the proposal.

#### *Committees of Board*

6. (1) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate:
- Provided that the vesting of any function in a committee shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.
- (2) On the establishment of a committee in terms of subparagraph (1), the Board—
- (a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairman of the committee; and
  - (b) may appoint as members of the committee, on such terms and conditions as the Board may fix, persons who are not members of the Board.
- (3) Meetings of a committee may be convened at any time and at any place by the chairman of the Board or the chairman of the committee.
- (4) Subject to subparagraph (3) and to paragraphs 8 and 9, the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Board.

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

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

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

8. (1) In this paragraph—

“relative”, in relation to a member of the Board or a committee, means the member’s spouse, child, parent, brother or sister.

(2) Subject to subparagraph (4)—

(a) if a member of the Board or of a committee—

knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

(i) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member; or

(ii) knows or has reason to believe that his or her relative—

A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member; or

(b) if for any reason the private interests of a member of the Board or of a committee come into conflict with his or her functions as a member;

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

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

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

(5) Any person who contravenes subparagraph (2) or (3) 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.

*Minutes of proceedings of Board and committees*

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

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

*Validity of decisions and acts of Board and committees*

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

*Dismissal of appointed members*

11. (1) Subject to subparagraph (2), if the Minister is satisfied on reasonable grounds that—

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or
- (b) the Board has failed to comply with a direction in terms of section 20; or
- (c) whether through disagreements among its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act; and
- (d) that it is in the national interest to do so, the Minister may, by written notice to the chairperson and Chief Executive Officer, dismiss all the appointed members and their offices shall become vacant as soon as the Chief Executive Officer receives the notice.

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

*Execution of contracts and instruments by authority*

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

*Reports of Authority*

13. (1) In addition to any annual report which the Authority may be required to submit to the Minister in terms of the Public Finance Management Act [*Chapter 22:19*], the Board—

- (a) shall submit to the Minister such other reports as the Minister may require; and
- (b) may submit to the Minister such other reports as the Authority considers desirable;

in regard to the operations, undertakings and activities of the Authority.

(2) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Authority that the Minister may at any time require.”.