



## This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at  
<http://www.icnl.org/knowledge/library/index.php>  
for further resources and research from countries all over the world.

### Disclaimers

**Content.** The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

**Translations.** Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

**Warranty and Limitation of Liability.** Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

## **VOLUME 23**

### **CONTENTS**

- Chapter 402. Registered Designs Act**
- Chapter 403. Weights and Measures Act**
- Chapter 404. Standardisation of Soap Act**
- Chapter 405. Merchandise Marks Act**
- Chapter 406. Copyright and Performance Rights Act**
- Chapter 407. Commercial Travellers (Special Provisions) Act**
- Chapter 408. Self-Management Enterprises Act**
- Chapter 409. Scrap Metal Dealers Act**
- Chapter 410. Disposal of Uncollected Goods Act**
- Chapter 411. Vacant*
- Chapter 412. Building Societies Act**
- Chapter 413. Vacant*
- Chapter 414. Companies (Certificates Validation) Act**
- Chapter 415. Trades Charges Act**
- Chapter 416. Standards Act**
- Chapter 417. Competition and Fair Trading Act**
- Chapter 418. Export Development Act**

*Chapter 419.Vacant*

**Chapter 420. Financial Institutions (Validation of Acts) Act**

**Chapter 421. Control of Goods Act**

*Chapter 422.Vacant*

**Chapter 423. National Savings and Credit Act**

**Chapter 424. Cheques Act**

**Chapter 425. Small Enterprises Development Act**

**Chapter 426. National Savings and Credit Bank of Zambia (Dissolution)**

*Chapter 427.Vacant*

*Chapter 428.Vacant*

*Chapter 429.Vacant*

*Chapter 430.Vacant*

*Chapter 431.Vacant*

## **CHAPTER 402 THE REGISTERED DESIGNS ACT**

### **ARRANGEMENT OF SECTIONS**

#### **PART I**

#### **PRELIMINARY**

##### **Section**

1. Short title

2. Interpretation

## **PART II**

### **ADMINISTRATION**

3. Establishment of Designs Office
4. Appointment of officers
5. Seal
6. Register of designs

## **PART III**

### **REGISTRABLE DESIGNS AND PROCEEDINGS FOR REGISTRATION**

7. Designs registrable under Act
8. Proprietorship of designs
9. Proceedings for registration
10. Registration of same design in respect of other articles, etc.
11. Provisions for secrecy of certain designs
12. Provisions as to confidential disclosure, etc.
13. Convention arrangements
- 13A. ARIPO industrial designs.

## **PART IV**

### **EFFECT OF REGISTRATION, ETC.**

14. Right given by registration
15. Period of copyright
16. Exemption of innocent infringer from liability for damages
17. Compulsory licence in respect of registered design

## **PART V**

### **USE OF REGISTERED DESIGNS FOR SERVICES OF**

## **THE STATE**

### Section

18. Use of registered designs for services of the State
19. Rights of third parties in respect of State use
20. Special provisions as to State use during emergency
21. Reference of disputes as to State use

## **PART VI**

### **ASSIGNMENTS. CORRECTIONS AND CANCELLATION**

22. Registration of assignments, etc.
23. Power of Registrar to authorise corrections
24. Rectification of register
25. Cancellation of registration

## **PART VII**

### **FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS**

26. Evidence of certain entries and documents
27. Inspection of registered designs
28. Information as to existence of copyright
29. Certificate of registration
30. Copies of certificates of registration
31. Exercise of discretionary powers of Registrar
32. Proceedings before Registrar
33. Power of Registrar to award costs
34. Power of Registrar to fix time and place of sitting, etc.

## **PART VIII**

### **APPEALS AND LEGAL PROCEEDINGS**

35. High Court to hear appeals
36. *Repealed by Act No. 16 of 1980*
37. *Repealed by Act No. 16 of 1980*
38. Rules of Court
39. Time for appeals
40. References to High Court by Registrar
41. Certification of validity
42. Infringement action to be heard in High Court
43. Remedy for groundless threats of infringement proceedings
44. Security for costs and taxation
45. Costs of Registrar
46. Appeals to Supreme Court

## **PART IX**

### **OFFENCES AND PENALTIES**

47. Falsification of entries in register
48. Penalty for falsely representing a design as registered
49. Deceiving or influencing the Registrar or an officer
50. Witness giving false evidence
51. Penalties

## **PART X**

### **MISCELLANEOUS**

52. Recognition of agents
53. Lodging and authentication of documents
54. Provisions as to fees
55. Oaths and affirmations
56. Journal
57. Savings

58. Regulations

## **PART XI**

### **APPLICATION AND TRANSITIONAL PROVISIONS**

59. Application of Act and transitional provisions

60. *Repealed by Act No. 16 of 1980*

## **CHAPTER 402**

### **REGISTERED DESIGNS**

*Federal Act  
12 of 1958  
Government  
Notices  
187 of 1964  
497 of 1964  
Statutory  
Instrument  
175 of 1965  
Acts No.  
16 of 1980  
25 of 1987  
13 of 1994*

An Act to make provision relating to the registration of designs and for other purposes incidental thereto.

[1st December, 1958]

## **PART I**

### **PRELIMINARY**

1. This Act may be cited as the Registered Designs Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"article" means any article of manufacture and includes any part of an article if that part is made and sold separately;

Cap. 400

Cap. 400

Cap. 30

"artistic work" means a work of any of the following descriptions, that is

to say:

- (a) the following, irrespective of artistic quality, namely, paintings, sculptures, drawings, engravings and photographs;
- (b) works of architecture, being either buildings or models for buildings;
- (c) works of artistic craftsmanship, not falling within paragraph (a) or (b);

"assignee" means-

- (a) the person who has derived his title to the design for Zambia directly or indirectly from the proprietor thereof or from the latter's assignee; or
- (b) the legal representative of such person;

"Convention" means the Union Convention of Paris, dated the 20th March, 1883, for the Protection of Industrial Property, revised at Brussels on the 14th December, 1900, at Washington on the 2nd June, 1911, at The Hague on the 6th November, 1925, and at London on the 2nd June, 1934, and any revision thereof to which the \*former Federation of Rhodesia and Nyasaland or the former Protectorate of Northern Rhodesia may have acceded or to which the \*\*Republic may accede in terms of section *seven* of the Patents Act;

\* Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

\*\* Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

"convention country" means a country (including any colony, protectorate or territory subject to the authority or under the suzerainty of that country, or any territory over which a mandate or trusteeship is exercised) which has been declared to be a convention country in terms of the Patents Act;

"copyright", in relation to a registered design, has the meaning assigned to it by subsection (1) of section *fourteen*;

"corresponding design", in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work;

"design" means features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished article appeal to and are judged solely by the eye, but does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform;

"Designs Office" means the Designs Office established under section *three*;



"legal practitioner" means a person admitted or otherwise entitled to practise as a barrister and solicitor in terms of the Legal Practitioners Act;

"legal representative" means-

(a) the liquidator or receiver of a company;

(b) the representative recognised by law of any person who has died, become bankrupt, assigned his estate, is an infant or a minor, or of unsound mind, or is otherwise under a disability;

"Patent Journal" means the journal for which provision is made in section *ninety-five* of the Patents Act;

"proprietor" has the meaning assigned to it by section *eight*;

"register" means the register of designs kept under the provisions of this Act;

"registered proprietor" means the person or persons for the time being entered in the register as the proprietor of the design;

"Registrar" means the Registrar of Designs appointed under section *four*;

"set of articles" means a number of articles of the same general character ordinarily on sale or intended to be used together, to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, is applied;

(2) Any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set.

(3) Any question arising under this Act whether a number of articles constitutes a set of articles shall be determined by the Registrar; and notwithstanding anything in this Act any determination of the Registrar under this subsection shall be final.

(As amended by G.N. No. 187 of 1964,  
S.I. No. 175 of 1965 and No. 16 of 1980)

## **PART II**

### **ADMINISTRATION**

3. There shall be established under the direction of the Minister an office to be called the Designs Office. Establishment of Designs Office
4. There shall be- Appointment of officers
- (a) a Registrar of Designs who shall exercise the powers and perform the duties assigned to the Registrar by this Act and shall be responsible for its administration; and
- (b) one or more Deputy Registrars of Designs who shall, subject to the control of the Registrar, have all the powers conferred by this Act upon the Registrar; and
- (c) such examiners and other officers as may be necessary for carrying out the provisions of this Act.
5. The seal of the Patent Office kept in terms of the Patents Act shall also be the seal of the Designs Office, and impressions thereof made for the purposes of this Act shall be judicially noticed. Seal. Cap. 400
6. (1) There shall be kept at the Designs Office for the purposes of this Act a register of designs wherein shall be entered all registered designs with the names and addresses of their proprietors, notifications of assignments and transmissions, and such other matters relating to registered designs as may be prescribed or as the Registrar may think fit. Register of designs
- (2) Subject to the provisions of this Act, the register of designs shall, at all convenient times, be open to inspection by the public, and certified copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.
- (3) The register of designs shall be *prima facie* evidence of any matters required or authorised by or under this Act to be entered therein.
- (4) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register, and the Registrar shall not be affected by any such notice.

## **PART III**

### **REGISTRABLE DESIGNS AND PROCEEDINGS FOR REGISTRATION**

**7.** (1) Subject to the following provisions of this section, a design may, upon application made by the person claiming to be the proprietor, his assignee or legal representative, be registered under this Act in respect of any article or set of articles specified in the application. Designs registrable under Act

(2) Subject to the provisions of this Act, a design shall not be registered thereunder unless it is new or original and in particular shall not be so registered in respect of any article if it is the same as a design which before the date of the application for registration appears on the register or has been published in the former Federation of Rhodesia and Nyasaland or, after the 1st January, 1964, the former Protectorate of Northern Rhodesia or the Republic in respect of the same or any other article or differs from such a design only in immaterial details or in features which are variants commonly used in trade.

(3) Regulations made by the Minister under this Act may provide for excluding from registration thereunder designs for such articles, being articles which are primarily literary or artistic in character, as the Minister thinks fit.

*(As amended by G.N. No. 187 of 1964 and S.I. No. 175 of 1965)*

**8.** (1) Subject to the provisions of this section, the author of a design shall be treated for the purposes of this Act as the proprietor of the design: Proprietorship of designs

Provided that where the design is executed by the author for another person for valuable consideration, that other person shall be treated for the purposes of this Act as the proprietor.

(2) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or, as the case may be, the original

proprietor and that other person, shall be treated for the purposes of this Act as the proprietor of the design or as the proprietor of the design in relation to that article.

**9.** (1) An application for the registration of a design shall be made in the prescribed form and shall be lodged at the Designs Office in the prescribed manner. Proceedings for registration

(2) For the purpose of deciding whether a design is new or original, the Registrar may make such searches, if any, as he thinks fit.

(3) The Registrar may refuse any application for the registration of a design or may register the design in pursuance of the application subject to such modifications, if any, as he thinks fit.

(4) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within such time as may be prescribed shall be deemed to be abandoned.

(5) Except as otherwise expressly provided by this Act, a design when registered shall be registered as of the date on which the application for registration was made, or such other date (whether earlier or later than that date) as the Registrar may in any particular case direct:

Provided that no proceedings shall be taken in respect of any infringement of copyright in that design committed before the date on which the certificate of registration thereof under this Act is issued.

(6) An appeal shall lie from any decision of the Registrar under subsection (3).

**10.** (1) Where the registered proprietor of a design registered in respect of any article makes an application- Registration of same design in respect of other articles, etc.

(a) for registration in respect of one or more other articles, of the

registered design; or

(b) for registration in respect of the same or one or more other articles, of a design consisting of the registered design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof;

the application shall not be refused and the registration made on that application shall not be invalidated by reason only of the previous registration or publication of the registered design:

Provided that the period of copyright in a design registered by virtue of this section shall not extend beyond the expiration of the original and any extended period of copyright in the original registered design.

(2) Where any person makes an application for the registration of a design in respect of any article and either-

(a) that design has been previously registered by another person in respect of some other article; or

(b) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof;

then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the provisions of subsection (1) shall apply as if at the time of making the application the applicant had been the registered proprietor of that design.

**11.** (1) In this section, "competent authority" means the President or the Minister or Junior Minister, if any, to whom the President may assign special responsibilities for defence matters.

Provisions for secrecy of certain designs

(2) Where an application for the registration of a design has been made, and it appears to the Registrar that the design is one of a class notified to him by the competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the design, or the communication of such information to any person or class of persons specified in the directions.

(3) Regulations shall be made by the Minister under this Act for securing that the representation or specimen of a design, in the case of which directions are given under this section, shall not be open to inspection at the Designs Office during the continuance in force of the directions.

(4) Where the Registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to the competent authority, and thereupon the following provisions shall have effect, that is to say:

(a) the competent authority shall, upon receipt of such notice, consider whether the publication of the design would be prejudicial to the defence of the Republic and unless a notice under paragraph (c) has previously been given by that authority to the Registrar, shall reconsider that question before the expiration of nine months from the date of lodging of the application for registration of the design and at least once in every subsequent year;

(b) for the purpose aforesaid, the competent authority may, at any time after the design has been registered or with the consent of the applicant, at any time before the design has been registered, inspect the representation or specimen of the design lodged in pursuance of the application;

(c) if upon consideration of the design at any time it appears to the competent authority that the publication of the design would not, or would no longer, be prejudicial to the defence of the Republic, that authority shall give notice to the Registrar to that effect;

(d) on the receipt of any such notice, the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application or registration, whether or not that time has previously expired.

(5) No person ordinarily resident or domiciled in Zambia shall, while in Zambia, except under the authority of a written permit granted by or on behalf of the Registrar, make or cause to be made any application outside Zambia for the registration of a design of any class prescribed for the purposes of this subsection unless-

(a) an application for registration of the same design has been made in Zambia not less than six weeks before the application outside Zambia; and

(b) either no directions have been given under subsection (2) in relation to the application in Zambia or all such directions have been revoked.

(6) If any person fails to comply with any direction given under this section or makes or causes to be made an application for the registration of a design in contravention of this section, he shall be guilty of an offence.

(7) Where an offence under this section is committed by a body corporate, every person who at the time of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate, or is purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

*(As amended by G.N. No. 187 of 1964 and S.I. No. 175 of 1965)*

**12.** (1) An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of-

Provisions as to confidential disclosure, etc.

(a) the disclosure of the design by the proprietor to any other person in such circumstances as would make it contrary to good faith for that other person to use or publish the design;

(b) the disclosure of the design in breach of good faith by any person other than the proprietor of the design;

(c) in the case of a new or original textile design intended for registration, the acceptance of a first and confidential order for goods bearing the design; or

(d) the communication of the design by the proprietor thereof to a Government department or to any person authorised by the Minister to consider the merits of the design, or of anything done in consequence of such a communication.

(2) Where copyright subsists in an artistic work, and an application is made by, or with the consent of, the owner of that copyright for the registration of a corresponding design, that design shall not be treated for the purposes of this Act as being other than new or original by reason only of any use previously made of the artistic work, unless-

(a) the previous use consisted of or included the sale, letting for hire, or offer for sale or hire of articles to which the design in question (or a design differing from it only as mentioned in subsection (2) of section *seven*) had been applied industrially, other than articles of a description specified in regulations made under subsection (3) of section *seven*; and

(b) that previous use was made by, or with the consent of, the owner of the copyright in the artistic work.

*(As amended by G.N. No. 187 of 1964)*

**13.** (1) Any person who qualifies under Article 2 or 3 of the Convention and who has applied for protection for any design in a convention country, or his legal representative or assignee (if such assignee is also so qualified), may make an application for registration of that design in priority to other applicants; and the registration shall have the same date as the date of the application in the convention country or, where more than one such application for protection has been made, the date of the first such application:

Convention  
arrangements

Provided that-

(i) the application for registration is made within six months from the date of the application for protection in the convention country or, where more than one such application for protection has been made, from the date of the first application;

(ii) no proceedings shall be taken in respect of any infringement of copyright in that design committed before the date on which the certificate of registration thereof under this Act is issued.



(2) An application for the registration of a design made by virtue of this section shall not be refused, and the registration of a design on such an application shall not be invalidated, by reason only of the registration or publication of the design in the former Federation of Rhodesia and Nyasaland or after the 1st January, 1964, the former Protectorate of Northern Rhodesia or the Republic during the period specified in proviso (i) to subsection (1) as that within which the application for registration may be made.

(3) Where an applicant referred to in subsection (1) has applied for protection for any design by an application which, in accordance with the law of any convention country, is equivalent to an application duly made in that convention country, he shall be deemed for the purposes of this section to have applied in that convention country.

*(As amended by G.N. No. 187 of 1964  
and S.I. No. 175 of 1965)*

**13A.** (1) In this section-

ARIPO  
industrial  
designs

(a) "ARIPO" means the African Regional Industrial Property Organisation, formerly known as the Industrial Property Organisation for English-Speaking Africa (ESARIPO), which was established, under the former name, by an agreement adopted at Lusaka on 9th December, 1976; and

(b) "ARIPO Protocol" means the Protocol on Patents and Industrial Designs within the Framework of ARIPO, adopted at Harare on 10th December, 1982.

(2) Where an industrial design has been registered by ARIPO under section 4 (7) of the ARIPO Protocol and the Registrar has not objected, under section 4 (3) of the Protocol, to the industrial design having effect in Zambia, the design shall for all purposes be deemed to have been registered under this Act.

(3) An industrial design shall not be deemed to have been registered under this section if, under section 4 (3) of the ARIPO Protocol, the Registrar objects to its having effect in Zambia.

*(As amended by Act No. 25 of 1987)*

## **PART IV**

### **EFFECT OF REGISTRATION, ETC.**

**14.** (1) The registration of a design under this Act shall give to the registered proprietor the copyright in the registered design, that is to say, the exclusive right in Zambia to make or import for sale or for use for the purposes of any trade or business, or to sell, hire or offer for sale or hire, any article in respect of which the design is registered, being an article to which the registered design or a design not substantially different from the registered design has been applied, and to make anything for enabling any such article to be made as aforesaid. Right given by registration

(2) Subject to the provisions of this Act, the registration of a design shall have the same effect against the State as it has against a subject.

*(As amended by G.N. No. 187 of 1964  
and S.I. No. 175 of 1965)*

**15.** (1) Copyright in a registered design shall, subject to the provisions of this Act, subsist for a period of five years from the date of registration. Period of copyright

(2) The Registrar shall extend the period of copyright for a second period of five years from the expiration of the original period and for a third period of five years from the expiration of the second period if an application for extension of the period of copyright for the second or third period is made in the prescribed form before the expiration of the original period or the second period, as the case may be, and if the prescribed fee is paid before the expiration of the relevant period or within such further period (not exceeding three months) as may be specified in a request made to the Registrar and accompanied by the prescribed additional fee.

(3) Where in the case of a registered design it is shown-

(a) that the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the written law relating to copyright.

(b) that, by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (2) of section *twelve*; and

(c) that the copyright in that work under the written law relating to copyright expired before the date of expiry of the copyright in the design;

the copyright in the design shall, notwithstanding anything in this section, be deemed to have expired at the same time as the copyright in the artistic work, and shall not be renewable after that time.

*(As amended by G.N. No. 187 of 1964)*

**16.** (1) In proceedings for the infringement of copyright in a registered design, damages shall not be awarded against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable ground for supposing, that the design was registered; and a person shall not be deemed to have been aware or to have had reasonable ground for supposing as aforesaid by reason only of the marking of an article with the word "registered" or any abbreviation thereof, or any word or words expressing or implying that the design applied to the article has been registered, unless the number of the design accompanied the word or words or the abbreviation in question.

Exemption of innocent infringer from liability for damages

(2) Nothing in this section shall affect the power of the High Court to grant an injunction or interdict in any proceedings for infringement of copyright in a registered design.

*(As amended by Act No. 16 of 1980)*

**17.** (1) At any time after a design has been registered, any person interested may apply to the Registrar for the grant of a compulsory licence in respect of the design on the ground that the design is not applied in Zambia by any industrial process or means to the article in respect of which it is registered to such an extent as is reasonable in the circumstances of the case; and the Registrar may make such order on the application as he thinks fit.

Compulsory licence in respect of registered design

(2) An order for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were a deed executed by the registered proprietor and all other necessary parties, granting a

licence in accordance with the order.

(3) No order shall be made under this section which would be at variance with any of the provisions of the Convention.

(4) An appeal shall lie from any order of the Registrar under this section.

*(As amended by G.N. No. 187 of 1964)*

## **PART V**

### **USE OF REGISTERED DESIGNS FOR SERVICES OF THE STATE**

**18.** (1) Notwithstanding anything in this Act, any Government department or any person authorised in writing by the Minister may use any registered design for the services of the State in accordance with the provisions of this section.

Use of  
registered  
designs for  
services of the  
State

(2) If and so far as the design has before the date of registration thereof been duly recorded by or applied by or on behalf of a Government department, otherwise than in consequence of the communication thereof directly or indirectly by the registered proprietor or any person from whom he derives title, any use of the design by virtue of this section may be made free of any royalty or other payment to the registered proprietor.

(3) If and so far as the design has not been so recorded or applied as aforesaid, any use of the design made by virtue of this section at any time after the date of registration thereof, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Minister and the registered proprietor with the approval of the Minister responsible for finance, or as may in default of agreement be determined by the High Court on a reference under subsection (1) of section *twenty-one*.

(4) The authority of the Minister in respect of a design may be given under this section either before or after the design is registered and either

before or after the acts in respect of which the authority is given are done, and may be given to any person, whether or not he is authorised directly or indirectly by the registered proprietor to use the design.

(5) Where any use of a design is made by a Government department or any person authorised by the Minister under this section, then, unless it appears to the Minister that it would be contrary to the public interest so to do, the Minister shall notify the registered proprietor as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

(6) For the purposes of this Part, any use of a design for the supply to the government of any country outside Zambia, in pursuance of any agreement or arrangement between the Government and the government of that country, of articles required for the defence of that country shall be deemed to be a use of the design for the services of the State, and the power of a Government department or a person authorised by the Minister under this section to use a design shall include power-

(a) to sell such articles to the government of any country in pursuance of any such agreement or arrangement as aforesaid; and

(b) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

(7) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the rights in the registered design were held on behalf of the State.

*(As amended by G.N. No. 187 of 1964 ,  
S.I. No. 175 of 1965 and Act No. 16 of 1980)*

**19.** (1) In this section, "exclusive licence" means a licence from a registered proprietor which confers on the licensee or on the licensee and persons authorised by him, to the exclusion of all other persons (including the registered proprietor), any right in respect of the registered design.

Rights of third parties in respect of State use

(2) In relation to any use of a registered design, or a design in respect of

which an application for registration is pending, made for the services of the State-

(a) by a Government department or a person authorised by the Minister under section *eighteen*; or

(b) by the registered proprietor or applicant for registration to the order of a Government department;

the provisions of any licence, assignment or agreement made, whether before or after the commencement of this Act, between the registered proprietor or applicant for registration or any person who derives title from him or from whom he derives title and any person other than a Government department, shall be of no effect so far as those provisions restrict or regulate the use of the design, or any model, document or information relating thereto, or provide for the making of payments in respect of any such use, or calculated by reference thereto; and the reproduction or publication of any model or document in connection with the said use shall not be deemed to be an infringement of any copyright subsisting in the model or document.

(3) Where an exclusive licence granted otherwise than for royalties or other benefits determined by reference to the use of the design is in force under the registered design, then-

(a) in relation to any use of the design which, but for the provisions of this section and section *eighteen*, would constitute an infringement of the rights of the licensee, subsection (3) of section *eighteen* shall have effect as if for the reference to the registered proprietor there were substituted a reference to the licensee; and

(b) in relation to any use of the design by the licensee by virtue of an authority given under section *eighteen*, that section shall have effect as if subsection (3) thereof were omitted.

(4) Subject to the provisions of subsection (3), where the registered design or the right to apply for or obtain registration of the design has been assigned to the registered proprietor in consideration of royalties or other benefits determined by reference to the use of the design, then-

(a) in relation to any use of the design by virtue of section *eighteen*, subsection (3) of that section shall have effect as if the reference to the registered proprietor included a reference to the assignor, and any sum

payable by virtue of that subsection shall be divided between the registered proprietor and the assignor in such proportion as may be agreed upon between them or as may in default of agreement be determined by the High Court on a reference under section *twenty-one*; and

(b) in relation to any use of the design made for the services of the State by the registered proprietor to the order of a Government department, subsection (3) of section *eighteen* shall have effect as if that use were made by virtue of an authority given under that section.

(5) Where, under subsection (3) of section *eighteen*, payments are required to be made by a Government department to a registered proprietor in respect of any use of a design, any person being the holder of an exclusive licence under the registered design (not being such a licence as is mentioned in subsection (3) of this section) authorising him to make that use of the design shall be entitled to recover from the registered proprietor such part, if any, of those payments as may be agreed upon between that person and the registered proprietor, or as may in default of agreement be determined by the High Court under section *twenty-one* to be just having regard to any expenditure incurred by that person-

(a) in developing the said design; or

(b) in making payments to the registered proprietor, other than royalties or other payments determined by reference to the use of the design, in consideration of the licence;

and if, at any time before the amount of any such payment has been agreed upon between the Government department and the registered proprietor, that person gives notice in writing of his interest to the department, any agreement as to the amount of that payment shall be of no effect unless it is made with his consent.

(As amended by S.I. No. 175 of 1965  
and Act No. 16 of 1980)

**20.** (1) In this section, "period of emergency" means any period beginning on such date as may be declared by the Minister by statutory notice to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency.

Special provisions as to State use during emergency

(2) During any period of emergency the powers exercisable in relation to a design by a Government department or a person authorised by the Minister under section *eighteen*, shall include power to use the design for any purpose which appears to the Minister necessary or expedient-

(a) for the efficient prosecution of any war in which the Republic may be engaged;

(b) for the maintenance of supplies and services essential to the life of the community;

(c) for securing a sufficiency of supplies and services essential to the well-being of the community;

(d) for promoting the productivity of industry, commerce and agriculture;

(e) for fostering and directing exports and reducing imports or imports of any classes, from all or any countries and for redressing the balance of trade;

(f) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community; or

(g) for assisting the relief of suffering and the restoration and distribution of essential supplies and services in Zambia or any foreign countries that are in grave distress as the result of war;

and any reference in this Part to the services of the State shall be construed as including a reference to the purposes aforesaid.

*(As amended by G.N. No. 187 of 1964  
and S.I. No. 175 of 1965)*

**21.** (1) Any dispute as to-

Reference of  
disputes as to  
State use

(a) the exercise by a Government department or a person authorised by the Minister of the powers conferred by section *eighteen*;



(b) the terms for the use of a design for the services of the State thereunder; or

(c) the right of any person to receive any part of a payment made in pursuance of subsection (3) of section *eighteen*; may be referred to the High Court by any party to the dispute in such manner as may be prescribed.

(2) In any proceedings under this section to which a Government department is a party, the Government department may-

(a) if the registered proprietor is a party to the proceedings, apply for cancellation of the registration of the design upon any ground upon which the deletion of a design may be ordered by the High Court under section *twenty-four*;

(b) in any case, put in issue the validity of the registration of the design without applying for its cancellation.

(3) If in such proceedings as aforesaid any question arises whether a design has been recorded or applied as mentioned in section *eighteen* and the disclosure of any document recording the design, or of any evidence of the application thereof, would, in the opinion of the Government department, be prejudicial to the public interest, the disclosure may be made confidentially to counsel appearing for the other party or to an independent expert agreed upon by the parties.

(4) In determining under this section any dispute between a Government department and any person as to terms for the use of a design for the services of the State, the High Court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the design in question.

(As amended by S.I. No. 175 of 1965  
and Act No. 16 of 1980)

## **PART VI**

**ASSIGNMENTS.  
CANCELLATION**

**CORRECTIONS**

**AND**

22. (1) Where any person becomes entitled by assignment, transmission or operation of law to a registered design or to a share in a registered design, or becomes entitled as mortgagee, licensee or otherwise to any other interest in a registered design, he may apply to the Registrar in the prescribed manner for the registration of his title as proprietor or co-proprietor or, as the case may be, of notice of his interest, in the register.

Registration of assignments, etc.

(2) Without prejudice to the provisions of subsection (1), an application for the registration of the title of any person becoming entitled by assignment to a registered design or a share in a registered design, or becoming entitled by virtue of a mortgage, licence or other instrument to any other interest in a registered design, may be made in the prescribed manner by the assignor, mortgagor, licensor or other party to that instrument, as the case may be.

(3) Where application is made under this section for the registration of title of any person, the Registrar shall, upon proof of title to his satisfaction-

(a) where that person is entitled to a registered design or a share in a registered design, register him in the register as proprietor or co-proprietor of the design, and enter in that register particulars of the instrument or event by which he derives title; or

(b) where that person is entitled to any other interest in the registered design, enter in that register notice of his interest, with particulars of the instrument, if any, creating it.

(4) Subject to any rights vested in any other person of which notice is entered in the register of designs, the person or persons registered as proprietor of a registered design shall have power to assign, grant licences under, or otherwise deal with the design, and to give effectual receipts for any consideration for any such assignment, licence or dealing.

(5) Except for the purposes of an application to rectify the register under the provisions of this Act, a document in respect of which no entry has been made in the register under subsection (3) shall not be admitted in

any proceedings as evidence of the title of any person to a registered design or share of or interest in a registered design unless the High Court or the Supreme Court otherwise directs.

*(As amended by G.N. No. 187 of 1964 and Act No. 16 of 1980)*

**23.** (1) The Registrar may authorise the correction of any clerical error or omission or error in translation in any application for the registration or in the representation of a design, or any error in the register. Power of Registrar to authorise corrections

(2) A correction may be made in pursuance of this section, either upon a request in writing made by any person interested and accompanied by the prescribed fee, or without such a request.

(3) Where it is proposed to make a correction otherwise than upon such a request, the Registrar shall give notice of the proposal to the registered proprietor or the applicant for registration of the design, as the case may be, and to any other person who appears to him to be concerned, and shall give any such person an opportunity of being heard before the correction is made.

**24.** (1) The High Court may, on the application of any person aggrieved, order the register to be rectified by the making of any entry therein or the variation or deletion of any entry therein. Rectification of register

(2) The High Court may determine any question which it may be necessary or expedient to decide in connection with the rectification of the register.

(3) *Repealed by Act No. 16 of 1980.*

(4) A notice of any order made by the High Court under this section shall be served on the Registrar in the prescribed manner, and the Registrar shall, on receipt of the notice, rectify the register accordingly.

*(As amended by Act No 16 of 1980)*

**25.** (1) The Registrar may, upon a request made in the prescribed Cancellation of

manner by the registered proprietor, cancel the registration of a design. registration

(2) At any time after a design has been registered, any person interested may apply to the Registrar for the cancellation of the registration of the design on the ground that-

(a) the design was not, at the date of the registration thereof, new or original;

(b) the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the written law relating to copyright;

(c) by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (2) of section *twelve*; or

(d) the copyright in that work under the written law relating to copyright has expired;

or on any other ground on which the Registrar could have refused to register the design; and the Registrar may make such order on the application as he thinks fit.

(3) An appeal shall lie from any order of the Registrar under subsection (2).

(As amended by G.N. No. 187 of 1964)

## **PART VII**

### **FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS**

Evidence of  
certain entries  
and documents

**26.** (1) A certificate purporting to be signed by the Registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be *prima facie* evidence of the matters so certified.

(2) A copy of any entry in the register or of any representation,

specimen or document kept in the Designs Office or an extract from the register or any such document, purporting to be certified by the Registrar and to be sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

**27.** (1) Subject to the provisions of this section and to any regulation made by the Minister in pursuance of subsection (3) of section *eleven*, the representation or specimen of a design registered under this Act shall be open to inspection at the Designs Office on and after the day on which the certificate of registration is issued. Inspection of registered designs

(2) In the case of a design registered in respect of an article of any class prescribed for the purposes of this subsection, no representation or specimen of the design lodged in pursuance of the application shall, until the expiration of such period after the day on which the certificate of registration is issued as may be prescribed in relation to articles of that class, be open to inspection at the Designs Office except by the registered proprietor, a person authorised in writing by the registered proprietor, or a person authorised by the Registrar, the High Court or Supreme Court:

Provided that where the Registrar proposes to refuse an application for the registration of any other design on the ground that it is the same as the first-mentioned design or differs from that design only in immaterial details or in features which are variants commonly used in the trade, the applicant shall be entitled to inspect the representation or specimen of the first-mentioned design lodged in pursuance of the application for registration of that design.

(3) In the case of a design registered in respect of an article of any class prescribed for the purposes of subsection (2), the representation or specimen of the design shall not, during the period prescribed as aforesaid, be inspected by any person by virtue of this section except in the presence of the Registrar or of an officer acting under him; and except in the case of an inspection authorised by the proviso to that subsection, the person making the inspection shall not be entitled to take a copy of the representation or specimen of the design or any part thereof.

(4) Where an application for the registration of a design has been

abandoned or refused, neither the application for registration nor any representation or specimen of the design lodged in pursuance thereof shall at any time be open to inspection at the Designs Office or be published by the Registrar.

(As amended by Act No. 16 of 1980).

**28.** On the request of any person furnishing such information as may enable the Registrar to identify the design and on payment of the prescribed fee, the Registrar shall inform him whether the design is registered, and, if so, in respect of what articles, and whether any extension of the period of copyright in relation to that design has been granted and shall state the date of registration and the name and address of the registered proprietor.

Information as to existence of copyright

**29.** The Registrar shall grant a certificate of registration in the prescribed form to the registered proprietor of a design when the design is registered.

Certificate of registration

**30.** The Registrar may, in a case where he is satisfied that the certificate of registration referred to in section *twenty-nine* has been lost or destroyed, or in any other case in which he thinks it expedient, furnish one or more copies of the certificate.

Copies of certificates of registration

**31.** Without prejudice to any provisions of this Act requiring the Registrar to hear any party to proceedings thereunder, or, to give to any such party an opportunity to be heard, the Registrar shall give to any applicant for registration of a design an opportunity to be heard before exercising adversely to this Act. the applicant any discretion vested in the Registrar by or under this Act.

Exercise of discretionary powers of Registrar

**32.** (1) Subject to the provisions of section *fifty-five*, evidence in any proceedings before the Registrar under this Act shall be given by affidavit, so, however, that the Registrar may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence as aforesaid and may allow any witness to be cross-examined on his affidavit or oral evidence.

Proceedings before Registrar

(2) The powers, rights and privileges of the Registrar in proceedings before him under this Act shall be the same as those conferred upon commissioners by the Inquiries Act and the provisions of that Act shall,

Cap. 41

*mutatis mutandis*, apply in relation to the hearing and determination of any matter before the Registrar under this Act and to any person summoned to give evidence or giving evidence before him.

*(As amended by G.N. No. 187 of 1964)*

**33.** In all proceedings before the Registrar under this Act, the Registrar shall have power to award to any party such costs as he may consider reasonable and to direct how and by what parties they are to be paid, and any costs so awarded shall be taxed by the High Court and payment thereof may be enforced in the same manner as if they were costs allowed by the High Court.

Power of Registrar to award costs

*(As amended by Act No. 16 of 1980)*

**34.** The Registrar may in any proceeding held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.

Power of Registrar to fix time and place of sitting, etc.

## **PART VIII**

### **APPEALS AND LEGAL PROCEEDINGS**

**35.** Where this Act provides for an appeal from a decision of the Registrar, such appeal shall be made to the High Court.

High Court to hear appeals

*(As amended by Act No. 16 of 1980)*

**36.** *Repealed by Act No. 16 of 1980.*

**37.** *Repealed by Act No. 16 of 1980.*

**38.** The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to-

Rules of court

(a) the time within which any requirement of the rules is to be complied with;

(b) the costs and expenses of an incidental to any proceedings;

(c) the fees to be charged in respect of such proceedings;

(d) the summary determination of any appeal which appears to the High Court or the Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

*(As amended by Act No. 16 of 1980)*

**39.** Appeals under this Part, whether from decisions of the Registrar or orders or decisions of the High Court, shall be brought within three months after the date of the decision or order in question, or within such further time as the High Court or Supreme Court may allow upon application by the appellant concerned.

Time for appeals

**40.** When any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall thereafter, in relation to such matter, act in accordance with the decision of the High Court or any decision substituted therefor on appeal to the Supreme Court.

References to High Court by Registrar

*(As amended by Act No. 16 of 1980)*

**41.** In any legal proceeding in which the validity of the registration of a design is contested and is decided in favour of the registered proprietor of the design, the High Court or Supreme Court may certify to that effect and, if it is so certifies, then, in any subsequent legal proceeding in which the validity of the registration comes into question, the registered proprietor of the design, on obtaining a final order or judgment in his favour, shall have his full costs, charges and expenses as between solicitor and client, unless in that subsequent proceeding the High Court or Supreme Court directs that he ought not to have them.

Certification of validity

*(As amended by G.N. No. 187 of 1964 and Act No. 16 of 1980)*

**42.** Any action or legal proceeding relating to the infringement of copyright in a registered design shall be brought in the High Court.

Infringement action to be heard in High Court

*(As amended by G.N. No. 187 of 1964)*

**43.** (1) Where any person (whether entitled to or interested in a registered design or an application for registration of a design or not) by circulars, advertisements or otherwise threatens any other person with proceedings for infringement of the copyright in a registered design, any

Remedy for groundless threats of infringement



person aggrieved thereby may bring an action against him in the High Court for any such relief as is mentioned in subsection (2). proceedings

(2) Unless in any action brought by virtue of this section the defendant proves that the acts in respect of which proceedings were threatened constitute or, if done, would constitute, an infringement of the copyright in a registered design, the registration of which is not shown by the plaintiff to be invalid, the plaintiff shall be entitled to the following relief, that is to say:

- (a) a declaration to the effect that the threats are unjustifiable;
- (b) an injunction or interdict against the continuance of the threats; and
- (c) such damages, if any, as he has sustained thereby.

(3) For the avoidance of doubt, it is hereby declared that a mere notification that a design is registered does not constitute a threat of proceedings within the meaning of this section.

(4) The defendant in any such action as aforesaid may apply, by way of counter-claim in the action, for any relief to which he would be entitled in a separate action in respect of any infringement by the plaintiff of the design to which the threats relate.

*(As amended by G.N. No. 187 of 1964)*

**44.** (1) When a party to proceedings before the Registrar is resident outside Zambia, the Registrar may order such party to give security, within such time as may be directed, for the costs of the proceedings. Security for costs and taxation of costs

(2) If the party ordered to give security for costs fails to do so within the time directed, the Registrar may treat the proceedings as abandoned.

(3) Where a bond is to be given as security for costs, it shall, unless the Registrar otherwise directs, be given to the party requiring the security.

*(As amended by Act No. 16 of 1980)*

**45.** In all proceedings before the High Court under this Act, the costs of the Registrar shall be in the discretion of the High Court, but the Registrar shall not be ordered to pay the costs of any of the other parties.  
*(As amended by Act No. 16 of 1980)*

Costs of Registrar

**46.** Any party to any proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of that Court to the Supreme Court.  
*(As amended by Act No. 16 of 1980)*

Appeals to Supreme Court

## **PART IX**

### **OFFENCES AND PENALTIES**

**47.** Any person who makes or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or who produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, shall be guilty of an offence.

Falsification of entries in register

**48.** (1) Any person who-

Penalty for falsely representing a design as registered

(a) falsely represents that a design applied to any article sold by him is registered in respect of that article; or

(b) after the copyright in a registered design has expired, marks any article to which the design has been applied with the word "registered", or any word or words implying that there is a subsisting copyright in the design, or causes any such article to be so marked;

shall be guilty of an offence and liable to a fine of one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to both.

(2) For the purposes of this section, a person who sells an article on which he has, or has caused to have, stamped, engraved or impressed or to which he has, or has caused to have, otherwise applied the word "registered", or any other word expressing or implying that the design is registered, shall be deemed to represent that the design applied to the article is registered in respect of that article.

*(As amended by Act No. 13 of 1994)*

**49.** (1) Any person who-

Deceiving or  
influencing the  
Registrar or an  
officer

(a) for the purpose of deceiving the Registrar or any other officer of the Designs Office in the execution of the provisions of this Act; or

(b) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any other matter thereunder;

makes or submits a false statement or representation, whether orally or in writing, knowing the same to be false, shall be guilty of an offence.

(2) Any person who, having innocently made a false statement or representation, whether orally or in writing, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder and who on becoming aware that such statement or representation was false fails to advise the Registrar forthwith of such falsity, shall be guilty of an offence.

**50.** Any person who, after having been sworn or having in lieu thereof made an affirmation or declaration, wilfully gives false evidence before the Registrar concerning the subject-matter of the proceeding in question, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence.

Witness giving  
false evidence

**51.** Save where otherwise provided in this Act, any person who is guilty of an offence under this Act shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Penalties

*(As amended by Act No. 13 of 1994)*

## PART X

### MISCELLANEOUS

**52.** Where by this Act any act has to be done by or to any person in connection with a design or any procedure relating thereto, the act may under and in accordance with the regulations or, in particular cases, by special leave of the Registrar, be done by or to an agent of that person duly authorised in the prescribed manner.

Recognition of agents

**53.** (1) Any application, notice or document authorised or required under this Act to be lodged, made or given at the Designs Office or to the Registrar or to any other person may be delivered by hand or sent by registered post.

Lodging and authentication of documents

(2) No authentication shall be required in respect of any document lodged in the Designs Office under the provisions of this Act.

*(As amended by Act No. 16 of 1980)*

**54.** (1) Where under the provisions of this Act-

Provisions as to fees

(a) a fee is payable in respect of the performance of any act by the Registrar, the Registrar shall not perform that act until the fee has been paid;

(b) a fee is payable in respect of the doing of any act by any person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or

(c) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

(2) All fees shall be paid at the Designs Office in such manner as the Registrar, with the approval of the Minister, may accept.

**55.** Any person who is required under the provisions of this Act to take any oath or swear to the truth of any affidavit may, in lieu thereof, make an affirmation or declaration in accordance with the written law relating to affirmations or declarations.

Oaths and affirmations

*(As amended by G.N. No. 187 of 1964)*

**56.** The Minister may direct the publication by the Registrar in the Patent Journal of any reports of cases on designs and other relevant matters as the Minister may deem fit.

Journal

**57.** (1) Nothing in this Act shall be construed as authorising or requiring the Registrar to register a design the use of which would, in his opinion, be contrary to law or morality.

Savings

(2) Nothing in this Act shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use articles forfeited to the President under the provisions of any written law.

*(As amended by G.N. No. 187 of 1964 and S.I. No. 175 of 1965)*

**58.** (1) The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is to be prescribed and generally for the better carrying out of the objects and purposes of this Act or to give force or effect to its provisions or for its better administration.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), regulations made by the Minister may provide for-

(a) the form of applications for registration of designs and of any representations or specimens of designs or other documents which may be lodged at the Designs Office, and for requiring copies to be furnished of any such representations, specimens or documents;

(b) the procedure to be followed in connection with any application or request to the Registrar, or any proceeding before him, and the authorising of the rectification of irregularities of procedure;

(c) the service of notices and other documents required to be served in connection with proceedings under this Act;

(d) the conduct of the business of the Designs Office;

(e) authorising the publication and the sale of copies of representations of designs and other documents in the Designs Office.

(3) The Minister may prescribe a tariff of the fees which shall be payable in respect of any application, registration or other matter under this Act and the fees shall be payable as so prescribed.

## **PART XI**

### **APPLICATION AND TRANSITIONAL PROVISIONS**

**59.** Any design which immediately before the commencement of this Act was registered in the United Kingdom under any enactment relating to registered designs and was protected in the former Protectorate of Northern Rhodesia under the United Kingdom Designs (Protection) Act, Chapter 206 of the 1948 Edition of the Laws, shall be deemed to be registered under this Act and the copyright in that design shall subsist in Zambia while copyright therein subsists in the United Kingdom.

Application of  
Act and  
transitional  
provisions

*(As amended by G.N. No. 187 of 1964  
and S.I. No. 175 of 1965)*

**60.** *Repealed by Act No. 16 of 1980.*

### **SUBSIDIARY LEGISLATION**

#### **REGISTERED DESIGNS**

#### **SECTION 3-THE DESIGNS OFFICE (ESTABLISHMENT) ORDER**

#### **Order by the Minister**

**Statutory  
Instrument  
327 of  
1968**

**1.** This Order may be cited as the Designs Office (Establishment) Order.

Title

2. The Designs Office is hereby established at the place described in the Schedule.

Establishment  
of Designs  
Office

**SCHEDULE**  
***(Paragraph 2)***

That part of the building known as "Kwacha House", Cairo Road, Lusaka, set apart for the Designs Office.



## **THE REGISTERED DESIGNS REGULATIONS [ARRANGEMENT OF REGULATIONS]**

### **PART I**

#### **PRELIMINARY**

Regulation

1. Title
2. Interpretation

### **PART II**

#### **APPLICATION FOR REGISTRATION OF DESIGNS**

3. Form of application
4. Endorsement as to novelty
5. Application for registration under section 10
6. Representations or specimens to be furnished with application
7. Preparation of representations
8. In certain cases representations to be furnished in place of specimens
9. Portraits, armorial bearings, etc.
10. Designs excluded from registration under section 7 (3)
11. Convention applications

### **PART III**

#### **PROCEDURE ON RECEIPT OF APPLICATION FOR REGISTRATION**

# **OF A DESIGN AND EXTENSION OF PERIOD OF COPYRIGHT**

12. Registrar's objections
13. Decision of Registrar
14. Procedure on appeal from decision of Registrar
15. Certificate of registration
16. Non-completion
17. Death of applicant
18. Extension of period of copyright

## **PART IV**

# **ASSIGNMENTS AND COMPULSORY LICENCES**

### Regulation

19. Application for registration of title under section 22
20. Copies of documents
21. Particulars to be stated in application
22. Application for compulsory licence
23. Opposition
24. Hearing

## **PART V**

# **REGISTER OF DESIGNS**

25. Alteration of entries in register
26. Correction of errors
27. Cancellation of registration
28. Costs
29. Searches

30. Certified copies of entries, etc.
31. Copy of certificate of registration
32. Designs not open to public inspection

## **PART VI**

### **MISCELLANEOUS**

33. Prescribed fees
34. Prescribed forms
35. Size, etc., of documents
36. Address for service
37. Method and proof of service
38. Lodging of documents
39. Power of Registrar to fix time and place of proceedings
40. Agency
41. Signature of documents
42. Amendment of documents
43. Power of Registrar to waive requirements
44. Extension of time
45. Excluded days
46. Days and hours of business
47. Copy of application to High Court to be served on Registrar
48. Order of High Court or Supreme Court
49. Publication of order of High Court or Supreme Court

FIRST SCHEDULE-Fees payable to the Office

SECOND SCHEDULE-Prescribed forms

### **SECTIONS 7 AND 58-THE REGISTERED DESIGNS REGULATIONS**

**Regulations by the Minister**

*Federal  
Government  
Notices  
273 of 1958*

*58 of 1960  
Government  
Notice  
497 of 1964  
Statutory  
Instruments  
40 of 1981  
7 of 1984  
145 of 1990  
55 of 1995  
Act No.  
13 of 1994*

## **PART I**

### **PRELIMINARY**

1. These Regulations may be cited as the Registered Designs Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"agent" means an agent duly authorised to the satisfaction of the Registrar;

"Office" means the Designs Office;

"section" means a section of the Act;

"specimen" means an article with the design applied to it;

"textile article" means textile piece goods, handkerchiefs and shawls, and includes such other classes of articles of a similar character as the Registrar may from time to time decide.

## **PART II**

### **APPLICATION FOR**

# REGISTRATION OF DESIGNS

**3.** (1) An application for the registration of a design shall be signed by the applicant or his agent. The application shall be in Form No. 1 or No. 2 or, in the case of a design to be applied to a set of articles, in Form No. 3 or No. 4, as the case may be. Form of application

(2) Where it is desired to register the same design in respect of more than one article, a separate application shall be made in respect of each article. In that case each application shall be numbered separately and shall be treated as a separate and distinct application.

(3) Every application shall state the article to which the design is to be applied and that the applicant claims to be the proprietor thereof.

(4) Except in the case of an application to register a design to be applied to a textile article, to wallpaper or to lace, the application shall further be accompanied by a statement of the features of the design for which novelty is claimed.

**4.** The applicant shall, if required by the Registrar in any case so to do, endorse on each of the representations or specimens a statement satisfactory to the Registrar of the novelty claimed for the design. Endorsement as to novelty

**5.** If the application is for the registration of a design which has already been registered in respect of one or more articles, or consists of a registered design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and it is desired to claim the protection of section *ten* for such application, it shall contain the number or numbers of the registration or registrations already effected. Application for registration under section 10

**6.** (1) There shall be furnished in connection with an application to register a design four identical representations of the design, in a form satisfactory to the Registrar, or four specimens. Where representations are supplied, the Registrar may at any time before registration require specimens or additional representations. Representations or specimens to be furnished with application

(2) There shall be furnished in connection with an application for the registration of a design to be applied to a set of articles four identical representations of the design, in a form satisfactory to the Registrar, or four specimens.

(3) The representations of the design to be applied to a set of articles shall show the design as applied to each different article included in the set.

7. (1) Each representation of the design, whether to be applied to a single article or to a set of articles, shall be upon paper of the size prescribed by regulation 35 and not on cardboard and shall appear on one side only of the paper. The figure or figures shall be placed in an upright position on the sheet. When more figures than one are shown, these shall where possible be on one and the same sheet, and each shall be designated perspective view, front view, side view, plan or otherwise, as the case may be.

Preparation of representations

(2) When the representations furnished are drawings or tracings, they shall be in ink, and if on tracing cloth or tracing paper shall be mounted on paper of the size prescribed by regulation 35.

(3) Where words, letters or numerals appear in the design but are not of the essence of the design, they shall be removed from the representations or specimens; where they are of the essence of the design, the Registrar may require the insertion of a disclaimer of any right to their exclusive use.

(4) Each representation of a design which consists of a repeating surface pattern shall show the complete pattern and a sufficient portion of the repeat in length and width, and shall not be of less size than 7 inches by 5 inches.

8. When specimens are furnished and are not, in the Registrar's opinion, of a kind which can be conveniently mounted in a flat position by means of an adhesive upon paper, or by stitching on linen-backed sheets of paper of the size prescribed by regulation 35 and stored without damage to other documents, representations shall be furnished in place of specimens.

In certain cases representations to be furnished in place of specimens

**9.** (1) Where a portrait of H.E. the President or Her Britannic Majesty or of any member of the British Royal Family, or a reproduction of the armorial bearings, insignia, orders of chivalry, decorations or flags of any country, city, borough, town, place, society, body corporate, institution or person appears on a design, the Registrar, before proceeding to register the design, shall, if he so requires, be furnished with a consent to the registration and use of such portrait or reproduction from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the design.

Portraits,  
armorial  
bearings, etc.

(2) Where the name or portrait of a living person appears on a design, the Registrar shall be furnished, if he so requires, with consent from such person before proceeding to register the design. In the case of a person recently dead, the Registrar may call for consent from his legal representative before proceeding with the registration of a design on which the name or portrait of the deceased person appears.

**10.** There shall be excluded from registration under the Act designs to be applied to any of the following articles, namely:

Designs  
excluded from  
registration  
under section 7  
(3)

(a) works of sculpture other than casts or models used or intended to be used as models or patterns to be multiplied by any industrial process;

(b) wall plaques and medals; and

(c) printed matter primarily of a literary or artistic character, including bookjackets, calendars, certificates, coupons, dressmaking patterns, greetings cards, leaflets, maps, plans, postcards, stamps, trade advertisements, trade forms, and cards, transfers and the like.

**11.** (1) An application for registration under section *thirteen* shall contain a declaration that the application in a convention country upon which the applicant relies is the first application made in a convention country in respect of the design, whether by the applicant or by any person of whom he claims to be the legal representative or assignee, and shall specify the convention country in which such foreign application was made, or is to be deemed under subsection (3) of section *thirteen* to have been made, and the official date thereof.

Convention  
applications

(2) In addition to the representations or specimens lodged with every convention application, there shall be lodged with the application or

within three months thereafter a copy of the representation of the design filed or deposited in respect of the first application in a convention country, duly certified by the official chief or head of the Designs Office of the convention country, or otherwise verified to the satisfaction of the Registrar.

(3) If any certificate or other document relating to the application is in a foreign language, it shall be accompanied by a translation thereof in the English language verified to the satisfaction of the Registrar.

(4) Save as provided by the provisions of this regulation, all proceedings in connection with a convention application shall be taken within the times and in the manner prescribed by these Regulations.

## **PART III**

# **PROCEDURE ON RECEIPT OF APPLICATION FOR REGISTRATION OF A DESIGN AND EXTENSION OF PERIOD OF COPYRIGHT**

**12.** If the Registrar objects to an application for the registration of a design, he shall inform the applicant of his objections in writing and, unless within two months the applicant applies for a hearing or makes a considered reply in writing to those objections, he shall be deemed to have withdrawn his application. Registrar's objections

**13.** If the applicant applies for a hearing, the decision of the Registrar at such hearing shall be communicated to the applicant in writing. Decision of Registrar

**14.** If the applicant desires to appeal from the Registrar's decision, he shall within one month from the date of the decision apply to the Registrar in Form No. 5, requesting him to state in writing the grounds of, and the materials used by him in arriving at, his decision. Upon receipt of such application, the Registrar shall send to the applicant such Procedure on appeal from decision of Registrar



statement as aforesaid in writing, and the date when such statement is sent shall be deemed to be the date of the Registrar's decision for the purpose of an appeal.

**15.** The certificate of registration of a design shall be in Form No. 6, No. 7, No. 8 or No. 9, whichever is applicable, and may be modified as directed by the Registrar. Certificate of registration

**16.** The time prescribed for the purposes of subsection (4) of section *nine*, which relates to non-completion of an application, shall be twelve months from the date of the application: Non-completion

Provided that the application may be completed at any time after twelve months but within fifteen months of the date aforesaid, if a request for an extension of time is made in Form No. 10 bearing the prescribed fee.

**17.** In case of the death of any applicant for the registration of a design after the date of his application, and before registration of the design has been effected, the Registrar may, on being satisfied of the applicant's death, enter in the register, in place of the name, address and nationality of such deceased applicant, the name, address and nationality of the person owning the design on such ownership being proved to the satisfaction of the Registrar. Death of applicant

**18.** (1) An application for extension of the period of copyright for a second period of five years shall be made in Form No. 11, and an application for extension of the period of copyright for a third period of five years shall be made in Form No. 12. Extension of period of copyright

(2) An application for extension of the period of copyright in a design registered by virtue of section *ten* shall be made before the expiration of the period of copyright in the original registered design current at the date of lodging the application under section *ten*.

(3) Where an application is made for registration of a design by virtue of section *ten* and the period of copyright in the original registered design, current at the date of lodging the said application, expires before the completion of that application, registration shall not be effected until the copyright in the original registered design has been extended for a

further period and an application has been lodged for the extension of the period of copyright in the design to be registered.

(4) A request for an enlargement of time for payment of any fee payable for an extension of the period of copyright shall be made in Form No. 13.

## **PART IV**

# **ASSIGNMENTS AND COMPULSORY LICENCES**

**19.** (1) An application for the registration of the title of any person becoming entitled by assignment, transmission or operation of law to a registered design or to a share in a registered design, or becoming entitled as mortgagee, licensee or otherwise to any interest in a registered design, shall be made-

Application for registration of title under section 22

(a) in the case of an application under subsection (1) of section *twenty-two* by the person becoming so entitled in Form No. 14; and

(b) in the case of an application under subsection (2) of section *twenty-two* by the assignor, mortgagor, licensor or other party conferring the interest in Form No. 15.

(2) Application may be made in Form No. 16 for entry in the register of notification of any other document purporting to affect the proprietorship of a registered design.

**20.** (1) A copy of any document which is referred to in an application under regulation 19, duly certified to the satisfaction of the Registrar, shall be produced to the Registrar with the application.

Copies of documents

(2) Unless the Registrar otherwise directs, the original of any other document so referred to shall be produced to him with the application, and a certified copy of any such document shall be lodged therewith, and such original document shall be returned to the person who produced it.

**21.** (1) An application under regulation 19 (1) shall contain the name, address and nationality of the person claiming or stated to be entitled together with full particulars of the instrument, if any, under which title is claimed or given. Particulars to be stated in application

(2) Where the name of a person is entered in the register as mortgagee or licensee, such person may, on making an application for the purpose in Form No. 17, have a note entered in the register that he no longer claims to be mortgagee or licensee, as the case may be.

**22.** An application for the grant of a compulsory licence under section *seventeen* shall be made in Form No. 18. Such application shall be in duplicate and accompanied by a statement in duplicate setting out fully the nature of the applicant's interest and the facts upon which he bases his case. Copies of the application and the statement of case shall be transmitted by the Registrar to the registered proprietor. Application for compulsory licence

**23.** (1) If the registered proprietor desires to oppose the application he shall, within such time as the Registrar may allow, file a statement fully setting out the grounds on which the application is to be opposed and shall deliver to the applicant a copy thereof. Opposition

(2) The applicant shall, within such time as the Registrar may allow, file evidence in support of his case and shall deliver to the registered proprietor a copy thereof.

(3) Within such time as the Registrar may allow, the proprietor may file evidence in answer and shall deliver to the applicant a copy thereof; and within such time as the Registrar may allow, the applicant may file evidence confined to matters strictly in reply and shall deliver to the proprietor a copy thereof.

(4) No further evidence shall be filed by either party except by leave or on direction of the Registrar.

(5) If any person fails to file in terms of this regulation any statement or evidence within the time allowed by the Registrar for the purpose, he shall be deemed to have abandoned his right to file such statement or

evidence.

**24.** (1) On completion of the evidence, or at such other time as he may see fit, the Registrar shall appoint a time for the hearing of the case and shall give the parties at least fourteen days' notice of the appointment. Hearing

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall decide the matter and notify his decision to the parties.

## **PART V**

### **REGISTER OF DESIGNS**

**25.** (1) A request by the registered proprietor of a design for the alteration of a name, nationality, address or address for service entered in the register in respect of his design shall be made in Form No. 19 or No. 20, as the case may be. Alteration of entries in register

(2) Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alteration as he may think fit.

(3) If the Registrar is satisfied that the request may be allowed, he shall cause the register to be altered accordingly.

**26.** Where an applicant for registration or the registered proprietor of a design desires, under the provisions of section *twenty-three*, to correct an error, he shall make the application in Form No. 21. Correction of errors

**27.** (1) Where the registered proprietor of a design desires to cancel his registration under subsection (1) of section *twenty-five*, he shall make application in Form No. 22. Cancellation of registration

(2) An application for the cancellation of the registration of a design under subsection (2) of section *twenty-five* shall be made in Form No. 23, and shall be accompanied by a copy thereof and a statement in duplicate setting out fully the nature of the applicant's interest and the

facts on which he relies. A copy of the application shall be sent by the Registrar to the registered proprietor and thereupon the provisions of regulations 23 and 24 shall apply.

**28.** In the event of an application for the grant of a compulsory licence or for the cancellation of the registration of a design being uncontested by the proprietor, the Registrar, in deciding whether costs should be awarded to the applicant, shall consider whether proceedings might have been avoided if reasonable notice had been given by the applicant to the registered proprietor before the application was lodged. Costs

**29.** (1) Where any person desires to obtain the information which he is entitled to obtain under section *twenty-eight* and can furnish the registration number of the design, he shall apply in Form No. 24 and the Registrar shall thereafter furnish him with the information aforesaid. Searches

(2) Where the applicant is unable to furnish the registration number of a design, he shall apply in Form No. 25 and furnish in duplicate to the Registrar a representation or specimen of the design applied to an article and the Registrar shall thereupon make such search among designs applied to such articles as may be possible, and shall furnish such information as can properly be given.

(3) The Registrar shall, upon application for the purpose made in Form No. 26, accompanied in duplicate by a representation or specimen of a design applied to an article, cause a search to be made among registered designs and state whether the design as applied to that article appears to be identical with, or closely to resemble, any registered design applied to such article of which the copyright is still existing.

**30.** Copies of any entry in the register, or copies of, or extracts from, designs, representations, specimens and other public documents in the Office, or of or from registers and other records kept there, certified by the Registrar, may be furnished by the Registrar upon receipt of a request therefor in Form No. 27 from any person who, if the Registrar thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction. The Registrar shall not be obliged to include in the certificate a copy of any representation or specimen, unless he is furnished by the applicant with a copy thereof suitable for the purpose. Certified copies of entries, etc.

**31.** An application under section *thirty* for a copy of a certificate of registration shall be made in Form No. 28 and shall be accompanied by evidence setting out fully and verifying the circumstances in which the original certificate of registration was lost or destroyed or cannot be produced.

Copy of certificate of registration

**32.** (1) Where the Registrar has given a direction under subsection (2) of section *eleven* prohibiting or restricting the publication of a design, the representation or specimen of the design shall not be open to public inspection while such direction remains in force.

Designs not open to public inspection

(2) The period under subsection (2) of section *twenty-seven* during which a design shall not be open to inspection, except as provided in that section, shall be, as regards designs to be applied to textile articles, three years and as regards designs to be applied to wallpaper and lace, two years from the date of the registration thereof.

## **PART VI**

### **MISCELLANEOUS**

**33.** The fees to be paid in respect of the registration of designs and applications therefor, and in respect of other matters relating to designs arising under the Act, shall be those prescribed in the First Schedule.

Prescribed fees

**34.** The forms set out in the Second Schedule shall be used in all cases to which they are applicable and may be modified as directed by the Registrar.

Prescribed forms

**35.** Subject to any directions that may be given by the Registrar, all applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act to be made, left or sent at or to the Office, shall be written, typewritten, lithographed or printed in the English language upon strong paper, in dark, indelible ink and, except where otherwise required, on one side only, of a size approximately 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than 1 1/2 inches.

Size, etc., of documents

<p><b>36.</b> Every person concerned in any proceedings to which these Regulations relate, and every registered proprietor, shall furnish to the Registrar an address for service in Zambia and that address may be treated for all purposes connected with such proceedings or design as the address of the person concerned in the proceedings or the registered proprietor.</p>	<p>Address for service</p>
<p><b>37.</b> (1) Where any notice, application or other document is required to be served on any person under the provisions of the Act, such service may be effected by the delivery of a copy thereof-</p>	<p>Method and proof of service</p>
<p>(a) at the address for service furnished to the Registrar in terms of these Regulations; or</p>	
<p>(b) to such person personally, or to his duly authorised agent; or</p>	
<p>(c) at his residence or place of business or employment, to some responsible person there residing or employed.</p>	
<p>(2) Service effected by any person in accordance with the provisions of this regulation shall be proved by a certificate made in Form No. 29 and such certificate shall be filed with the Registrar.</p>	
<p><b>38.</b> Any notice, application or other document sent to the Office by post shall not be deemed to have been given, made or lodged until it is actually received in the Office.</p>	<p>Lodging of documents</p>
<p><b>39.</b> The Registrar may in any proceedings held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.</p>	<p>Power of Registrar to fix time and place of proceedings</p>
<p><b>40.</b> (1) Any application, request or notice which is required or permitted by the Act or these Regulations to be made or given to the Registrar, and all other communications between an applicant or a person making such request or giving such notice and the Registrar, and between the registered proprietor of a design and the Registrar or any other person, may be signed, made or given by or through an agent.</p>	<p>Agency</p>

(2) Any such applicant, person making request or giving notice, or proprietor may appoint an agent to act for him in any proceedings or matter before or affecting the Registrar under the Act and these Regulations by signing and sending to the Registrar an authority to that effect in Form No. 30 or in such other written form as the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceedings or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such person in respect of the proceedings or matter may be addressed to such agent, and all attendances upon the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor or other person.

(3) The Registrar shall not be bound to recognise as such agent any person-

(a) who has been proved to him to have been guilty of conduct discreditable to an agent; or

(b) who has been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or

(c) who has been suspended from practice as a legal practitioner or whose name has been struck off the roll of legal practitioners; or

(d) who has been adjudged guilty of conduct discreditable to a patent agent; or

(e) who has been suspended from practice as a patent agent, or whose name has been erased from the register of patent agents kept under the provisions of the Patents Act, and not subsequently restored.

Cap. 400

**41.** (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and may be signed by a partner or by any other person who satisfies the Registrar that he is authorised to sign the document.

Signature of documents

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other



principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document.

**42.** Any document lodged in any proceedings before the Registrar may, if the Registrar thinks fit, be amended, and any irregularity in procedure may be rectified on such terms as he may direct. Amendment of documents

**43.** (1) Where, under these Regulations, any person is required to do any act or thing, or any document or evidence is required to be produced or lodged, the Registrar may, upon the production of such evidence and subject to such terms and conditions as he may think fit, modify or dispense with the doing of the act or thing or the production or lodging of the document or evidence if he is satisfied that it is reasonable so to do. Power of Registrar to waive requirements

(2) The Registrar may allow an application for a design, although not in accordance with these Regulations, to be left on such terms and conditions as he may think fit. In any such case the Registrar shall require the applicant to comply with these Regulations within the time specified by him. Until the prescribed requirements are complied with, no further action shall be taken by the Registrar in respect of the application.

**44.** (1) If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any act or taking any proceedings under these Regulations, not being a time expressly provided in the Act or prescribed by regulation 11 (2), he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceeding. Extension of time

(2) At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may require shall be lodged, and may fix the period for the lodging thereof.

**45.** Whenever the last day fixed by these Regulations for doing any act or thing at the Office shall fall on a day when the Office is not open, such day shall be an excluded day for the purpose of these Regulations, and it shall be lawful to do the act or thing on the first day following such Excluded days

excluded day which is not an excluded day.

**46.** The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in the First Schedule every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays. Days and hours of business

**47.** A copy of every application made to the High Court under the Act shall be served on the Registrar. Copy of application to High Court to be served on Registrar

**48.** (1) Where an order relating to a design has been made by High Court or Supreme Court the person in whose favour such order has been made shall forthwith file at the Office a certified copy of such order together with an application in Form No. 31. Order of The Supreme Court to the High Court

(2) The specimen or representation of a design shall thereupon be amended or the register rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be.

**49.** Whenever an order is made by the High Court or by the Supreme Court under the Act, the Registrar may, if he thinks fit that the order should be made public, require the applicant or the the order should be made public, require the applicant or the appellant, as the case may be, to publish it in the *Patent Journal*. Publication of order of Court or Tribunal

*(As amended by F.G.N. No. 58 of 1960)*

# FIRST SCHEDULE

## (Regulation 33)

### TARIFF OF FEES PAYABLE TO THE REGISTRAR OF REGISTERED DESIGNS WITH EFFECT FROM 1ST MAY 1995

The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

<i>Item</i>	<i>Matter or Proceeding</i>	<i>Amount</i>		<i>Corre- spond- ing Form No.</i>
		<i>Payable by Local Firms, Corpora- tions and Individuals</i>	<i>Payable by Foreign Firms, Corporations and Individuals</i>	
		<i>Fee units</i>	<i>US\$</i>	
1. (a)	On application to register one design to be applied to a single article-			
	(i) not being textile articles	150	50.00	1 or 2
	(ii) if made of lace	120	50.00	1 or 2
(b)	On application to register one design to be applied to a set of articles-			
	(i) not being textile articles	185	70.00	3 or 4
	(ii) if made of lace	155	50.00	3 or 4
(c)	On application to register one design to be applied to a textile article	150	50.00	1 or 2
2.	On application to Registrar to state grounds of decision and materials used under regulation 14	205	90.00	
3.	On request for extension of time within which an application, for registration of a design may be completed, where the extension requested-			
	(i) does not exceed one month	20	10.00	10

(ii) exceeds one month but does not exceed two months	40	15.00	10	
(iii) exceeds two months	70	20.00	10	
4. On application for extension of copyright under section 15 (2)	150	50.00	11 or 12	
For the second period of five years		200	100.00	12
For the third period of five years		250	150.00	12
5. On request for enlargement of time for payment of fee for extension of copyright, where the enlargement-				
(i) does not exceed one month		20	10.00	13
(ii) exceeds one month but does not exceed two months	40	15.00	13	
(iii) exceeds two months	70	20.00	13	
6. On request to enter subsequent proprietorship, etc., under regulation 19-				
(i) if made within six months from date of acquisition of proprietorship, etc., in respect of one design	100	35.00	14 or 15	
(ii) if made after six but within twelve months from date of acquisition of proprietorship, etc., in respect of one design	50	15.00	14 or 15	
(iii) if made after expiration of twelve months from date of acquisition of proprietorship, etc., in respect of one design	70	20.00	14 or 15	
AND on application covering more than one design, for each additional design similarly acquired	20	10.00	14 or 15	
7. On application for entry of notification of document in the Register-				

(i) if made within six months from date of document, in respect of one design	70	15.00	16	
(ii) if made after six but within twelve months from date of document, in respect of one design	100	25.00	16	
(iii) if made after expiration of twelve months from date of document, in respect of one design	80	15.00	16	
AND on application covering more than one design, for each additional design referred to in the same document as first design		20	10.00	16
8. On application by mortgagee, licensee or other person for entry that he no longer claims an interest, in respect of one design	20	10.00	17	
AND for each additional design referred to in the application	20	10.00	17	
9. On application for compulsory licence under section 17	60	15.00	18	
10. On application to enter change of name or nationality of registered proprietor in the Register, in respect of one design	20	20.00	19	
AND for each additional design referred to in the application	20	15.00	19	
11. On application for alteration of address for service in the Register, in respect of one design	20	15.00	20	
AND for each additional design referred to in the application	20	15.00	20	
12. On application under section 23 to correct error		100	30.00	21
13. On application by proprietor				

for cancellation under section 25 (1)	40	10.00	22
14. On application for cancellation of registration under section 25 (2)	40	10.00	23
15. On application for search under section 28 when the registration number is supplied	50	25.00	24
16. On application for search under section 28 when the registration number is not supplied	70	35.00	25
17. On application for search under regulation 29 (3)	60	30.00	26
18. On application for certified copy of entries, etc., under regulation 30	35	15.00	27
19. On application for copy of certificate of registration under regulation 31	35	15.00	28
20. On every authorisation of an agent	20	10.00	30
21. On application for entry of court or tribunal order	20	10.00	31
22. For inspection of the Register	40	15.00	
23. For certifying office copies, MSS., or photographic or printed matter-			
(i) under seal	70	25.00	
(ii) other	60	15.00	
24. For inspecting and making copies of documents, in respect of each application or design	20	10.00	
25. For typewritten copy of any document, for every 100 words	50	16.00	
26. For photographic copy of any document or drawing, per sheet			

(Price as fixed by the  
Minister from time to time)

(As amended by S.I. No. 55 of 1995  
and Act No. 13 of 1994)

# SECOND SCHEDULE

## (Regulation 34)

### PRESCRIBED FORMS

<i>Form</i>	<i>Matter</i>	<i>Corresponding Fee Item No.</i>
1.	Application for registration of design (non-Convention)	1 (a) or (c)
2.	Application under section 13 of the Act for registration of design (Convention) .. .. .	1 (a) or (c)
3.	Application for registration of design to be applied to a set of articles (non-Convention) .. .. .	.. 1 (b)
4.	Application under section 13 of the Act for registration of design to be applied to a set of articles (Convention)	1 (b)
5.	Application for statement of grounds of decision under regulation 14 .. .. .	2
6.	Certificate of registration of design ..	.. -
7.	Certificate of registration of design ..	.. -
8.	Certificate of registration of design ..	.. -
9.	Certificate of registration of design ..	.. -
10.	Request for extension of time within which an application for the registration of a design may be completed	3
11.	Application for extension of copyright in design for a second period of five years .. .. .	4
12.	Application for extension of copyright in design for a third period of five years .. .. .	4
13.	Request for enlargement of time for payment of fee for extension of copyright in design .. .. .	.. 5
14.	Application under regulation 19 by assignee, mortgagee or licensee to enter subsequent proprietorship or interest in design in the register .. .. .	.. 6
15.	Application under regulation 19 by assignor, mortgagor, licensor, etc., to enter subsequent proprietorship or interest in design in the register .. .. .	.. 6
16.	Application for entry of notification of document in register.. .. .	7

17.	Application by mortgagee or licensee under regulation 21 (2) for entry in register of note that he no longer claims such interest..	..	..	..	8
18.	Application for the grant of a compulsory licence under section 17 of the Act..	..	..	..	9
19.	Application to enter alteration of name or nationality of registered proprietor of design in register	..	..	..	10
20.	Application for alteration of address or address for service in register	..	..	..	11
21.	Request under section 23 of the Act for correction of error	..	..	12	
22.	Application by registered proprietor of design to cancel registration	..	..	..	13
23.	Application for cancellation of registration under section 25 (2) of the Act	..	..	..	14
24.	Request for information under section 28 of the Act when registration number is supplied	..	..	..	15
25.	Request for search under section 28 of the Act when registration number is not supplied	..	..	..	16
26.	Request for search under regulation 29 (3)	..	..	..	17
27.	Request for general certificate of the Registrar (including certificate of registration of a design)	..	..	..	18
28.	Application for copy of certificate of registration of design	..	..	19	
29.	Certificate of service..	..	..	..	-
30.	Form of authorisation of agent..	..	..	..	20
31.	Application for entry of order of Court or Tribunal	..	..	..	21



**REPUBLIC OF ZAMBIA**  
**Designs Form No. 1**  
**Section 9**  
**Regulation 3**

THE REGISTERED DESIGNS ACT

Fee: 1 (a) or (c)

APPLICATION FOR REGISTRATION OF DESIGN (NON-CONVENTION)

Application is hereby made for registration of the accompanying design in the name of

(1)

of

who claim(s) to be the proprietor(s) thereof.

The design is to be applied to (2)

(1) State full name and address of applicant(s)

(2) Here state the article to which the design is to be applied as shown in the representations

(3) The design has been previously registered for one or more other articles under No. ....

(4) The design consists of the design previously registered under No. with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof.

Dated this      day of ....., 19 .....

(3) and (4) Delete one or both paragraphs, if inapplicable

(5)

My/Our address for service in Zambia:

(5) To be signed by the applicant(s) or his/their

agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Four identical representations or specimens of the design should accompany this form, and, except in the case of an application in respect of a design to be applied to a textile article, to wallpaper or to lace, it should further be accompanied by a statement of the features of the design for which novelty is claimed.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 2**

**Sections 9 and 13**  
**Regulations 3 and 11**

THE REGISTERED DESIGNS ACT

Fee: 1 (a) or (c)

APPLICATION UNDER SECTION 13 OF THE ACT FOR REGISTRATION OF  
DESIGN (CONVENTION)

Application is hereby made for the registration of the accompanying design in the name  
of (1)

of

being a national/nationals of

who claim(s) to be the proprietor(s) thereof (2)

(1) State  
full name  
and address  
of  
applicant(s)

(2) If the  
applicant  
is not the  
person  
whom  
made the  
application  
in the  
convention  
country,  
the words  
"by virtue  
of"  
followed  
by  
particulars  
of the  
instrument  
under  
which he  
claims,  
should be  
inserted

The design is to be applied to a (3)

(3) Here state the article to which the design is to be applied as shown in the representations

(4) The design has been previously registered for one or more other articles under No .....

(5) The design consists of the design previously registered under No. with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof.  
Application for protection of the design has been made in the following country

(4) and (5) Delete one or both paragraphs, if inapplicable

(6) on the following official date (7) numbered (8) Such application was the first application made in a convention country in respect of the relevant design, whether by the applicant(s) or by any person of whom he/they claim(s) to be the legal representative(s) or assignee(s), and the applicant(s) in the above-mentioned country qualify/qualifies under (9) Article 2/3 of the Convention by reason of being (9) a national(s) of/domiciled in/having a place of business in a member state, namely

(6) Here insert the name of the convention country in which the first application was made  
(7) Here insert the official date of the first application in a convention country  
(8) Here insert official number of first application in convention country

This application is made on the ground that I/we qualify under the said (9) Article 2/3 by reason of being (9) a national(s) of/domiciled in/having a place of business in a member

(9) Delete whichever

state, namely  
and that to the best of my/our knowledge and belief there is no lawful ground of objection  
to the registration of the design and that I/we request that the design may be registered as  
of the date (7)

does not  
apply

Dated this      day of ....., 19 .....

(10)

(10) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Four identical representations or specimens of the design should accompany this  
form, and, except in the case of an application in respect of a design to be applied to a  
textile article, to wallpaper or to lace, it should further be accompanied by a statement of  
the features of the design for which novelty is claimed.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 3**

**Section 9**

**Regulation 3**

THE REGISTERED DESIGNS ACT

Fee: 1 (*b*)

APPLICATION FOR REGISTRATION OF DESIGN TO BE APPLIED TO A SET OF ARTICLES (NON-CONVENTION)

Application is hereby made for registration of the accompanying design for a set of

articles in the name of (1)

of

who claim(s) to be the proprietor(s) thereof.

(1) State full names and addresses of applicant(s)

The design is to be applied to (2)

(2) Here state the set of articles, and also the trade description of each of the articles comprised in the set to which the design is to be applied as shown in the representations

(3) The design has been previously registered for one or more other articles under No. ....

(4) The design consists of the design previously registered under No. with modifications of variations not sufficient to alter the character or substantially to affect the identity thereof.

(3) and (4) Delete one or both paragraphs, if inapplicable

Dated this      day of ....., 19 .....

(5)

My/Our address for service in Zambia:

(5) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Four identical representations or specimens of the design should accompany this form, and, except in the case of an application in respect of a design to be applied to a textile article, to wallpaper or to lace, it should further be accompanied by a statement of the features of the design for which novelty is claimed.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 4**

**Sections 9 and 13**  
**Regulations 3 and 11**

THE REGISTERED DESIGNS ACT

Fee: 1 (*b*)

APPLICATION UNDER SECTION 13 OF THE ACT FOR REGISTRATION OF  
DESIGN TO BE APPLIED TO A SET OF ARTICLES (CONVENTION)

Application is hereby made for the registration of the accompanying design in the name

of (1)

of

being a national/nationals of

who claim(s) to be the proprietor(s) thereof (2)

The design is to be applied to a (3)

(1) State  
full name  
and address  
of  
applicant(s)

(2) If the  
applicant  
is not the  
person  
who made  
the  
application  
in the  
convention  
country,  
the words  
"by virtue  
of",  
followed  
by  
particulars  
of the  
instrument  
under  
which he  
claims,  
should be  
inserted  
here



(4) The design has been previously registered for one or more other articles under No. ....

(5) The design consists of the design previously registered under No. with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof.

Application for protection of the design has been made in the following country

(6)

on the following official date (7)

numbered (8) Such application was the first application

made in a convention country in respect of the relevant design, whether by the applicant(s) or by any person of whom he/they claim(s) to be the legal representative(s) or assignee(s), and the applicant(s) in the above mentioned country qualify/qualifies under (9) Article 2/3 of the Convention by reason of being (9) a national(s) of/domiciled in/having a place of

business in a member state, namely

This application is made on the ground that I/we qualify under the said (9) Article 2/3 by reason of being (9) a national(s) of/domiciled in/having a place of business in a member state, namely

and that to the best of my/our knowledge and belief there is no lawful ground of objection to the registration of the design and that I/we request that the design may be registered as of the date (7)

Dated this day of ....., 19 .....

(10)

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Four identical representations or specimens of the design should accompanying this form, and, except in the case of an application in respect of a design to be applied to a textile article, to wallpaper or to lace, it should further be accompanied by a statement of the features of the design for which novelty is claimed.

(3) Here state the set of articles, and also the trade description of each of the articles comprised in the set, to which the design is to be applied as shown in the representations

(4) and (5) Delete one or both paragraphs, if inapplicable

(6) Here insert the name of the convention country in which the first application was made  
(7) Here insert the official date of the first application in a convention country

(8) Here  
insert  
official  
number of  
first  
application  
in  
convention  
country

(9) Delete  
whichever  
does not  
apply

(10) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 5**  
**Section 9**  
**Regulation 14**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR STATEMENT OF GROUNDS OF DECISION UNDER  
REGULATION 14

Application for Design No

Application is hereby made under regulation 14 of the Registered Designs Regulations for a statement in writing of the grounds of the decision dated the day of , 19 ..... after the hearing on the ..... day of , 19 ..... and the materials used in arriving at such decision.

Dated this      day of ....., 19 .....

(1)

My/Our address for service in Zambia:

(1) To be signed by the applicant(s) or his/their agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 6**

**Regulation 15**

THE REGISTERED DESIGNS ACT

CERTIFICATE OF REGISTRATION OF DESIGN

Number of Registration

This is to certify that, in pursuance of and subject to the provisions of the Registered Designs Act, the design, of which a representation is annexed, has been registered in the name of

as of the        day of ....., 19 .....,  
in respect of the application of such design to

Sealed at my direction, this    day of .....,  
19 .....

*Registrar*

The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Subject to the provisions of the Act, copyright in this design will subsist for five years from the first above-mentioned date, and may be extended for two further periods, each of five years.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 7**

**Regulation 15**

THE REGISTERED DESIGNS ACT

CERTIFICATE OF REGISTRATION OF DESIGN

Number of Registration

This is to certify that, in pursuance of and subject to the provisions of the Registered Designs Act, the design, of which a representation is annexed, has been registered in the name of

as of the

day of , 19 ....., in respect of the application of such

design to

The period of copyright conferred by the registration of this design does not extend beyond the expiration of the original and any extended period of copyright in registered

design No

Sealed at my direction, this day of

....., 19 .....

*Registrar*

The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Copyright in this design will normally expire on the

but may, on application made in the prescribed manner, be extended for two further periods, each of five years, provided that the period of copyright in design No. be similarly extended.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 8**

**Regulation 15**

THE REGISTERED DESIGNS ACT

CERTIFICATE OF REGISTRATION OF DESIGN

Number of Registration

This is to certify that, in pursuance of and subject to the provisions of the Registered Designs Act, the design, of which a representation is annexed, has been registered in the name of

as of the            day of ....., 19 .....,  
being the date on which application was made for protection of the design in a convention country, viz

in respect of the application of such design to

Sealed at my direction, this    day of .....,  
19 .....

*Registrar*

The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Subject to the provisions of the Act, copyright in this design will subsist for five years from the first above-mentioned date, and may be extended for two further periods, each of five years.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 9**

**Regulation 15**

THE REGISTERED DESIGNS ACT

CERTIFICATE OF REGISTRATION OF DESIGN

Number of Registration

This is to certify that, in pursuance of and subject to the provisions of the Registered Designs Act, the design, of which a representation is annexed, has been registered in the name of

as of the        day of ....., 19 .....,  
being the date on which application was made for protection of the design in a convention country, viz.

in respect of the application of such design to

The period of copyright conferred by the registration of this design does not extend beyond the expiration of the original and any extended period of copyright in registered design No. ....

Sealed at my direction, this    day of .....,  
19 .....

*Registrar*

The Designs Office,  
Lusaka,  
Zambia.

NOTE.-Copyright in this design will normally expire on the        ,  
but may, on application made  
in the prescribed manner, be extended for two further periods, each of five years, provided  
that the period of copyright in design No.    be  
similarly extended.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 10**

**Section 9 (4)  
Regulation 16**

THE REGISTERED DESIGNS ACT

Fee: 3

REQUEST FOR EXTENSION OF TIME WITHIN WHICH AN APPLICATION  
FOR THE REGISTRATION OF A DESIGN MAY BE COMPLETED

I/We hereby apply for \_\_\_\_\_, month's extension of time  
within which the application No. \_\_\_\_\_ for the registration of a  
design may be completed.

Dated this \_\_\_\_\_ day of ....., 19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) State  
name and  
full  
address to  
which  
receipt is  
to be sent



**REPUBLIC OF ZAMBIA**  
**Designs Form No. 11**  
**Section 15 (2)**  
**Regulation 18**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR EXTENSION OF COPYRIGHT IN DESIGN  
FOR A SECOND PERIOD OF FIVE YEARS

I/We hereby apply for the extension of the period of copyright in design No.  
for a second period of five years.

Dated this      day of ....., 19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) State  
name and  
full  
address to  
which  
certificate  
is to be  
sent

*(This part of the form to be filled in at the Designs Office)*

CERTIFICATE OF EXTENSION OF COPYRIGHT IN DESIGN FOR  
THE SECOND PERIOD OF FIVE YEARS

This is to certify that

did on the      day of ....., 19 .....

make application and pay the prescribed fee for the extension of copyright in design

No.      and that the copyright is hereby extended

for a second period of five years until the      day of

..... 19 .....

Sealed at my direction, this      day of .....,

19 .....

The Designs Office,  
Lusaka,  
Zambia.

*Registrar*

**REPUBLIC OF ZAMBIA**

**Designs Form No. 12**

**Section 15 (2)**

**Regulation 18**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR EXTENSION OF COPYRIGHT IN DESIGN  
FOR A THIRD PERIOD OF FIVE YEARS

I/We hereby apply for the extension of the period of copyright in design No.  
for a third period of five years.

Dated this      day of ....., 19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) State  
name and  
full  
address to  
which  
certificate  
is to be  
sent

*(This part of the form to be filled in at the Designs Office)*

CERTIFICATE OF EXTENSION OF COPYRIGHT IN DESIGN FOR  
THE THIRD PERIOD OF FIVE YEARS

This is to certify that  
did on the      day of ....., 19 .....,  
make application and pay the prescribed fee for the extension of copyright in design  
No.      and that the copyright is hereby extended for  
a third period of five years until the      day of  
....., 19 .....

Sealed at my direction, this day of .....,  
19 .....

*Registrar*

The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 13**  
**Section 15 (2)**  
**Regulation 18 (4)**

THE REGISTERED DESIGNS ACT

Fee

REQUEST FOR ENLARGEMENT OF TIME FOR PAYMENT OF  
FEE FOR EXTENSION OF COPYRIGHT IN DESIGN

I/We hereby request    months's enlargement of time  
within which payment of the fee of K            for the extension of  
the copyright in design No.    may be made.

Dated this    day of ....., 19.....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) State  
name and  
full  
address to  
which  
receipt is  
to be sent

**REPUBLIC OF ZAMBIA**

**Designs Form No. 14**

**Section 22 (1)**

**Regulation 19 (1) (a)**

THE REGISTERED DESIGNS ACT

Fee

APPLICATION UNDER REGULATION 19 BY ASSIGNEE, MORTGAGEE OR  
LICENSEE  
TO ENTER SUBSEQUENT PROPRIETORSHIP OR INTEREST IN DESIGN IN THE  
REGISTER

I/We (1)

(1) State  
full name  
and  
address

hereby request that you will enter my/our name(s) in the register as proprietor(s)/  
mortgagee(s)/licensee(s) of the design No.

I am/We are entitled to the said design (or to a share or an interest in the said design) in

pursuance of (2)

(2) Insert  
full  
particulars  
of the  
instrument,  
if any

Dated this      day of ....., 19 .....

(3)

(3) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-The instrument under which the applicant claims should accompany this form.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 15**

**Section 22 (2)**  
**Regulation 19 (1) (b)**

THE REGISTERED DESIGNS ACT  
Fee unit: 1

APPLICATION UNDER REGULATION 19 BY ASSIGNOR, MORTGAGOR,  
LICENSOR, ETC.,  
TO ENTER SUBSEQUENT PROPRIETORSHIP OR INTEREST IN DESIGN IN THE  
REGISTER

I/We (1)

(1) State  
full name  
and  
address

hereby request that you will enter the name(s) of (2)

(2) Here  
insert  
name,  
address  
and  
nationality  
of  
assignee,  
etc.

in the register as subsequent proprietor(s)/mortgagee(s)/licensee(s) of the design

No .....

He is/They are entitled to the said design (or to a share or interest in the said design) by

virtue of (3)

(3) Insert  
full  
particulars  
of the  
instrument,  
if any

The address for service in Zambia of the subsequent proprietor, mortgagee or licensee,

etc., is (4)

(4) Here  
insert the  
address for  
service in  
Zambia of  
the  
subsequent  
proprietor,

Dated this      day of ....., 19 .....



mortgagee,  
licensee,  
etc.

(5)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(5) To be  
signed by  
the  
applicant(s)  
or his/their  
agents

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 16**

**Section 6 or 22**  
**Regulation 19 (2)**

THE REGISTERED DESIGNS ACT  
Fee unit: 1

APPLICATION FOR ENTRY OF NOTIFICATION OF DOCUMENT IN REGISTER

I/We transmit herewith an attested copy of (1)

(1) Here insert a description of the nature of the document, giving its date and the names and address of the parties thereto

relative to design No as well as the original document for verification, and I/we apply that a notification thereof may be entered in the register.  
Dated this day of ....., 19 .....

(2)

(2) Signature

(3)

(3) Here insert full address of the party benefiting under the document

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 17**

**Section 22**  
**Regulation 21 (2)**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION BY MORTGAGEE OR LICENSEE UNDER REGULATION 21 (2) FOR  
ENTRY IN REGISTER OF NOTE THAT HE NO LONGER CLAIMS SUCH INTEREST

Design No.

Name of registered proprietor

Place of business

I/We, the undersigned,

of

apply for entry in the register that I/we no longer claim to be mortgagee(s) or licensee(s)  
in respect of design No.

Dated this      day of ....., 19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 18**

**Section 17**  
**Regulation 22**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR THE GRANT OF A COMPULSORY LICENCE UNDER  
SECTION 17 OF THE ACT

Design No.

I/We

of

hereby apply for the grant of a compulsory licence in respect of design No.  
on the ground that the design is not applied in Zambia by any industrial process or means to  
the article in respect of which it is registered to such an extent as is reasonable in the  
circumstances of the case.

Dated this      day of ....., 19 .....

(1)

My/Our address for service in Zambia:

(1) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-The application must be accompanied by a copy thereof and and a statement of  
case in duplicate.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 19**  
**Section 6**  
**Regulation 25**

THE REGISTERED DESIGNS ACT

Fee: 10

APPLICATION TO ENTER ALTERATION OF NAME OR NATIONALITY OF REGISTERED PROPRIETOR OF DESIGN IN REGISTER

I/We

hereby apply, in respect of design No \_\_\_\_\_, that my/our name(s)  
or nationality in the register may be altered to (1)

(1) Here  
insert  
particulars  
of  
alteration

There has been no change in the actual proprietorship of the said design.

Dated this \_\_\_\_\_ day of ....., 19 .....

(2)

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka, Zambia.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 20**

**Section 6**

**Regulation 25**

THE REGISTERED DESIGNS ACT

Fee: 11

APPLICATION FOR ALTERATION OF ADDRESS OR ADDRESS FOR SERVICE IN REGISTER

Design No

I/We

of

the registered proprietor(s) of the design numbered as above apply that my/our address or my/our address for service in the register may be altered to

Dated this      day of .....,19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) To be signed by the applicant(s) or his/their agent

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 21**  
**Section 23**  
**Regulation 26**

THE REGISTERED DESIGNS ACT

Fee unit: 1

REQUEST UNDER SECTION 23 OF THE ACT FOR CORRECTION OF ERROR

I/We hereby request that the following error

in the (1)

of design No    may be corrected as follows:

(2)

Dated this            day of .....19 .....

(3)

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) Here state whether in application, representation or entry in register

(2) Here state what correction should be made

(3) To be signed by the applicant(s) or his/their agent

**REPUBLIC OF ZAMBIA**

**Designs Form No. 22**

**Section 25 (1)**

**Regulation 27 (1)**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION BY REGISTERED PROPRIETOR OF DESIGN TO CANCEL  
REGISTRATION

Design No

Name of registered proprietor

Address

I/We, the undersigned,

of

apply that the registration of design No        may be cancelled.

Dated this        day of ....., 19 .....

(1)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(1) To be  
signed by  
the  
applicant(s)  
or his/their  
agent



**REPUBLIC OF ZAMBIA**  
**Designs Form No. 23**  
**Section 25 (2)**  
**Regulation 27 (2)**

THE REGISTERED DESIGNS ACT

Fee Unit: 1

APPLICATION FOR CANCELLATION OF REGISTRATION UNDER  
SECTION 25 (2) OF THE ACT

Design No.

I/We

of

hereby apply for cancellation of the registration of design No.

on the ground that (1)

(1) Here  
state  
ground(s)  
on which  
cancellation  
is requested

Dated this      day of ....., 19 .....

(2)

(2) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE.-The application must be accompanied by a copy thereof and a statement of case in duplicate.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 24**

**Section 28**

**Regulation 29 (1)**

THE REGISTERED DESIGNS ACT

Fee unit: 1

REQUEST FOR INFORMATION UNDER SECTION 28 OF THE ACT  
WHEN REGISTRATION NUMBER IS SUPPLIED

I/We hereby request that I/we may be given such information as I/we may be entitled to  
under section 28 with respect to the design registered under No.

Dated this      day of ....., 19 .....

(1)

Address:

(1) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 25**  
**Section 28**  
**Regulation 29 (2)**

THE REGISTERED DESIGNS ACT

Fee unit: 1

REQUEST FOR SEARCH UNDER SECTION 38 OF THE ACT WHEN  
REGISTRATION NUMBER IS NOT SUPPLIED

I/We hereby request that a search may be made in respect of the design (a representation or specimen of which is annexed hereto in duplicate) applied to (1)

(1) Here  
insert  
name of  
article

and that I/we may be given such information as I/we may be entitled to under section 28.

Dated this      day of ....., 19 .....

(2)

(2) To be  
signed by  
the  
applicant(s)  
or his/their  
agent

Address:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 26**

**Section 28**

**Regulation 29 (3)**

THE REGISTERED DESIGNS ACT

Fee unit: 1

REQUEST FOR SEARCH UNDER REGULATION 29 (3)

I/We hereby request that a search may be made and that I/we may be informed whether the design (a representation or specimen of which is annexed hereto in duplicate) to be

applied to (1)

(1) Here  
insert  
name of  
article

appears to be identical with or closely to resemble any registered design applied to such article of which the copyright is still existing.

Dated this        day of ....., 19 .....

(2)

Address:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 27**  
**Section 6 (2)**  
**Regulation 30**

THE REGISTERED DESIGNS ACT

Fee unit: 1

REQUEST FOR GENERAL CERTIFICATE OF THE REGISTRAR

Design No. , registered in the name of .....

I/We

of

hereby request the Registrar to furnish me/us with (1) his certificate that (2)

(1) a certificate of registration of the design (1) for use in obtaining registration abroad.

Dated this day of ....., 19 .....

(1) Delete words that are not applicable  
(2) Here set out the particulars which the Registrar is requested to certify

(3)

(3) To be signed by the applicant(s) or his/their agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**

**Designs Form No. 28**

**Section 30**

**Regulation 31**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR COPY OF CERTIFICATE OF REGISTRATION OF DESIGN

I/We have to inform you that the Certificate of Registration of Design No.

has been (1) .....

(1) Here state whether "lost" or "destroyed" or "cannot be produced", as the case may be, and state in full the circumstances of the case which must be verified by affidavit

I/We therefore apply for the issue of a copy of such certificate (2)

(2) Here state the interest possessed by applicant(s) in the design

Dated this      day of ....., 19 .....

(3)

(3) To be signed by the applicant(s) or his/their

Address:

agent

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 29**

**Regulation 37 (2)**

THE REGISTERED DESIGNS ACT

CERTIFICATE OF SERVICE

I/We (1)

(1) State name and address

hereby certify that at (2)

(2) State precisely where service was effected

on the day of ....., 19 ....., at .....  
o'clock in the noon, I/we served the following documents

upon

by (3)

(3) Here describe the method of service

Dated this day of ....., 19 .....

(4)  
The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

(4) To be signed by the person effecting service



**REPUBLIC OF ZAMBIA**  
**Designs Form No. 30**

**Section 52**  
**Regulation 40**

THE REGISTERED DESIGNS ACT  
Fee unit: 1

FORM OF AUTHORISATION OF AGENT

I/We (1)

(1) The full names of all the partners in a firm must be inserted, and the kind and country of incorporation of bodies corporate stated

have appointed (2)  
of

(2) Here insert name and address of agent

to act as my/our agent for (3)

(3) Here state the particular matter or proceeding for which the agent is appointed, giving the reference number, if known

No. ....

and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address.

I/We hereby revoke all previous authorisations, if any, in respect of the same matter or proceeding.

Dated this        day of ....., 19 .....

Address: (4)  
(5)

(4) To be signed by

*(To be deleted if the person appointing the agent desires his own address to be treated as the address for service after registration.)*

person  
appointing  
the agent

I/We also authorise the said (2)  
to complete the entry of an address for service as part of any registration obtained under the  
above authorisation.

(5) Here  
insert full  
trade or  
business  
address of  
the person  
appointing  
the agent

Dated this      day of ....., 19 .....

(4)

Address:

(5)

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

**REPUBLIC OF ZAMBIA**  
**Designs Form No. 31**

**Regulation 48**

THE REGISTERED DESIGNS ACT

Fee unit: 1

APPLICATION FOR ENTRY OF ORDER OF COURT OR TRIBUNAL

I/We (1)

(1) State name and address of applicant(s)

in respect of Registered Design/Design Application No.

hereby transmit a certified copy of an order by the High Court for Zambia/by the Tribunal

with reference to (2)

(2) Here state purport of the order

Dated this      day of ....., 19 .....

(3)

(3) To be signed by the applicant(s) or this/their agent

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

*(As amended by Act No. 13 of 1994)*

# **THE REGISTERED DESIGNS (HIGH COURT) RULES [ARRANGEMENT OF RULES]**

## **PART I**

### **PRELIMINARY**

#### Rule

1. Title
2. Interpretation

## **PART II**

### **APPEALS**

3. Entry of appeal
4. Application for an extension of time in which to appeal
5. Notice of hearing
6. Evidence
7. Attendance of witnesses
8. Security on appeal
9. Abandonment or failure to prosecute appeal
10. Frivolous or vexatious appeals

## **PART III**

### **APPLICATIONS**

11. Dispute as to State use
12. Rectification of register

13. Hearing of applications
14. Evidence by affidavit
15. Costs

## **PART IV**

### **TAXATION OF COSTS**

16. Registrar of High Court to be Taxing Officer
17. Necessary and proper costs to be allowed
18. Scale of fees to be followed
19. Witnesses' charges and allowances
20. Taxation of costs
21. Review of decision of Taxing Officer
22. Reference to Judge in Chambers

## **PART V**

### **GENERAL**

23. Adjournment of proceedings
24. Place of hearing
25. Prescribed forms
26. Prescribed fees
27. Endorsement of fee on document chargeable
28. Oath to be taken by assessors appointed under section 37
29. Remuneration of assessors

FIRST SCHEDULE-Prescribed forms

SECOND SCHEDULE-Prescribed fees

### **SECTION 38-THE REGISTERED DESIGNS (HIGH COURT) RULES**

*Federal  
Government  
Notice*

## **PART I**

### **PRELIMINARY**

1. These Rules may be cited as the Registered Designs (High Court) Rules. Title
2. In these Rules, unless the context otherwise requires- Interpretation

"Office" means the Designs Office;

"section" means a section of the Act.

## **PART II**

### **APPEALS**

3. (1) Any person who desires to appeal to the High Court from a decision of the Registrar of Designs in any matter in which a right of appeal is given under the Act shall, within three months after the date of the decision, file with the registrar of the High Court a notice in Form D.T. No. 1. Entry of appeal

(2) A notice of appeal shall state the nature of the decision appealed against and whether the appeal is from the whole or part only and, if so, what part of the decision, and shall be accompanied by a statement in writing of the appellant's grounds of appeal.

(3) The appellant shall send a copy of the notice of appeal to the Registrar of Designs and to any person or persons who appeared or gave notice of opposition in the proceedings before the said Registrar.

(4) The appellant shall be responsible for the preparation of the record which shall be certified by the Registrar of Designs as correct in terms of sub-rule (7).

(5) The Registrar of Designs as well as the parties or their legal practitioners shall endeavour to exclude from the record all documents (more particularly such as are purely formal) that are not relevant to the subject-matter of the appeal, and generally to reduce the bulk of the record as far as practicable, and to avoid the production of unnecessary exhibits, taking special care to avoid the duplication of documents and the unnecessary repetition of headings, and furnish merely the formal particulars of documents; but the documents omitted to be copied shall be enumerated in a list to be placed after the index or at the end of the record.

(6) The Registrar of Designs, after consultation with the registrar of the High Court shall direct the number of copies of the record to be prepared, having regard to whether or not one or more assessors are likely to sit upon the hearing of the appeal.

(7) After the completion of the preparation of the record, the Registrar of Designs shall certify the record to be correct and forward it to the registrar of the High Court together with such copies thereof as he has directed to be prepared in terms of sub-rule (6).

**4.** (1) Any application for an extension of time in which to appeal shall be in Form D.T. No. 2 and shall state briefly the grounds upon which the application is based and, where facts are alleged, such facts shall be verified by affidavit.

Application for an extension of time in which to appeal

(2) The application accompanied by supporting documents shall be delivered to the registrar of the High Court and copies shall forthwith be served by the appellant on the Registrar of Designs and on any person or persons who appeared or gave notice of opposition in the proceedings before the said Registrar.

(3) The respondent shall be entitled to file an affidavit in reply within fourteen days from the date of service or within such longer period as may be ordered by the High Court, and the Tribunal may permit further

affidavits to be filed. Copies of such affidavits shall be served on the Registrar of Designs and on the appellant or the respondent, as the case may be, immediately after the affidavits are filed.

**5.** (1) The registrar of the High Court shall, after obtaining directions from the High Court, give to the Registrar of Designs, to the appellant and to any opposing party not less than fourteen days' notice of the time and place appointed for the hearing of the appeal, unless the president of the Tribunal directs that shorter notice shall be given.

Notice of hearing

(2) In any case where the setting down of the hearing of an appeal has been delayed, any party may apply to the registrar of the High Court to fix a date for the hearing, and thereupon the registrar of the High Court, after consulting any other party and the High Court, shall set down the appeal for hearing after having given to the Registrar of Designs and to any other party not less than fourteen days' notice or such shorter notice of the time and place appointed for the hearing of the appeal as directed by the High Court.

(3) If in the opinion of the registrar of the High Court an appeal is not being prosecuted timeously, he may lay the matter before the High Court for directions and, if the High Court is satisfied that the parties do not intend or are unable to proceed with the appeal, he may direct that the parties attend before him to show cause why the appeal should not be dismissed.

**6.** Subject to the provisions of subsection (6) of section *thirty-five*, the evidence used on appeal to the High Court shall be the same as that used before the Registrar of Designs, and no further evidence shall be given except with the leave of the Court.

Evidence

**7.** The High Court may, at the request of any party, order the attendance at the hearing for the purpose of cross-examination of any person who has given evidence in the matter to which the appeal relates.

Attendance of witnesses

**8.** (1) Subject to the provisions of section *forty-four*, any party may, at any time before the hearing of an appeal, apply to the High Court for an order that any opposing party shall, within such time, in such amount and in such manner as the High Court directs, give security for the payment of any costs which such opposing party may be ordered to pay.

Security on appeal



(2) The party applying for an order for security for costs shall serve upon the opposing party a copy of the notice of the application for security at least seven days before the date of the hearing thereof.

(3) Any party ordered to give security for costs in terms of this rule may apply to the High Court for an order extending the time within which any security is to be given, and shall give not less than four days' notice of such application to the other party.

(4) In the event of the security not being given or being only partly given within the time directed by the High Court or any extension thereof, all proceedings in the appeal shall be deemed to be stayed, unless the High Court otherwise orders, and the appeal shall be set down for such order, whether of dismissal or otherwise, as the High Court may think fit.

**9.** (1) An appellant may at any time abandon his appeal by giving notice of abandonment in Form D.T. No. 3 to the registrar of the High Court and, upon such notice being given, the appeal shall be deemed to have been dismissed by the High Court.

Abandonment  
or failure to  
prosecute  
appeal

(2) The appellant shall serve a copy of the notice of abandonment on the respondent and on the Registrar of Designs.

(3) The respondent may, upon receipt of such notice, apply to the High Court for an order in respect of any costs incurred by him.

**10.** If it appears to the High Court that any notice of appeal against a decision of the Registrar of Designs discloses grounds of appeal which are frivolous or vexatious and that the appeal can be determined without a hearing, the High Court may dismiss the appeal summarily without calling on any person to attend the hearing of such appeal.

Frivolous or  
vexatious  
appeals

## **PART III**

## **APPLICATIONS**

**11.** (1) Any reference to the High Court under section *twenty-one* by a party to a dispute (hereinafter referred to as "the claimant") shall be made in Form D.T. No. 4 and shall be filed with the Registrar of Designs. Dispute as to State use

(2) The claimant shall by affidavit verify the facts upon which he relies and shall state fully the nature of his interest in the matter in dispute and the relief which he seeks.

(3) The claimant shall serve a copy of his claim and of the relevant affidavit upon the other party to the dispute.

(4) The other party shall within two months from the date of receipt of such copy deliver to the Registrar of Designs a counter-statement, verified by affidavit, setting out fully the nature of his interest and the facts upon which he relies, and shall at the same time serve upon the claimant a copy of the counter-statement and of such affidavit.

(5) Proof of service shall be furnished to the satisfaction of the Registrar of Designs.

(6) When the provisions of this rule have been complied with to the extent herein required, the Registrar of Designs shall hand all relevant papers to the registrar of the High Court.

(7) Any party to the dispute may at any time during the proceedings under this rule make application to the Tribunal for an order for the hearing of oral evidence, and the Tribunal shall make such order as it deems fit.

**12.** An application for the rectification of the register under section *twenty-four* shall be made to the Tribunal in Form D.T. No. 5 and a copy thereof shall be served on the Registrar of Designs and on any other person appearing from the register to be interested in the design. Rectification of register

**13.** (1) When the registrar of the Tribunal has received from the Registrar of Designs the papers or written proceedings in relation to any Hearing of applications

application or other matter made to the High Court under the provisions of the Act, he shall, after taking directions from the High Court, appoint a time and place for the hearing of the case, and shall give the parties at least fourteen days' notice of the appointment.

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the High Court shall decide the case and notify its decision to the parties.

**14.** (1) All evidence shall be by affidavit unless otherwise directed by the High Court. Evidence by affidavit

(2) Whenever a time is specified in this Part within which any act or thing is to be done, the Registrar of Designs may, on application made to him in writing, extend the time either before or after its expiration or within any extended period.

**15.** If the applicant notifies the High Court that he does not desire to proceed with an application, the High Court in deciding whether costs should be awarded to the other party shall consider whether proceedings might have been avoided if such other party had given reasonable notice to the applicant before the application to the High Court was filed. Costs

## **PART IV**

### **TAXATION OF COSTS**

**16.** The registrar of the High Court shall be the Taxing Officer for the purpose of taxing a bill of costs of a legal practitioner, and in the taxation of costs shall comply with such instructions as may from time to time be given to him by the High Court for that purpose. Registrar of Tribunal to be Taxing Officer

**17.** (1) With a view to affording the party who has been awarded an order for costs a full indemnity for all costs reasonably incurred by him in relation to his application or opposition, and to ensure that all such costs shall be borne by the party against whom such order has been awarded by the High Court, the Taxing Officer shall on every taxation allow all such costs, charges and expenses as appear to him to have been Necessary and proper costs to be allowed

necessary or proper for the attainment of justice or for defending the rights of any party, but, save as against the party who incurred the same, no costs shall be allowed which appear to the Taxing Officer to have been incurred or increased through over-caution, negligence or mistake, or by payment of a special fee to counsel, unless the High Court otherwise orders, or special charges and expenses to witnesses or other persons or by other unusual expenses.

(2) Upon the taxation of costs the Taxing Officer may, in determining the remuneration to be allowed, have regard to the skill, labour and responsibility involved, If, on having regard to the said matters, the Taxing Officer considers that there are special reasons why costs in excess of those prescribed in the Second Schedule should be allowed, he may, in respect of any particular application made or business done, allow such costs as seem to him reasonable and shall certify his decision in writing.

(3) Any person aggrieved by the charges made by any legal practitioner in respect of work performed by him under the provisions of the Act may refer such charges to the Taxing Officer for taxation.

**18.** In the taxation of costs the Taxing Officer shall be guided, as far as the circumstances of each particular case will permit, by the scale of fees prescribed in Part IV of the Second Schedule. In addition to these charges, all disbursements shall be separately charged and shall be allowed by the Taxing Officer when reasonable. Scale of fees to be followed

**19.** (1) Witnesses requiring payment shall be paid for their attendance and travelling in accordance with the tariff prescribed in Part II of the Second Schedule. Witnesses' charges and allowances

(2) The charges for witnesses as fixed by tariff are to be considered as payable to the witness by the party who summoned or produced him and, in the event of any such party being awarded his costs against any other party, the said charges shall be allowed against such other party in the taxation of costs.

(3) Any person applying to the registrar of the Tribunal for the issue of a subpoena to compel the attendance of any witness shall by endorsement of such subpoena give an undertaking that all expenses due to the

witness shall be tendered to such witness upon service of the subpoena, failing which no subpoena shall issue. If upon service of the subpoena all expenses due to such witness have not been paid the subpoena shall have no force and effect.

(4) In the taxation of costs between party and party, no amount shall be allowed for any witness whether for attendance or travelling expenses unless there is produced to the Taxing Officer proof that such amount has already been paid or tendered to or claimed by such witness.

(5) In the taxation of costs between party and party, nothing shall be allowed for any witness not examined unless upon proof that his evidence might reasonably have been believed to be material and necessary.

(6) If the number of witnesses summoned, or if the number of affidavits filed, is manifestly greater than is reasonably necessary, there shall only be allowed against the other party the charges for such witnesses or affidavits as were reasonably necessary.

(7) In the taxation of costs between party and party, no amount shall be allowed for any witness in respect of personal attendance or travelling expenses if the fact or facts which such witness is subpoenaed to prove have, before the issue of such subpoena, been admitted to the party taking out the subpoena by the opposite party:

Provided that such admission shall be in writing, signed by the party making it or his legal practitioner acting on his behalf.

(8) When the same person is a witness in more cases than one heard on the same day, he shall be entitled to no more than one fee for personal attendance and one allowance for travelling expenses, which shall be equally divided between such cases.

**20.** (1) In all cases where a notice of taxation is necessary, seven days' notice together with a copy of the bill of costs shall be given by the legal practitioner on behalf of the party whose costs are to be taxed to the other party or to the legal practitioner of such other party. Taxation of costs

(2) When the dwelling-house or place of business of the party against whom costs are to be taxed is more than thirty-six miles from the seat of the High Court, the time for the service of such notice shall be extended to fourteen days.

(3) In the taxation of costs, the notice of taxation with a copy of the bill of costs may be transmitted by registered post to the party appearing in person.

**21.** Any party aggrieved by the decision of the Taxing Officer may apply to the High Court within four weeks after the taxation to review such taxation. Copies of the application shall be served on the Taxing Officer and on the opposite party. The application shall specify the items forming the subject of the grievance but the grounds upon which such items are sought to be reviewed shall not require to be verified by affidavit.

Review of  
decision of  
Taxing Officer

**22.** The Taxing Officer may, without filing any formal documents, submit any point arising at a taxation for decision by a Judge in Chambers, and it shall be competent for the Taxing Officer and for the legal practitioners who appeared at the taxation to appear before the High Court respecting such point.

Reference to  
president of  
Tribunal in  
chambers

## **PART V**

### **GENERAL**

**23.** The hearing of any application or other matter before the High Court may from time to time be adjourned upon such terms as the High Court thinks fit.

Adjournment of  
proceedings

**24.** (1) Except as provided in sub-rule (2), every hearing before the High Court shall be in Lusaka.

Place of hearing

(2) One or more of the parties may, not later than fourteen days before the date approved for the hearing, apply to the High Court to conduct the hearing at some other place in Zambia. The High Court may, in its

discretion and subject to such conditions as to notice and costs as it thinks fit, conduct the hearing at the place named in the application.

(3) Where an application under sub-rule (2) is not made by all the parties to the proceedings, the High Court shall not decide the application without giving the parties an opportunity to be heard.

**25.** The forms set out in the First Schedule shall be used in all cases to which they are applicable and may be modified as directed by the High Court. Prescribed forms

**26.** The High Court fees prescribed in Part I of the Second Schedule shall be paid to the Registrar of Designs at the Office. Prescribed fees

**27.** (1) Upon receipt of any document chargeable with any fee payable in terms of these Rules, the Registrar of Designs shall endorse upon the original of such document the amount of the fee paid and the date of payment. Endorsement of fee on document chargeable

(2) The Registrar of Designs shall refuse to accept any document in respect of which a fee is payable under these Rules, unless the appropriate fee accompanies such document.

**28.** The form of oath to be taken by assessors appointed under section *thirty-seven* shall be as follows: Oath to be taken by assessors appointed under section 37

I, ..... hereby declare that I will to the best of my ability faithfully and diligently discharge any duties as assessor without favour, fear or prejudice.

**29.** The remuneration of any assessor appointed under section *thirty-seven* shall be as prescribed in Part III of the Second Schedule. Remuneration of assessors

# **FIRST SCHEDULE**

## ***(Rule 25)***

### **PRESCRIBED FORMS**

**Form D.T. No. 1**  
**Sections 35 and 39**  
**Rule 3 (1)**  
**THE REGISTERED DESIGNS ACT**  
**Fee units: 8**  
**NOTICE OF APPEAL TO THE TRIBUNAL**

IN THE MATTER of an application (1)

and

(1) State nature of application or proceedings, the name of the applicant(s) and the number of the application for registration of design

IN THE MATTER of an opposition by (2)

(2) State the name of the opponent(s) if the application is opposed

I/We (3)  
of

(3) State full name and address of appellant(s)



hereby give notice of appeal to the Tribunal from (4)

(4) Here insert "the decision" or "that part of the decision", as the case may be

of the Registrar of Designs, dated the day of , 19 ..... whereby he

(5)

(5) Here insert "refused application for registration of a design" or "refused (or granted) application for compulsory licence" or otherwise, as the case may be

Dated this day of ....., 19 .....

(6)

(6) To be signed by the appellant(s) or his/their practitioner

My/Our address for service in Zambia:

The Registrar of the Patents Tribunal,  
Lusaka,  
Zambia.

**Form D.T. No. 2**  
**Section 39**  
**Rule 4 (1)**  
**THE REGISTERED DESIGNS ACT**  
**Fee units: 8**

APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO APPEAL

IN THE MATTER of an application (1)

(1) State nature of application or proceedings, the name of the applicants (s) and the number of the application for registration of design

and

IN THE MATTER of an opposition by (2)

(2) State the name of the opponent(s) if the application is opposed

I/We (3)

of

(3) State the full name and address of appellant(s)

hereby make application for an order of the Tribunal extending the time in which to appeal

from (4)

(4) Here insert "the decision"

or "that part of the decision", as the case may be

of the Registrar of Designs on the following grounds (5)

(5) Here state briefly the grounds upon which the application is based, and where facts are alleged such facts shall be verified by affidavit

Dated this      day of ....., 19 .....

(6)

The Registrar of the Patents Tribunal,  
Lusaka,  
Zambia.

(6) To be signed by the appellant(s) or his/their legal practitioner

**Form D.T. No. 3**  
**Rule 9 (1)**  
**THE REGISTERED DESIGNS ACT**  
**Fee units: 12**

NOTICE OF ABANDONMENT OF APPEAL

IN THE MATTER of an application (1)

(1) State nature of application or proceedings, the name of the applicant(s) and the number of the application for registration of design

and

IN THE MATTER of an opposition by (2)

you are hereby notified that the above-named appellant(s) hereby abandon(s) all further proceedings in the above matter.

Dated this      day of ....., 19 .....

(2) State the name of the opponent(s) if the application is opposed

(3)

The Registrar of the Patents Tribunal,  
Lusaka,  
Zambia.

(3) To be signed by the appellant(s) or his/their legal practitioner

**Form D.T. No. 4**  
**Section 21**  
**Rule 11 (1)**  
**THE REGISTERED DESIGNS ACT**  
**Fee units: 12**

REFERENCE TO THE TRIBUNAL UNDER SECTION 21 OF THE ACT

IN THE MATTER of a reference by (1)

(1) State the name of claimant(s) and nature of matter in dispute

against

(2)

(2) State name of other party to dispute

I/We (3)

(3) State full name and address of claimant(s)

hereby refer for the determination of the Tribunal my/our claim against (4)

(4) State full name of respondent

The following are the grounds on which I/we base my/our claim:

(5)

(5) Here state briefly the nature of the grounds

Dated this      day of ....., 19 .....

(6)

My/Our address for service in Zambia:

(6) To be  
signed by  
the  
claimant(s)  
or his/their  
legal  
practitioner

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

NOTE-The claim must be accompanied by an affidavit verifying the facts and stating fully the nature of the interest in the matter in dispute and the relief sought.

**Form D.T. No. 5**  
**Section 24**  
**Rule 12**  
**THE REGISTERED DESIGNS ACT**  
**Fee units: 4**

APPLICATION FOR RECTIFICATION OF REGISTER OF DESIGNS

I/We (1)

(1) State name and address of applicant(s)

hereby apply in respect of Design No. \_\_\_\_\_ that the register

may be rectified in the following manner (2)

(2) State manner in which register is to be rectified

The grounds upon which I/we base this application are as follows:

(3)

(3) State briefly the grounds

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(4)

(4) To be signed by the applicant(s) or his/their legal practitioner

My/Our address for service in Zambia:

The Registrar,  
The Designs Office,  
Lusaka,  
Zambia.

*(As amended by Act No. 13 of 1994)*

# **SECOND SCHEDULE**

## ***(Rules 18, 19, 26 and 29)***

### **PRESCRIBED FEES**

#### **PART I**

##### TRIBUNAL FEES

<i>ITEM</i>	<i>MATTER</i>	<i>AMOUNT FEE UNITS</i>
1.	On every appeal to the Tribunal from decision or order of the Registrar of Designs-inclusive fee . . . . .	75
2.	On a reference to the Tribunal under section 21 . . . . .	75
3.	On application for rectification of register of designs . . . . .	30
4.	On every search . . . . .	4
5.	For typewritten copies of judgements or records, for additional copies of orders or for copies of documents or proceedings furnished upon direction of the registrar of the Tribunal:	
	The first copy for each folio of 100 words or part thereof . . . . .	3
	Additional copies for each folio of 100 words or part thereof . . . . .	1
6.	On certifying any document as an office copy . . . . .	8
7.	Transcript of shorthand writer's notes . . . . .	Such fee as may be determined by the Minister

#### **PART II**

##### SUBSISTENCE AND TRAVELLING ALLOWANCES PAYABLE TO WITNESSES

Witnesses attending the High Court shall be paid subsistence and travelling allowances at the rates prescribed in Part III of the First Schedule to the Supreme Court Rules.



### PART III

#### REMUNERATION OF ASSESSORS

An assessor shall be remunerated at the rate of K2.10 per hour or part thereof, but his remuneration shall not exceed K10.50 per day, unless the Minister, with the approval of the Minister responsible for finance, otherwise directs. An assessor shall in addition be paid a travelling allowance at the rates prescribed in Part III of the First Schedule to the Supreme Court Rules.

### PART IV

#### LEGAL PRACTITIONERS' FEES

Legal practitioners' fees in any appeal, application, opposition or other matter heard before the High Court shall be in accordance with the tariff of fees prescribed in Part II of the Second Schedule to the Supreme Court Rules, save as hereinafter provided-

Persual of any necessary documents-	<i>Fee units</i>
For the first 10 folios-per folio .. .. .	4
For each subsequent folio .. .. .	2

*(As amended by Act No. 13 of 1994)*

## **SECTION 38-REGISTERED DESIGNS (APPEALS) RULES**

*Statutory  
Instrument  
7 of 1984*

### **Rules by the Chief Justice**

- |   |   |
|---|---|
| <b>1.</b> These Rules may be cited as the Registered Designs (Appeals) Rules.   | Title                                     |
| <b>2.</b> Subject to any specific provisions of the Act, the High Court (Appeals) (General) Rules, 1984, shall apply to any appeal to the High Court brought pursuant to the provisions of the Act. | Appeals to High Court. S.I. No. 6 of 1984 |
| <b>3.</b> Subject to any specific provisions of the Act, the Supreme Court Rules shall apply to any appeal to the Supreme Court pursuant to the provisions of the Act.                              | Appeals to Supreme Court. Cap. 25         |

## **CHAPTER 403 THE WEIGHTS AND MEASURES ACT**

### **ARRANGEMENT OF SECTIONS**

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title
2. Interpretation

#### **PART 1A**

#### **THE ZAMBIA WEIGHTS AND MEASURES AGENCY**

- 2A. Establishment of Agency
- 2B. Functions of Agency
- 2C. Constitution of Board

- 2D. Director
- 2E. Secretary and other staff
- 2F. Duties of metrologists

## **PART II**

### **STANDARD WEIGHTS AND MEASURES**

- 3. Units of measurement
- 4. National standards
- 5. Periodic verification of National Standards
- 6. Custody of National Standards
- 7. Secondary standards
- 8. Working standards
- 9. Storage of standards

## **PART III**

### **ADMINISTRATION**

(Repealed by Act No. 12 of 2003)

- 10.
- 11.
- 12.
- 13.
- 14.

## **PART IV**

### **TYPE APPROVAL AND VERIFICATION OF WEIGHING AND MEASURING INSTRUMENTS**

- 15. Certificate in respect of design or pattern of instruments, etc.
- 16. Assize of instruments
- 17. Re-assize of instruments
- 18. Verification of instruments

19. Rejection of certain instruments
20. Illegal stamping or sealing

## **PART V**

### **SALE OF PACKAGED COMMODITIES AND USE OF TRADE MEASURES**

#### Section

21. Contracts to be made by reference to authorised units
22. Exceptions
23. Provision and operation of Assized instruments
24. Price lists, etc.
- 24A. Sale of Commodity by weight or net content
- 24B. Sale of prepackaged commodity by weight or measure

## **PART VI**

### **OFFENCES AND PENALTIES**

25. Prohibition of use of unapproved pattern of instrument
26. Forgery of stamps on instruments
- 26A. Prohibition of employment of foreign technician, fitter, contractor etc.
27. Prohibition of use of certain instruments, etc.
28. Lawful use of certain unassized instruments
29. Use of false or unadjusted instruments
30. Sale of unstamped instruments
31. Fraud in use of instruments
32. False statements as to weight, measure, etc.
- 32A. Payment of fine without appearing in court
33. Sale by unauthorised denominations
34. Offences due to default of third party
35. General penalty
36. Offences by bodies corporate

## **PART VII**

### **MISCELLANEOUS**

37. Power of inspection and entry
38. Certificate of competence
39. Burden of proof
40. Recovery of fees
41. Evidence of possession
42. Judicial notice
43. Forfeiture
- 43A Vesting of assests of Assize Department
- 43B. Registration of property to be transferred by Government
- 43C. Legal Proceedings
- 43D. Terms of Service of employees of Department
44. Regulations
45. Repeal of Caps. 697, 710

### **SCHEDULES**

FIRST SCHEDULE-Base units of S.I.

SECOND SCHEDULE-Supplementary units of S.I.

THIRD SCHEDULE-Derived units of S.I.

FOURTH SCHEDULE-Units used with International system

FIFTH SCHEDULE-S.I. prefixes of multiples and sub-multiples from S.I. units

SIXTH SCHEDULE-Additional limits

SEVENTH SCHEDULE-Measurement of length, area volume, capacity, weight and electricity

EIGHTH SCHEDULE-Physical weights and measures lawful for use in

trade

NINTH SCHEDULE-(1) Form A Certificate of verification of Secondary Standards

TENTH SCHEDULE-Manner in which certain goods are to be sold

ELEVENTH SCHEDULE-Quantity in which certain goods are to be sold

TWELFTH SCHEDULE-Goods requiring statement of weight or measure

THIRTEEN SCHEDULE-The Zambia Weights And Measures Agency

**CHAPTER 403**  
**THE WEIGHTS AND MEASURES ACT**

*Acts No.*  
22 of 1994  
13 of 1994  
12 of 2003

An Act to establish standards of weights and measures based on the metric system; to provide for enforcement of the standards of weights and measures; to repeal the Weights and Measures Act and the Metric Systems Act; and to provide for matters incidental to or connected with the foregoing.

[3rd June, 1994]

**PART I**

**PRELIMINARY**

**1.** (1) This Act may be cited as the Weights and Measures Amendment) Act, 2003 and shall be read as one with the Weights and Measures Act, in this Act referred to as the principal Act. Short title and commencement

(2) This Act shall come into operation on such date as the Minister may, by Statutory instrument, appoint.

**2.** (1) In this Act, unless the context otherwise requires-

Interpretation  
Cap. 416

"Agency" means the Zambia Weights and Measures Agency established by section *two A*;

"appointed date" means the date appointed by the Minister under section *one*;

"assize", means to examine, verify or test an instrument in accordance with the provisions of this Act or any regulations made under this Act;

"authorised measure" means unit of weight, length, capacity or volume referred to in section *three*;

"authorised unit of measurement" means the international system of measurement by reference to which a trading transaction is authorised to be conducted under this Act;

"automatic instruments" means any instrument in which a special self-acting machinery is employed to effect some or all of the following:

- (a) an automatic feed;
- (b) the rapid weighing of predetermined quantities;
- (c) the registration and summation of loads;
- (d) the measuring and filling of liquids into containers; or
- (e) a result similar to any of those set out in paragraphs (a) to (d);

"Board" means the Zambia Weights and Measures Agency Board constituted under section *two C*;

"Bureau of Weights and Measures" means the International Bureau of Weights and Measures established under the Metre convention at Sevres in France;

"calibration" means all the operations which are necessary for the purpose of determining the values of the errors of a weight or measure and, if necessary, to determine the other metrological properties of such weight or measure and includes the actual weight or measure; or in some cases of certain principal mathematics only, in relation to the corresponding volume of the quantity to be measured and also in relation to the use of or weight or measure as a standard;

"certificate of competence" means a certificate, issued by the Superintendent Assizer under this Act, declaring that the holder is competent in the repair of instruments;

"Chairperson" means the person appointed as Chairperson of the Board under section *two C*;

"check weighed" in relation to any vehicle, means weighed with its load by means of the nearest suitable available weighing equipment, and weighed again after it has been loaded by means of the same or other suitable weighing equipment;

"committee" means a committee of the Board established under

paragraph 5 of the Thirteenth Schedule;

"commodity" means goods for sale or goods which have been sold or are being carried or delivered for sale;

"constructional use" in relation to any goods, means the use of those goods in construction work in the course of the carrying on of a business;

"container" means any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by attaching the goods to or winding the goods around some other article, and includes a wrapper or confining band;

"Derived Unit" means a unit which is derived from the base, or supplementary unit or both;

"Director" means the person appointed as Director under section *two D*;

"document" includes-

(a) any paper or other material on which there is writing or printing or on which there are marks, figures, symbols or perforations having a meaning for persons qualified so to interpret them;

(b) a disc or tape or other article, or any material, from which sounds, images, writings or messages are capable of being reproduced with or without the aid of any other article or device.

"food for human consumption" includes every article used for food or drink;

"General Conference" means the General Conference of Weights and Measures established under the metre convention;

"International Standard" means the prototype standard sanctioned by the First General Conference of Weights and Measures held in Paris 1889 and deposited at the International Bureau of Weights and Measures;

"International System of Units" means the system of units referred to in section *three*;

"instrument" means a weighing or measuring instrument or any instrument used for ascertaining the number of goods;

"just" means any weight, or measure weighing or measuring instrument which does not have an error greater than the prescribed limits or error;

"licence" means a service licence issued under section *thirty-eight*;

"measuring instrument" means any weight, measure, apparatus, device or thing designed or adapted for measuring any length, area, volume or other quantity or dimension, including time;

"member" means a member of the Board appointed under section *two C*;

"metric system" means the supplementary, derived and special or



permitted units of the International System of Units;

"metrologist" means a person appointed as a metrologist under section *two E*;

"national standard" means a set of standard weights or measures which is made or manufactured by or on behalf of the Agency for the verification of any secondary standard;

"net weight" of an article means the weight of the article excluding the weight of its container;

"pre-packed article", means an article packed or made up in advance ready for sell or kept for or stored for retail sale in a wrapper or container whether open, enclosed or sealed in any way;

"pre-packed commodity" means a commodity which is packed or made up in advance ready for sale or a commodity which is kept or stored for retail sale in a wrapper or container or which is sealed in anyway;

"purchaser" includes any person acting on behalf of a purchaser;

"quantity" means any measurement of distance, length, width, height, area, size, volume, capacity, mass, number, electricity or temperature;

"sale by retail" means sale to a person otherwise than for the purpose of resale, but does not include a sale for the purpose of a catering or manufacturing business;

"S.I. Unit" means a unit of the International system of units for the time being approved by the General Conference of delegates of Member States of the Metre convention and which is listed in the Schedule to this Act.

"Secondary Standards" means a set of standard weights or measures which is used for the verification of any working standard;

"sell" includes offer, advertise, expose, keep, supply, carry, transport, deliver, hold, have in possession or prepare for valuable consideration, and cognate expressions shall be construed accordingly;

"stamp" means a mark which is made on or in relation to any weight or measure to-

(a) certify that such weight or measure conforms to the standards specified by this Act; or

(b) indicate that any mark which was previously made on the weight or measure certifies such weight or measure as conforming to the standards established by or under the Act.

"standard" means an international standard, national standard, secondary standard or working standard;

"trade" includes any contract, bargain, sale, dealing and generally any

transaction for valuable consideration for the purposes of which goods or articles are weighed, measured or counted, but does not include any contract or bargain for sale of or dealing in land or any interest in land;

"valid" in relation to any weight, measure or weighing or measuring instrument, means bearing a stamp that is still in force and cognate expressions shall be construed accordingly;

"verify" means to weigh, measure, compare, check, test or adjust a weight or measure in order to ensure that it conforms to standards established by or under the Standards Act, and cognate expressions shall be construed accordingly;

"weight" means a material measure of mass regulated in regard to its physical and metrological characteristics, shape, dimension, material, surface, quality, nominal value or maximum permissible error;

"Zambia Bureau of Standards" means the Zambia Bureau of Standards established under the Standards Act.

*(Amended by Act No. 12 of 2003)*

## **PART 1A**

### **THE ZAMBIA WEIGHTS AND MEASURES AGENCY**

**2A.** (1) There is hereby established the Zambia Weights and Measures Agency which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform. Establishment of Agency

(2) The Thirteenth Schedule shall apply to the Agency.

**2B.** The functions of the Agency shall be to- Fuctions of Agency

(a) administer the Act and all matters relating to weighing or measuring instruments used in trade;

(b) keep and maintain secondary and working standards and other measuring standards;

(c) verify measuring instruments used in domestic and international trade;

(d) test and approve new types of weighing and measuring instruments used for trade which comply with international or national standards;

(e) investigate any alleged breach of the provisions of this Act;

(f) collect and disseminate information on the work of the Agency through publications, seminars, workshops and the print or electronic media;

(g) liaise with regional and international metrological organisations and institutions on matters relating to the promotion of metrology in Zambia;

(h) provide a uniform system of trade measurements to ensure traceability to international standards;

(i) establish laboratories and other facilities to improve maintenance, storage and testing of trade measurement standards;

(j) examine candidates for a licence to repair, service or install weighing and measuring instruments;

(k) initiate policy formulation and keep under review the working of this Act and, when so required by the Minister or if the Agency otherwise thinks it necessary, draw up and submit to the Minister proposals for amending it; and

(l) undertake such other activities as are conducive or incidental to its functions under this Act.

**2C.** (1) There is hereby constituted the Zambia Weights and Measuring Agency Board which shall, subject to the provisions of this Act, perform the functions of the Agency under this Act.

Constitution of  
Board

(2) The Board shall consist of part-time members appointed by the Minister as follows:

(a) one representative of the Zambia Association of Manufacturers;

(b) one representative from the Zambia National Farmers Union;

- (c) one representative from the Truckers Association;
- (d) one representative from the Zambia Consumer Association;
- (e) one representative from the Zambia Bureau of Standards;
- (f) one representative from the Law Association of Zambia;
- (g) the Executive Director of the Energy Regulation Board; and
- (h) one representative from-
- (i) the ministry responsible for finance; and
- (ii) the ministry responsible for commerce, trade and industry.

(2) The Chairperson shall be appointed by the Minister.

(3) The Vice-Chairperson shall be elected by the members of the Board from among their number.

(4) A person shall not be appointed as a member of the Board if the person-

- (a) is an undischarged bankrupt;
- (b) has been convicted of an offence involving fraud or dishonesty; or
- (c) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.

**2D.** (1) The Board shall, with the approval of the Minister, Director appoint a Director who shall be the Chief Executive Officer of the Agency and, subject to the control of the Board, be responsible for the day to day administration of the Agency.

(2) The Board shall, with the approval of the Minister, determine the terms and conditions of service of the Director.

(3) The Director shall attend meetings of the Board and may attend meetings of any committee of the Board and may address the meetings, but shall have no vote.

**2E.** (1) The Director shall be the Secretary to the Board.

Secretary and  
other staff

(2) The Board may appoint metrologists and such other staff of the Agency as it considers necessary performance of its functions under this Act.

(3) The Board shall determine the terms and conditions of service of the staff of the Agency.

**2F.** The Duties of a metrologist shall be to-

Duties of  
metrologists

(a) carry out verification of weights, measures and weighing and measuring instruments;

(b) care for, and maintain, any standard equipment which may be entrusted to the metrologist's care;

(c) keep records and make such reports as the Director may require;

(d) give effect to the directions of the Director; and

(e) generally exercise and perform such powers and duties as may be conferred or imposed on a metrologist by this or any other written law.

*(Amended by Act No. 12 of 2003)*

## **PART II**

### **STANDARD WEIGHTS AND MEASURES**

**3.** (1) The International System of Units shall be authorised measure by reference to which any measurement in trade in Zambia shall be made. Units of measurement

(2) The International System of Units shall consist of-

(a) the base units set out and defined in the First Schedule;

(b) the supplementary units set out and defined in the Second Schedule;

(c) the derived units set out in the Third Schedule; and

(d) any special or permitted units that may be used in conjunction with units mentioned in paragraphs (a) to (c) as adopted by the General Conference and set out in the Fourth Schedule.

(3) The International System of Units prefixes for multiples and sub-multiples of the units referred to in sub-section (2) are those set out and defined in the Fifth Schedule.

(4) Additional Units of measurement that may be used are set out in the Sixth Schedule.

(5) Units of measurements of length, area, volume, capacity, mass, weight, electricity and time are set out in the Seventh Schedule.

(6) The denominations of physical weights and measures that shall be used for the purpose of trade in Zambia are set out in the Eighth Schedule.

(7) The Minister may, by statutory instrument, from time to time amend any Schedule to this Act.

**4.** (1) The Agency shall authorise the use of such standards of weights and measures as the Agency considers necessary; National standards

(2) Every standard referred to in subsection (1)-

(a) shall be of a denomination equivalent to-

(i) a weight or measure authorised by this Act; or

(ii) a multiple, aliquot part or sub-multiple of such a weight or measure;

- (b) shall be verified-
  - (i) in the case of a weight or measure authorised by this section; or
  - (ii) in the case of a weight or measure authorised by such competent institution as the Minister directs; and

(c) shall be made of such materials and in such manner and placed and kept in such a receptacle as affords it, as far as practicable, protection against mechanical and atmospheric agencies and any likely source of error.

(3) A standard of a litre or capacity measurement may, as the Agency thinks fit, be-

(a) provided either as a separate standard or by means of divisions marked on a standard of a larger measure; and

(b) either marked in whole or in part with sub-divisions representing any smaller units of measurement; or

(c) multiples or sub-multiples of such a unit, or have no such markings.

(4) Where a standard of weight or measure is about to be brought into use in Zambia the Minister shall, on the recommendation of the Board, by notice published in the *Gazette* or a newspaper with daily circulation, declare that such standard of weight or measure is about to be brought into use in Zambia and specify in that notice on date on which that standard of weight or measure shall become operative.

(4A) The standard of weight or measure referred to in subsection (4) shall, upon publication, of the notice referred to in that subsection, become a national standard of weight or measure and shall, for all purposes, be conclusively deemed to be true and accurate.

(5) Every national standard shall be accompanied by a certificate of calibration.

*(Amended by Act No. 12 of 2003)*

**5.** (1) The Agency shall at least once in every ten years cause every national standard to be verified, and if necessary to be corrected and

Periodic  
verification of  
national standards

adjusted or renewed.

(2) Where a national standard is sent out of Zambia for verification, the Agency shall cause a corresponding secondary standard to be deposited in such manner as he considers proper, and that secondary standard shall, during such time as the national standard is out of Zambia, be the national standard.

*(Amended by Act No. 12 of 2003)*

**6.** The national standard shall be kept at a laboratory to be set up by the Zambia Bureau of Standards. Custody of national standards

**7.** (1) The Director shall- Secondary standards

(a) cause to be procured such copies of the national standards as he thinks fit;

(b) provide for the verification of any copies so prepared; and

(c) cause the verified copies to be authenticated as secondary standards.

(2) Every authenticated secondary standard shall, until the contrary is proved, be taken to be as true and accurate as the corresponding national standard.

(3) Once in every two years the Director shall cause each of the secondary standards referred to in subsection (1) of section *seven* to-

(a) be compared with the national standards and if necessary to be corrected and adjusted by the Zambia Bureau of Standards or any other competent authority but such verification should be witnessed by two people to be appointed by the Minister;

(b) bear a certificate of corrections signed by the witnesses and such Institution as may be appointed to carry out the verification;

(4) The Director shall direct that the secondary standard no longer be used as a secondary standard where any deficiency is detected.



*(Amended by Act No. 12 of 2003)*

**8.** (1) Every Metrologist shall be provided with proper and sufficient working standards of weights and measures which shall be used for verifying or re-verifying of weights or measures or instruments in use for purposes of trade.

Working standards

(2) Once in every twelve months a Metrologist shall compare the working standards, which have been in use during the past twelve months, with the secondary standards, and, if necessary make corrections and adjustments before signing a certificate prescribed in Form B of the Schedule.

(3) The Director may at any time cancel any working standard and direct that it no longer be used.

(4) Judicial notice shall be taken of every working standard and each such standard shall be deemed to be true and accurate until the contrary is proved.

*(Amended by Act No. 12 of 2003)*

**9.** The Director shall cause to be maintained such equipment for safe storage of, and otherwise for use in connection with, standards.

Storage of standards

*(As amended by Act. No. 12 of 2003)*

### **PART III**

#### **ADMINISTRATION**

**(Repealed by Act No. 12 of 2003)**

### **PART IV**

#### **TYPE APPROVAL AND VERIFICATION OF WEIGHING AND MEASURING INSTRUMENTS**

*(Amended by Act No. 12 of 2003)*

**15.** (1) Any person may, on payment of the prescribed fee, make a written application to the Director-

Certificate in respect of design or pattern of instruments, etc.

(a) for the issue of a certificate in regard to the suitability for use in trade of any instrument of a design or pattern; and

(b) for the amendment of such certificate if that design or pattern is altered in a manner specified in the application without affecting the principle of the instrument.

(2) If on testing the instrument the Director is satisfied-

(a) as to the suitability for use in trade of any instrument of a design or pattern he shall issue a certificate to that effect; or

(b) that the alteration of the design or pattern specified in application does not affect-

(i) the suitability of the instrument for use in trade; or

(ii) the principle of the instrument;

he shall amend the certificate accordingly:

Provided that the Director may, in and by any such certificate, limit the purpose of trade for which any instrument of that design or pattern may be used, or impose conditions upon the use in trade of any such instrument.

(3) If the Director at any time finds a design or pattern in respect of which a certificate has been issued under this section to have some quality which is likely to render it unsuitable for all or any purpose of trade or to have become obsolete, he may-

(a) cancel the certificate; or

(b) cancel the certificate and, upon the payment of the prescribed fee, issue a fresh certificate in place thereof, specifying the circumstances in which the instrument may be used or impose conditions upon the use of the instrument in trade.

(4) Where proof is tendered that an instrument conforms in all respects with a design or pattern approved by the International Organisation for Legal Metrology or by a recognised body on behalf of the European Economic Community, a certificate in terms of subsection (2) may be issued.

(5) Where any design or pattern of instrument was issued in Zambia or approved by a competent authority prior to the date of coming into operation of this Act, a certificate in terms of subsection (2) may be issued, unless there is any feature of the present design or pattern which would render it unsuitable for use in trade.

*(As amended by Act. No. 12 of 2003)*

**16.** A Metrologist shall at such times and places as may be fixed and, on payment of the prescribed fee, assize or re-assize every instrument brought to him for the purpose.

Assize of instruments

*(As amended by Act. No. 12 of 2003)*

**17.** (1) At least once in every twelve months a Metrologist may at any time, by notice in writing, request any person to submit to him at such time and place as the Metrologist may specify any weight, measure, weighing instrument or measuring instrument which is used or intended to be used for trade:

Re-assize of instruments

Provided that there shall be an interval of at least fourteen days between the date of publication of the notice and the last day on which the instrument is to be produced.

(1A) Notwithstanding subsection (1), a Metrologist shall, subject to the direction of the Agency, at least twice in every twelve months by notice in writing request any person who has in their possession or charge any fuel dispenser, bulkflow meter or fuel master meter for use in trade to submit to the Metrologist, at such time and place as the Metrologist may specify, such fuel dispenser, bulk flow meter or fuel master meter for re-verification;

(2) Subject to the provisions of sub-section (3) any person who fails to comply with a notice referred to in sub-section (1) or subsection (1A) shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

(3) A person on whom a notice has been served under sub-section (1) or subsection (1A) who has-

(a) an instrument which:

(i) is fixed;

(ii) has a weighing capacity exceeding two hundred and fifty kilograms;

(iii) is of delicate construction; or

(iv) is in the opinion of an assizer liable to damage or derangement if submitted in accordance with subsection (1); or

(b) an instrument which is ordinarily kept at a place which is not within forty kilometres of any place specified in that notice,

shall not be guilty of an offence under this section if upon the

publication of the notice he forthwith, in writing, notifies the Metrologist by whom that notice was published of the particulars of the instrument and the place where it is ordinarily kept and requests that the instrument be assized at that place.

(4) An assized measure or capacity made of clear glass, earthen ware or enamelled metal, or an assized measure of length, need not be re-assized unless-

(a) the Metrologist has reasonable grounds for believing it has materially altered since it was last assized; or

(b) the verification stamp has been defaced or become illegible.

(5) A Metrologist may request any person producing or submitting an instrument for re-verification under this section to-

(a) cause it to be taken sufficiently apart to enable the Metrologist to examine it;

(b) provide auxillary material necessary for the re-verification of any instrument;

(c) provide transport or labour for the proper and expeditious handling of the standards or any material which is to be used for the re-verification of the instrument; or

(d) cause it to be cleaned where necessary.

(6) Where a Metrologist makes a request under subsection (5) and the person so requested fails or declines to comply with the request, the metrologist may refuse to re-verify the instrument and shall submit a report on the matter to the Director.

*(As amended by Act No. 13 of 1994 and Act No. 12 of 2003)*

**18.** A Metrologist who on test finds an instrument to be just and in compliance with the provisions of this Act and any regulations made under this Act shall stamp or mark it in the prescribed manner and, if appropriate, seal or lock the instrument to prevent its unauthorised adjustment.

Verification of instruments

*(As amended by Act. No. 12 of 2003)*

**19.** (1) A Metrologist who on test finds an instrument to be false, unjust, defective, or not in compliance with the provisions of this Act or any regulations made under this Act shall-

Rejection of certain instruments

(a) reject it;

(b) mark it with the prescribed mark; and

(c) issue to the person in charge of the instrument a written statement to the effect that it has been rejected:

Provided that the Metrologist may in his direction-

- (i) adjust it;
- (ii) return it to the owner for adjustment; or
- (iii) retain it with a view to proceedings being taken for its forfeiture.

(2) A person who mends or repairs a verified or rejected instrument shall obliterate permanently the verification stamp or the rejection mark on that instrument and shall, before such instrument is used for trade, cause it to be verified by a Metrologist within fourteen days of such mending or repair.

(3) Where the Metrologist is unable to verify the repaired or mended instrument submitted to the metrologist under subsection (2) within the period specified in that subsection the person who has in their possession or charge the mended or repaired instrument may apply to the metrologist for written authority to use the unverified instrument for trade.

(4) The metrologist may, on application being made under subsection (3) and upon payment of the prescribed fee and submission of a report on the instrument by the applicant, issue a written authority for the use of such unverified instrument for a period of twenty-one days pending verification of such instrument.

*(As amended by Act. No. 12 of 2003)*

**20.** A Metrologist shall not stamp with the prescribed stamp of assize or seal any instrument-

Illegal stamping or sealing

- (a) which is unjust;
- (b) which does not comply with the provisions of this Act or any regulations made under this Act;
- (c) which is not of the denomination of a weight or measure specified in Eighth Schedule; or
- (d) without testing it by comparison with the appropriate working standards.

*(As amended by Act. No. 12 of 2003)*

## **PART V**

### **SALE OF PACKAGED COMMODITIES AND USE OF TRADE MEASURES**

**21.** (1) Every contract, bargain, sale or dealing made or had after the commencement of this Act whereby any work, thing, ware, merchandise or other thing is or are to be, sold, delivered, carried, measured, computed, paid for or agreed for by weight or measure, shall be made or had according to one of the relevant units of measurement specified in the First, Second, Third, Fourth, Sixth, Seventh and Eighth Schedules to this Act or to some multiple thereof.

Contracts to be made by reference to authorised units

(2) A person who contravenes or fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months or to both.

*(As amended by Act No. 13 of 1994)*

**22.** Nothing in this Part shall apply to the sale of food for human consumption on or at the premises of the seller:

Exceptions

Provided that the Director may, by order, vary the quantity of goods to be sold.

*(As amended by Act. No. 12 of 2003)*

**23.** (1) Where a person has in his possession any goods for sale or delivery, or any goods in respect of which any representation of weight or measure is made for the purposes of sale or any other trade purpose, he shall-

Provision and operation of calibrated instrument

(a) provide an assized instrument capable of weighing or measuring such commodity; and

(b) keep and operate the same in such a place and manner so that the weighing or measuring and the weight indicated or measure determined, as the case may be, are clearly visible to the purchaser at all times.

(2) In any case where an automatic instrument is used in the packing for sale of commodities not exceeding fifty kilograms in weight or twenty-five litres in capacity, the person responsible for that packing shall cause to be kept and used near the automatic instrument such assized instrument as would enable the verification of the correct operation of the automatic instrument.

*(As amended by Act. No. 12 of 2003)*

**24.** (1) Subject to the provisions of sub-section (2), a person shall not print, publish, make or circulate, or cause to be printed, published, made or circulated, any price list, catalogue or document containing a statement of current prices of commodities for sale by weight or measure in which measures of the weight, length or capacity of these

Price lists, etc.

commodities are expressed otherwise than by reference to an authorised measure or denote or imply a greater or lesser measure or weight, length or capacity than is denoted or implied by an authorised measure.

(2) This section shall not apply to any price list, catalogue or document emanating from outside Zambia which-

(a) clearly shows that reference to measures of weight, length or capacity contained therein are not applicable to Zambia; or

(b) bears a statement showing the accurate equivalent by reference to an authorised measure, of any measure contained in that price list, catalogue or documents.

*(As amended by Act. No. 12 of 2003)*

**24A.** (1) Subject to the provisions of this section a person who sells any commodity by weight shall sell it by net weight or net content.

Sale of commodity by weight or net content

(2) A person who sells any commodity referred to in subsection (1) shall not deliver, or cause to be delivered, the commodity to a purchaser unless there is in respect of such commodity an invoice or delivery note showing the net weight or measure of such commodity:

Provided that where a weight has been prescribed for a sack, bag or pocket, it shall be sufficient for the invoice or delivery note to contain only the number of sacks, bags or pockets sold.

**24B.** (1) A person shall not sell any pre-packaged commodity by weight or measure unless the net weight or measure is marked on the wrapper or container of the commodity in the prescribed manner in accordance with an authorised measure.

Sale of prepackaged commodity by weight or measure

(2) A person who purchases a pre-packaged commodity which is sold by weight or measure may require the seller to verify, in the presence of the purchaser, the net weight or measure of the commodity.

(3) a person who fails to comply with a request made under subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(4) The provisions of this section shall apply to any commodity in respect of which weight or measure is used to designate the grade or class of such commodity.

(As amended by Act. No. 12 of 2003)

## **PART VI**

### **OFFENCES AND PENALTIES**

**25.** Any person who either, directly or indirectly, uses an approved pattern of any instrument for trade shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Prohibition of use of unapproved pattern of instrument

**26.** (1) Any person who, in the case of any instrument used or intended to be used for trade-

Forgery of stamps on instruments

(a) not being a Metrologist or a person acting under the instructions of a Metrologist, marks in any manner any plug or seal used or designed for use for the reception of a stamp;

(b) forges, counterfeits or, except as permitted by or under this Act, in any way alters or defaces any stamp;

(c) removes any stamp and inserts it into any other such instrument; or

(d) makes any alteration in the instrument after it has been stamped so as to make it false or unjust;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(2) Paragraphs (a) and (b) of subsection (1) shall not apply to the destruction or obliteration of any stamp, plug or seal in the course of adjustment or repair of an instrument by a person holding a service licence.

(3) Any person who uses for trade, sells or exposes or offers for sale any instrument which to his knowledge-

(a) bears a stamp which is a forgery or counterfeit, or which has been altered or defaced otherwise than as permitted under this Act; or

(b) is false or unjust as a result of an alteration made in the instrument after it has been stamped;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.



*(As amended by Act. No. 12 of 2003)*

**26A.** Any person who employs a local or foreign technician, fitter or contractor, who does not have a service licence issued by the Director under section *thirty-eight*, to carry out any installation works or to service or repair any weighing or measuring instrument, commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units, or in default to imprisonment for a term not exceeding five years.

Prohibition of employment of foreign technician, fitter, contractor etc.

*(As amended by Act No. 13 of 1994 and by Act. No. 12 of 2003)*

**27.** (1) Any person who uses or has in his possession for use in trade any instrument-

Prohibition of use of certain instruments, etc.

- (a) the use of which for such trade is not authorized by this Act;
- (b) the use of which for such trade is in contravention of the provisions of this Act or any regulations made under this Act; or
- (c) which is false or not correct, or which is not stamped with the prescribed stamp or seal of assize;

shall be guilty of an offence and shall be liable on conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

*(As amended by Act No. 13 of 1994)*

**28.** (1) Any person who has in his possession or charge for use in trade any unassized instrument shall, without undue delay-

Lawful use of certain unassized instruments

- (a) cause such instrument to be assized or re-assized; or
- (b) obtain a written authority for the use in trade of such instrument from an assizer in terms of subsection (2).

(2) A Metrologist may, upon receipt of-

- (a) the prescribed fee; and
- (b) a written statement by the holder of a service licence that an assized instrument is correct and assizeable,

issue a written authority to any person to use that instrument in trade during such period, and subject to such conditions, if any, as the Metrologist may therein specify.

(3) A person who uses in trade or has in his possession or charge for use in trade an unassized instrument-

(a) in respect of which there is in force an authority issued under subsection (2); and

(b) in accordance with the conditions, if any, specified in that authority,

shall not be liable to criminal proceedings under this Part in respect of such use or possession of that instrument.

*(As amended by Act No. 12 of 2003)*

**29.** Any person who uses or has in his possession for use in trade, or hires out, permits or condones the use in trade of any instrument which is false or unjust shall be guilty of an offence and shall be liable, on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Use of false or unadjusted instruments

*(As amended by Act No. 13 of 1994)*

**30.** (1) A person who sells, exposes for sale or has in his possession for sale any instrument which does not bear a current valid stamp or seal of assize shall be guilty of an offence and shall be liable on conviction liable to a fine not exceeding five thousand penalty units or to imprisonment for a term of six months, or to both:

Sale of unstamped instruments

Provided that this section shall not apply to an instrument which when made was not intended or designed for use for trade and which was permanently and clearly marked on a conspicuous part thereon with the words "NOT FOR TRADE USE".

*(As amended by Act No. 13 of 1994)*

**31.** Where fraud is committed in the use of an instrument, the persons committing the fraud shall be liable to a fine not exceeding ten thousand penalty units or to twelve months imprisonment or both.

Fraud in use of instruments

*(As amended by Act No. 13 of 1994)*

**32.** (1) Any person who, directly or indirectly-

False statements as to weight, measure, etc.

(a) makes a false or incorrect declaration or statement as to the weight, length, width, gauge, area, capacity, volume or number of any commodity in connection with its purchase, sale, weighing or measuring;

(b) sells or causes to be sold anything by weight or measure short of the quantity demanded by the purchaser or represented by the sellers;

(c) sells or causes to be sold any article required to be sold in

prescribed quantity, measure or number, in a lesser quantity, measure or number; or

(d) sells or causes to be sold any article in relation to which a unit price is quoted at a price otherwise than in accordance with such unit price.

shall be guilty of an offence and liable to a fine not exceeding ten thousand penalty units or to imprisonment for twelve months or to both.

*(As amended by Act. No. 12 of 2003)*

**32A.** (1) Where in respect of an offence under this Act-

(a) any person is informed by the Director or Metrologist that there is intention to institute criminal proceedings against that person for a particular offence; and

Payment of fine  
without appearing in  
court

(b) the Director or Metrologist has reasonable grounds to believe that the court which shall try the person referred to in paragraph (a) for the offence shall, on conviction, impose a fine exceeding two thousand penalty units;

the person may sign and submit to the Director or Metrologist a document admitting guilt to the offence and pay to the Director or Metrologist such amount as the Director or Metrologist may determine but not exceeding two thousand penalty units.

(2) The document referred to in subsection (1) when signed and submitted under that section shall forthwith be transferred to the clerk of the court before which such person would otherwise have been charged and tried and shall be entered into the records of the court.

(3) Any Director or Metrologist who fails to remit the admission of guilt fees to the court commits an offence and shall be liable, on conviction, to imprisonment for a term not less than six months but not exceeding three years without the option of fine.

*(As amended by Act No. 13 of 1994 and by Act. No. 12 of 2003)*

**33.** Any person who sells or exposes for sale any goods in a denomination of weight or measure other than the denominations of weight or measure authorised under this Act shall be guilty of an offence.

Sale by unauthorised  
denominations

**34.** (1) A person (in this section called "the original defendant") against whom proceedings are brought for an offence under this Act shall, upon information laid down by him and on giving the prosecution not less than three clear days notice of his intention to avail himself of the

Offences due to  
default of third  
party

provisions of this subsection, be entitled to have brought before the court in those proceedings any other person to whose act or default he alleges the commission of the offence was due; and if after the offence has been proved, the original defendant proves that-

(a) the Commission of the offence was due to an act or default of that other person; and

(b) he exercised all due diligence to avoid the commission of the offence by him or any other person under this control;

the original defendant shall be acquitted of the offence.

**35.** (1) A person who contravenes the provisions of this Act or regulations made under this Act for which no specific penalty is provided shall be liable, on conviction-

General penalty

(a) in the case of a first offence; to a fine not exceeding five thousand penalty units or to imprisonment for a period of six months, or both; and

(b) in the case of a second or subsequent offence, to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

(2) Where a person is convicted of any offence against this Act and the Court by which he is convicted is of the opinion that such offence was committed with intent to defraud, such a person shall be liable in addition to or in lieu of any penalty to imprisonment for a term not exceeding three years.

*(As amended by Act No. 13 of 1994)*

**36.** If a body corporate is convicted of any offence under this Act or any regulations made under this Act, every person-

Offences by bodies corporate

(a) who is a director of the corporation; or

(b) who is concerned in the management of the corporation;

shall be deemed to have committed the same offence if he knowingly authorised or permitted the act or omission constituting the offence.

## **PART VII**

### **MISCELLANEOUS**

**37.** (1) A Metrologist may at all reasonable times-

Power of inspection and entry

(a) enter into any place, vehicle, aircraft or ship where he has reasonable cause to believe there is an instrument which is used in trade and may inspect any such instrument and cause it to be compared with appropriate standards;

(b) seize and detain any instrument or part of any instrument which he has reasonable cause to believe is used contrary to the provisions of this Act; and

(c) close, lock or otherwise seal any instrument which he finds to be used contrary to the provisions of this Act until such time as it can be repaired or adjusted and re-assized or the conditions imposed by the Metrologist are met.

(2) A Metrologist may at all reasonable times-

(a) enter any place, vehicle, aircraft or ship in or from which he has reasonable cause to believe any articles are sold or kept for delivery and may inspect and weight or measure any article found therein;

(b) order any person carrying or delivering any commodity apparently in the course of trade to stop, and may inspect, weight or measure any such commodity;

(c) for the purpose of paragraph (a) or (b), use any assized instrument at the place or vehicle where the commodity is inspected;

(d) order the seller of any article to produce for inspection and, if he thinks it necessary, seize and detain, any invoice, delivery note or other record kept by the seller relating to the weighing or measuring of the commodity;

(e) seize and detain any commodity in respect of which he has reasonable cause to believe that an offence has been committed under this Act; and

(f) order any person mentioned in paragraph (b) or in charge of any place or vehicle mentioned in paragraph (a) to-

(i) provide labour for the handling and weighing or measurement, in terms of this section, of any commodity;

(ii) give the name and address of his employer, if any.

(2A) A Metrologist may, if required to do so by any person on whose premises or property the metrologist has entered in exercise of powers under this section, produce to such person a written authority to enter the premises or property duly issued by the director for purposes of this section.

(2B) A Metrologist may when entering upon any place or property be accompanied by such assistants as the metrologist may require and shall carry such equipment and tools as the metrologist may require for the

performance of functions under this section.

(3) Where a person has any goods in his possession for sale or delivery he shall, if required by an assizer for the purposes of subsection (v), break open or permit the Metrologist to break open any wrapper or container in which the goods are packed.

(4) Any person who-

(a) fails to comply with any order or requirements under this section;

(b) hinders or obstructs a Metrologist's functions under this section; or

(c) impersonates a Metrologist;

commits an offence and is liable, on conviction, to a fine not exceeding twenty thousand penalty units or in default to imprisonment for a term not exceeding two years.

*(As amended by Act No. 13 of 1994 and by Act. No. 12 of 2003)*

**38.** (1) A person shall not make, manufacture, repair or sell, or offer, expose or possess for repair or sale, any instrument unless he holds a valid service licence issued by the Superintendent Assizer authorising such person to do so.

Service Licence

(1A) A foreign technician, fitter or contractor shall not carry out any installation, service or repair works of any weighing or measuring instrument unless such technician, fitter or contractor holds a valid service licence issued by the Director.

(2) Every licence issued under this section-

(a) shall be-

(i) in such form;

(ii) issued on payment of such fees; and

(iii) valid for one year, as may be prescribed by regulation;

(b) may be renewed; and

(c) may contain such conditions and restrictions as may be determined by the Director and specified in the licence.

(2A) Any person who contravenes subsection (1) or (1A) commits an offence and is liable on conviction to a fine not exceeding twenty thousand penalty units or in default to imprisonment for a term not

exceeding two years.

*(As amended by Act. No. 12 of 2003)*

**39.** (1) In any proceedings under this Act in which it is necessary, in order to establish the charge against a person, to prove that a notice or any other means under this Act (1), in respect of any instrument, has been complied with to such instrument, shall be presumed unless the contrary is proved, at all relevant times to have used in trade by that person in the area to which the notice in question relates.

Burden of proof

(2) Where any goods are found on any premises, or in any vehicles, used by any person for trade, the goods shall, unless the contrary is proved, be deemed for the purpose of this Act to be on or in the premises or vehicle for sale.

**40.** The Attorney-General may by action in a court recover the amount of a fee payable in terms of this Act.

Recovery of fees

**41.** Where any instrument is found-

Evidence of possession

(a) in the possession of a person carrying on trade; or

(b) on premises used for trade by any person whether or not such premises are a building or in the open air, and whether or not such premises are open or enclosed;

that person shall be deemed for the purposes of this Act to have such instrument in his possession for use for the purpose of trade.

**42.** A document purporting to be signed by a Metrologist and certifying that a weighing or measuring instrument specified therein was inspected or examined and compared with the standard by him on a specified date, and stating the finding of his examination or inspection, shall be received in any court on production by any person, as prima facie evidence of the facts therein stated.

Judicial notice

*(As amended by Act. No. 12 of 2003)*

**43.** Where a person has been convicted of an offence under this Act, the court may, if it thinks fit, either in addition to or without inflicting any other penalty, order that any instrument, stamp or other article in respect or by means of which the offence was committed be forfeited to the Republic.

Forfeiture

**43A.** (1) On or after the appointed date, there shall be transferred to, and vest in, or subsist against, the Agency by virtue of this Act and without further assurance-

Vesting of assets of Assize Department

(a) the affairs of the Assize Department; and

(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Assize Department.

(2) Except as provided in this Act, every deed, bond and agreement (other than an agreement for personal service) to which the Government was a party immediately before the commencement of this Act in respect of the Assize Department, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof as if-

(a) the Agency had been a party thereto;

(b) for any reference to the Government there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Agency; and

(c) for any reference to any officer of the Assize Department not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Agency as the Agency shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the assize Department shall be construed in accordance with subsection (2) as far as applicable.

*(As amended by Act. No. 12 of 2003)*

**43B.** (1) Where under this Act, any property, rights liabilities and obligations of the Government through the assize Department are deemed transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application in writing to the appropriate authority for registration of the transfer.

Registration of  
property to be  
transferred by  
Government

(2) The registration authority referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to each transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case maybe, and shall make



endorsement on the deeds relating to the title, right or obligation concerned, and no registration fees, stamp duty or other duties shall be payable in respect thereof.

*(As amended by Act. No. 12 of 2003)*

**43C.** (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Agency by virtue of this Act, the Agency and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Agency.

Legal Proceedings

(2) Any legal Proceedings or applications of any authority pending immediately before the commencement of this Act by or against the Government in respect of the Assize Department may be continued by or against the Agency.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Government in respect of the Assize Department may be instituted by or against the Agency.

*(As amended by Act. No. 12 of 2003)*

**43D.** (1) On after the appointed date, the agency shall on such terms and conditions as it may, with the approval of the Minister, determine, appoint as officers of the Agency such public officers from the Assize Department as may be necessary for the performance of the functions of the Agency.

Terms of service of employees of Department

(2) Where an officer from the Public Service is appointed to the service of the Agency-

(a) the terms and conditions of service with the Agency shall not be less favourable than those the officer enjoyed in the Public Service; and

(b) the officer shall be deemed to have retired under section *thirty-nine* of the Public Service Pensions Act.

(3) On or after the appointed date employees of the Assize Department who are not engaged by the agency under subsection (2) shall be retained by the Government and shall-

Act No. 35 of 1996

(a) be redeployed in the service of the Government; or

(b) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35 of 1996

*(As amended by Act. No. 12 of 2003)*

**44.** The Minister, on advice of the Board may by statutory instrument make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or expedient to the proper carrying out of the purposes of this Act.

Regulations

*(As amended by Act. No. 12 of 2003)*

## FIRST SCHEDULE

### BASE UNIT OF SI

The Base Units of the SI are defined as follows

<i>Physical Quantity</i>	<i>Name of Unit</i>	<i>Unit Symbol</i>	<i>Definition</i>
1. Length light in vacuum	metre	m	The metre is the length of the path travelled by light in vacuum during a time interval of $1/299\,792\,458$ of a second
2. Mass mass of the	Kilogram	kg	The kilogram is the unit of mass; it is equal to the international prototype of the kilogram.
<i>Note:</i> This international proto- type is made of platinum, iridium and is kept at the International Bureau of Weights and Measures, Scures, Paris, France.			
3. Time periods of the	Second	S	The second is the duration of $9192631770$ radiation corresponding to the transition between the two hyperfine levels of ground state of the caesium-133 atom.
4. Electrical maintained in two	ampere	A	The ampere is that constant current which, if straight parallel conductors of infinite length, of negligible circular cross-section, and placed one metre apart in vacuum, would produce between these conductors a force equal to $2 \times 10^{-7}$ newton per metre.
5. Thermo- dynamic temperature point of water.	Kelvin	k	The Kelvin, unit of thermodynamic temperature, is the fraction $1/273.16$ of the thermodynamic temperture of the triple
6 Luminosity given direction, of a	candela	cd	The candela is the luminous intensity, in a source that emits monochromatic radiation of frequency $540 \times 10^{12}$ hertz and that has a radiant intensity in that direction is $1/683$ watt per steradian.
7. Amount	Mole	mol	The mole is the amount of substanceof substance of a system which contains as many elementary entities as there are atoms in 0.012 kilogram of carbon 12.

*Note:* When the mole is used, the elementary entities must be

specified and these may be atoms, molecules, ions, electrons, other particles or specified groups or such particles.

## SECOND SCHEDULE

### SUPPLEMENTARY UNITS OF SI

The supplementary units of the SI are defined as follows-

<i>Physical quantity</i>	<i>Name of unit</i>	<i>Unit Symbol</i>	<i>Definition</i>
1. Plane	radian	rad	The radian is the plane angle between two radii of a circle which cut off on the circumference an arc equal in length to the radius.
2. Solid vertex in the	steradian	sr	The steradian is the solid angle which, having its centre of sphere equal to that of a square with sides of length equal to the radius of the sphere.

## THIRD SCHEDULE

### (1) DERIVED UNITS OF *SI*

A derived unit means a unit derived only from the base units set out and defined in the First Schedule or the Supplementary Units set out and defined in the Second Schedule or both by the process of multiplication or division or both without the introduction of any co-efficients. The derived units of *SI* are defined as follows-

<i>Quantity</i>	<i>Nazme</i>	<i>Symbol</i>
Area	Square metre	m <sup>2</sup>
Volume	Cubic metre	m <sup>3</sup>
Speed Velocity	metre per second	m/s
Acceleration	metre per second squared	m/s <sup>2</sup>
Wave number	1 per metre	m <sup>-1</sup>
Density, mass density	kilogram per cubic metre	kg/m <sup>3</sup>
Specific volume	cubic metre per kilogram	m <sup>3</sup> /kg
Current density	ampere per square metre	A/m <sup>2</sup>
Magnetic field strength	ampere per metre	A/m
Concentration (of amount of substance)	mole per cubic metre	mol/m <sup>3</sup>
Luminance	candela per square metre	cd/m <sup>2</sup>

### (2) *SI* DERIVED UNITS WITH SPECIAL NAMES

<i>Quantity of Units</i>	<i>Name</i>	<i>Symbol</i>	<i>Expression in terms of other SI Units</i>	<i>Expression in terms of SI base</i>
Frequency	hertz	Hz		S <sup>-1</sup>
Force	newton	N		m kg S <sup>-2</sup>
Pressure				
Stress	pascal	pa	N/m <sup>2</sup>	m <sup>-1</sup> kg S <sup>-2</sup>
Energy work quantity of heat	Double	J	Nm	m <sup>2</sup> kg S <sup>-2</sup>
Power, radiant, flux	watt	W	J/S	m <sup>2</sup> kg S <sup>-3</sup>
Electric				

charge quantity of electricity	coulomb	C		SA
Electric potential difference, electro-motive force	Volt	V	W/A	$m^2 kg S^{-3} A^{-1}$
Capacitance	farad	F	C/V	$m^2 kg s^{-1} S^4 A^2$
Electric resistance	ohm		V/A	$m^2 kg s^{-3} A^{-2}$
Electric Conductance	siemes	S	A/V	$m^{-2} kg^{-1} s^3 A^2$
Magnetic flux	weber	Wb	V/s	$m^2 kg s^{-2} A^{-1}$
Magnetic flux	tesla	T	Wb/m <sup>2</sup>	$kg s^{-2} A^{-1}$
Inductance	henry	H	Wb/A	$m^2 kg s^{-2} A^{-2}$
Celsius temperature	degree	degreeC		K
Luminous flux	lumen	lm		cd sr (b)
Illuminance	lux	lx	lm/m <sup>2</sup>	$m^{-2} cd sr (b)$
Activity (of a radio-nuclide)	becquerel	Bq		$s^{-1}$
Absorbed dose, specific energy	grey	Gy	J/kg	$m^2 s^{-2}$
Imparted, kerma absorbed dose index dose equivalent index	sievert	Sv	J/kg	$M^2 S^{-2}$

### (3) SI DERIVED UNITS EXPRESSED BY MEANS OF SPECIAL NAMES

<i>Quantity</i>	<i>Name</i>	<i>Symbol</i>	<i>Expression in terms of SI base units</i>
-----------------	-------------	---------------	---

Dynamic viscosity	pascal second	pas	$m^{-1} kg s^{-1}$
Moment of force	newton metre	Nm	$m^2 kg s^{-2}$
Surface tension	newton per metre	Nm	$kg s^{-2}$
Heat flux density, irradiance	watt per square metre	W/m <sup>2</sup>	$kg s^{-3}$
Heat capacity, entropy	joule per kelvin	J/K	$m^2 kg s^{-2} K^{-1}$
Specific head capacity, specific entropy	joule per kilogram kelvin	J/(kg K)	$m^2 s^{-2} K^{-1}$
Specific energy	joule per kilogram	J/kg	$m^2 s^{-2}$
Thermal conductivity	watt per metre kelvin	W/(mK)	$m kg s^{-3} K^{-1}$
Energy density	joule per cubic metre	J/m <sup>3</sup>	$m^{-1} kg s^{-2}$
Electric field strength	volt per metre	V/m	$m kg s^{-3} A^{-1}$
Electric charge density	coulomb per cubic metre	C/m <sup>3</sup>	$m^{-3} s A$
Electric flux density	coulomb per metre square	C/m	$m^{-2} s A$
Permittivity	farad per metre	F/m	$m^{-3} kg^{-1} s^4 A^2$
Permeability	henry per metre	H/m	$m kg s^{-2} A^{-2}$
Molar energy	joule per mole	J/mol	$m^2 kg s^{-2} mol^{-1}$
Molar entropy, molar heat	joule per mole kelvin	J/(mol K)	$m^2 kg s^{-2} K^{-1} mol^{-1}$
Exposure (X and Y rays)	kilogram	C/kg	$kg^{-1} sA$
Absorbed dose	gray per second	Gy/s	$m^2 s^{-3}$

(4) SI DERIVED UNITS FORMED BY USING SUPPLEMENTARY UNITS



<i>Quantity</i>	<i>Name</i>	<i>Symbol</i>
Angular velocity	radian per second	rad/s
Angular acceleration	radian per second squared	rad/s <sup>2</sup>
Radiant density	watt per steradian	W/sr
Radiance	watt per square metre	
Electric	steradian	W m <sup>-2</sup> sr <sup>-1</sup>

(5) SI UNITS TEMPORARY ACCEPTED

<i>Name</i>	<i>Symbol</i>	<i>Approximate Value</i>
Angstrom	Å	1Å = 10 <sup>-10</sup> m
Barn	b	1b = 10 <sup>-28</sup> m <sup>2</sup>
Curie	ci	1ci = 3.7 x 10 <sup>10</sup> s <sup>-1</sup> (exactly)
Gal	Gal	1Gal = 10 <sup>-10</sup> m s <sup>-2</sup>
Metric Carat	CM	1CM = 2 x 10 <sup>-4</sup> kg
Rad	rd	1rd = 10 <sup>-2</sup> J kg <sup>-1</sup>
Roentgen	R	1R = 2.58 x 10 <sup>-4</sup> C kg <sup>-1</sup>
Quintal	q	1q = 100 kg
Standard atmosphere	atm	1 atm = 101 325 pa
Are	a	1 a = 1 dam <sup>2</sup> = 102 m <sup>2</sup>
Hectare	ha	1 ha = 1hm <sup>2</sup> = 104 m <sup>2</sup>
Nautical mile		1 nautical mile = 1852m
Knot		1 knot = 1 nautical mile per hour

## FOURTH SCHEDULE

Units, used with international system, whose values are obtained experimentally.

<i>Name</i>	<i>Symbol</i>	<i>Approximate Value</i>
Electron volt	eV	$1.602\ 19 \times 10^{-19}\text{J}$
Unifical atomic mass	u	$1.660\ 57 \times 10^{-27}\ \text{kg}$
Astronomical unit	AU	$1\text{AU} = 149\ 597\ 870 \times 10^6\text{m}$
Parsec	pc	$1\ \text{pc} = 206\ 265\ \text{AU} = 30857 \times 10^{12}\text{m}$

## FIFTH SCHEDULE

SI prefixes for multiples and sub-multiples

<i>Factor</i>	<i>Prefix</i>	<i>Symbol</i>
$10^{18}$	exa	E
$10^{15}$	peta	P
<i>Factor</i>	<i>Prefix</i>	<i>Symbol</i>
$10^{12}$	tera	T
$10^9$	giga	G
$10^6$	mega	M
$10^3$	kilo	k
$10^2$	hecto	h
$10^1$	deca	da
$10^{-1}$	deci	d
$10^{-2}$	centi	c
$10^{-3}$	milli	m
$10^{-6}$	micro	μ
$10^{-9}$	nano	n
$10^{-12}$	pico	p
$10^{-15}$	femto	f
$10^{-18}$	atto	a

\* Not applicable to the base unit "kilogram" but applicable to the thousandth submultiple thereof, namely the "gram"

## SIXTH SCHEDULE

These are internationally agreed units which are deviations from strict SI. They are permitted either because of their practical importance or because of their use in specialised scientific fields. The Units may be used together with SI units and their multiples and submultiples.

The names of the permitted units, the physical quantities they represent, their symbols and definitions are listed hereunder:-

<i>Physical Quantity</i>	<i>Name of Unit</i>	<i>Symbol</i>	<i>Definition</i>
1. Time	Minute	min	1 min = 60s
	Hour	h	1h = 60 min
	Day	dy	1d = 24h
	Week	wk	1wk = 7d
	Calendar year	yr	1 yr = 365 dys or 366 (leap yr)
2. Plane angle	Degree	°	1 degree = ( $\pi/180$ ) radian
	minute	'	1 minute = (1/60) degree
	second	"	1 inch = (1/60) minute
3. Volume or capacity	litre	l	1l = 1 dm <sup>3</sup>
4. Mass	tonne	t	1t = 1000 kg
5. Pressure Standard atmosphere	bar		1bar = 100, 000 pa
	atm		1 atm = 101325 pa
6. Area	are	a	1 are = 100m <sup>2</sup>
	hectare	ha	1hectare = 10000 m <sup>2</sup>
7. Temperature	degree celsius	°C	1 degree C = 273 K
8. Marine and aerial	nautical mile		1 nautical mile = 1852m
9. Aerial Navigation Knot	Knot		1 Knot = 1 nautical mile per hour

## SEVENTH SCHEDULE

### PART I

#### MEASUREMENT OF LENGTH

Kilometre	-	1000 metres
Metre	-	as defined in the First Schedule
Decimetre	-	1/10 metre
Centimetre	-	1/100 metre
Millimetre	-	1/1000 metre

### PART II

#### MEASUREMENT OF AREA

Hectare	-	100 are
Decare	-	10 are
Are	-	100 square metres
Square metre	-	a superficial area equal to that of a square each side of which measures one metre

### PART III

#### MEASUREMENT OF VOLUME

Cubic metre	-	A volume equal to that of a cube each edge of which measures one metre
Cubic decimetre	-	1/1000 cubic metre
Cubic centimetre	-	1/1,000,000 cubic metre

### PART IV

#### MEASUREMENT OF CAPACITY

Litre	-	The capacity equal to that of a cube each edge of which measures one decimetre
Decilitre	-	1/10 litre
Centilitre	-	1/100 litre
Millilitre	-	1/1000 litre

## PART V

### MEASUREMENT OF MASS OR WEIGHT

Metric ton or tonne	-	1000 kilogram
Quintal	-	100 kilogram
Kilogram	-	Unit of mass as defined in the First Schedule
Hectogram	-	1/10 kilogram
Gram	-	1/1000 kilogram
Carat (metric)		1/5 gram
Milligram		1/1000 gram

## PART VI

### MEASUREMENT OF ELECTRICITY

The following units of measurements, that is to say-

- (a) The Ampere (as the unit of measurement of electrical current);
- (b) The Ohm (as the unit of measurement of electrical resistance);
- (c) The Volt (as the unit of measurement of electrical potential); and
- (d) The Watt (as the unit of measurement of electrical power):

shall have the meanings from time to time respectively assigned by order by the Minister, being the meaning appearing to the Minister to reproduce in English the international definition of the Ampere, Ohm, Volt or Watt as the case may be, in force at the date of making of the order.

1 kilowatt	-	1 000 Watts
1 megawatt	-	1 000 000 watts

## PART VII

Hour	-	60 minutes
Minute	-	60 seconds
Second	-	as defined in the First Schedule

### EIGHT SCHEDULE

Physical weights and measures lawful for use for trade

1. *Capacity measures of:*

10 litres	5 litres	2.5 litres
2 litres	1 litre	500 millilitres

250 millilitres	100 litres	50 millilitres
25 millilitres	20 millilitres	10 millilitres
5 millilitres	1 millilitre	

2. *Weights of:*

20 kilograms	10 kilograms	5 kilograms
2 kilograms	1 kilogram	500 grams
200 grams	100 grams	50 grams
20 grams	10 grams	5 grams
2 grams	1 gram	500 milligrams
200 milligrams	100 milligrams	50 milligrams
20 milligrams	10 milligrams	5 milligrams
2 milligrams	1 milligram	

3. *Metric carat weights of:*

500 carats	200 carats	100 carats
50 carats	20 carats	10 carats
5 carats	2 carats	1 carat
0.5 carat	0.2 carat	0.1 carat
0.05 carat	0.02 carat	0.01 carat
0.005 carat		

4. *Linear measures of:*

50 metres	30 metres	20 metres
10 metres	5 metres	3 metres
2 metres	1.5 metres	1 metre
0.5 metre	0.1 metre	0.01 metre

5. Square measures of, or any multiple of, 1 square decimetre

6. Cubic measures of, or any multiple of, 0.1 cubic metre

**NINTH SCHEDULE**

**FORM A**

**FORM OF CERTIFICATE OF VERIFICATION OF SECONDARY STANDARDS**

We hereby certify that the several secondary standards

.....  
.....  
.....  
.....  
.....

have been this day, duly compared in our presence and found to agree with the national standard.

..... Wardens of the secondary standards.  
.....

Dated this .....day of .....19.....

**FORM B**

**CERTIFICATE OF EXAMINATION OF WORKING STANDARDS**

I hereby certify that the several working standards at Weights and Measures office viz

.....  
.....  
.....

have been this day duly compared by me and found to agree with the secondary standards

Dated this .....day of .....19 .....

.....

*Assizer of Weights and Measures*



## **TENTH SCHEDULE**

The manner in which certain goods shall be sold:

### **PART I: BY WEIGHT**

1. Aerosol products.
2. All food stuffs, other than those specified elsewhere in this Schedule.
3. Animal and pet food.
4. Cement.
5. Cleaning and scouring powder, soap flakes, soap powder, detergents (other than liquid detergents and exceeding 5 litres).
6. Dentifrices.
7. Liquid petroleum gas.
8. Lubricant greases.
9. Nails.
10. Sisal.
11. Solid fertilisers, agricultural material and agricultural salt.
12. Solid fuel.
13. Solid insecticides and solid fungicides.
14. Solid polishes and dressings analogous to solid polishes.
15. Tobacco (including snuff).
16. Cotton.

### **PART II: BY WEIGHT OR NUMBER**

1. Cassava root.
2. Cigars.
3. Cigarettes.
4. Eggs in shell.
5. Fresh fruits.
6. Maize on the cob.
7. Stationery and envelopes.
8. Sweetening tablets and soft drink tablets.

### **PART III: BY CAPACITY MEASURE**

1. Castor oil.
2. Cream (not exceeding 1 litre).
3. Edible oil (not exceeding 1 litre).

4. Intoxicating drinks.
5. Liquid fuel excluding liquid petroleum gas; lubricating oil (not exceeding 20 litres); any mixture of liquid fuel and lubricating oil.
6. Liquid fungicides and liquid insecticides.
7. Liquid polishes and liquid dressings analogous to polishes.
8. Liquid soap; liquid detergents (not exceeding 5 litres).
9. Milk (not exceeding 5 litres).
10. Perfumes and toilet waters.
11. Soft drinks and mineral waters.
12. Squashes and fruit juices.
13. Thinners.
14. Vinegar.
15. Shoe polish.

#### **PART IV: BY WEIGHT OR CAPACITY MEASURE**

1. Charcoal.
2. Distemper.
3. Lubricating oil (exceeding 20 litres).
4. Maize grain.
5. Milk (exceeding 5 litres).
6. Paint, varnish lacquer and paint remover.
7. Sand and ballast.
8. Stainers.
9. Toilet preparations.

#### **PART IV: BY WEIGHT OR LINEAR MEASURE**

1. Bias binding.
2. Elastic.
3. Fencing wire.
4. Knitting and sewing thread.
5. Ribbon.
6. Rope.
7. Sisal twine.
8. String.
9. Tape.
10. Fabrics.

## ELEVENTH SCHEDULE

### QUANTITIES IN WHICH CERTAIN GOODS SHALL BE PRE-PACKED

	(a) <i>Quantity when packed in rigid containers of glass, plastic or metal</i>	(b) <i>Quantity when packed in containers other than rigid containers of glass, plastic or metal</i>
1. 250g, 300g sausage	Bacon and  400g, 500g, 1kg, there- after by steps of 1kg.	100g, 200g, 250g, 300g 100g, 200g,  400g, 500g, 1kg there- after by steps of 1kg.
2.	Barley	- 100g, 200g, 250g, 300g 400g, 500g, 1kg, there- after by steps of 1kg.
3. 1kg, there- peas	Beans,  after by steps of 1kg up to 10kg.	250g, 500g, 1kg, there- 250g, 500g,  after by steps of 1kg up to 10kg.
4.	Beer 400ml, 500ml, 600ml, 750ml.	250ml, 300ml, 375ml, -
5. 150g, 200g	Biscuits  300g, 400g, 500g, 1kg, thereafter by steps of 500g.	50g, 100g, 150g, 200g, 50g, 100g,  300g, 400g, 500g, 1kg, thereafter by steps of 500g.
6. 500g, 1kg	Butter  400g, 500g, 1kg, there- after by steps of 1kg.	100g, 200g, 250g, 300g, 250g,
7. (in shell)	Cashew nuts	- 80kg
8.	Cassava flour	- 500g, 1kg, 2kg, 4kg, 5kg, 60kg.
9. steps	Castor oil  ples of 100ml to 1 litre thereafter by steps of 1 litre.	100ml, then by multi- 100ml, then by  of 100ml to 1 litre.

10.	Castor seed	- 65kg
11.	Cement	- 50kg
12.	Coffee, tea	50g, 100g, 250g, 500g, 50g, 100g,
250g, 500g, (other than tea in chests), cocoa powder, chicory mixture	1kg, thereafter by steps of 1kg.	1kg, thereafter by steps of 1kg.
13.	Cooking fat	100g, 250g, 500g, 1kg, 100g, 250g,
500g, 1kg, including dripping, lard and shredded suet.	thereafter by steps of 1kg.	thereafter by steps of 1kg.
14.	Custard	50g, 100g, 250g, 500g, 50g, 100g, 250,
500g, powder	1kg, thereafter by steps of 1kg.	1kg, thereafter by steps of 1kg.
15.	Charcoal	- 30kg.
16.	Cream (not	100ml, 200ml, 300ml 100ml, 200ml,
300ml, exceeding 1 litre)	400ml, 500ml, 1 litre	400ml, 500ml, 1 litre.
17.	Edible oil	100ml, thereafter by 100ml,
thereafter by	steps of 100ml up to 1 litre; 2 litres, 2.5 litres; 3 litres, thereafter by steps of 1 litre.	steps of 100ml to 1 litre.
18.	Flour of oats,	100g, 250g, 500g, 1kg, 100g, 250g,
500g, 1kg, rice, beans, self-raising flour	thereafter by steps of 1kg.	thereafter by steps of 1kg.
19.	Ghee	500kg, 1kg, 2kg, 3kg, 500g, 1kg,
	4kg, 18kg.	
20.	Jam,	100g, 200g, 250g, 300g,
marmalade honey, jelly	400g, 500g, 1kg, there- after by steps of 1kg.	

21.	Liquid fuel then by steps of 5 litres to 100 litres; thereafter by steps of 10 litres.	250ml, 500ml, 1 litre,
22.	Liquid thereafter by steps of 1 litre.	250g, 500g, 1 litre
	fungicides and liquid insecticides	
23.	Liquid polish of 100ml up to 500ml, thereafter by steps of 1 litre.	100ml, then by steps
24.	Liquid soap; 100ml up to 500ml, 1 litre, thereafter by steps of 1 litre, 20kg in 20 litre tin, thereafter by steps of 10kg.	100ml, then by steps
	liquid of detergents (not exceed- ing 5 litres)	
25.	Lubricating thereafter by steps of 1 litre to 5 litres, 10 litres, 15 litres, 20 litres.	250 ml, 500ml, 1 litre and
	oil, exclud- ing grease (not exceed- ing 20 litres)	
26.	(a) Maize	- 1kg, thereafter by steps of 1 kg up to 10kg, 25kg, 50kg, 90kg.
	(b) Maize grain	- 1kg, thereafter by steps of 1kg up to 10kg, 20kg, 25kg, 50kg, 90kg.
	(c) Maize bram	- 50kg, thereafter by steps of 5kg.
27.	Margarine and thereafter by steps of 1kg to 5kg, 20kg, 180kg.	100g, 250g, 500g, 1kg 100g, 250g,
	500g, 1kg. and mixture of margarine and butter	
28.	Milk (not	100ml, 200ml, 250ml, 100ml, 200ml,
	250ml,	

exceeding 5 litres excluding evaporated unsweetened condensed milk	500ml, 1 litre, thereafter by steps of 1 litre except tinned milk in 100ml, 200ml, 300ml, 400ml, 500ml.	500ml, 1 litre thereafter by steps of 1 litre.
29. 500g, 1kg, including milk food and milk food substitutes for feeding infants	Milk powder  thereafter by steps of 1kg.	100g, 250g, 500g, 1kg, 100g, 250g,  thereafter by steps of 1kg.
30. Sorghum, groundnuts	Millet,	- 90kg.
31. treacle and syrup	Molasses, 500g, 1kg, thereafter by steps of 1kg.	100g, 200g, 300g, 400g,
32. distemper	Paint and 1 litre, 2 litres, 2.5 litres, 5 litres, 20 litres.	125ml, 250ml, 500ml,
33.	Rice	- 250g, 500g, 1kg, 2kg, 2.5kg, 3kg, 4kg, 5kg, and thereafter by steps of 5kg.
34.	Rice bram	- 50kg and thereafter by steps of 5kg.
35.	Rice paddy	- 75kg.
36. 500g, 1kg,	Salt  2kg.	100g, 250, 500g, 1kg, 100g, 250g,  2kg, 25kg, 50kg, 100kg.
37.	Soap	- 25g, 50g, 100g, 150g, 200g, 300g, 400g, 500g, 800g, 1kg, 1.25kg, 1.5kg, 2kg, 2.25kg, 2.5kg, 3kg, and thereafter by steps of 1kg.

38.	Soft drinks and mineral waters	steps of 10ml to 1 litre	100ml thereafter by
39.	Shoe polish		15ml, 30ml, 40ml, 100ml.
40.	Solid polish (other than shoe polish)	then steps of 100g to 1 kg thereafter by steps of 1 kg.	15g, 20g, 40g, 100g,
41.	Spices		5g, 10g, 20g, 30g, 5g, 10g, 20g,
30g,		40g, 50g, 60g, 100g, 200g, 300g, 400g, 500g, 1kg, thereafter by steps of 1kg.	40g, 50g, 60g, 100g, 200g, 300g, 400g, 500g, 1kg, thereafter by steps of 1kg.
42.	Squashes and thereafter by fruit juices	steps of 10ml up to 1 litre. Multiples of 1 litre.	100ml thereafter by 100ml steps of 10ml up to 1 litre. Multiples of 1 litre.
43.	Stout		250ml, 300ml, 500ml, 750ml. -
44.	Sweets (sugar 250g, 500g, 1kg, confectionery).	after by steps of 1kg.	100g, 250g, 500g, 1kg, there- 100g, thereafter by steps of 1kg.
45.	Sugar		- 100g, 250g, 500g, 1kg, thereafter by steps of 1kg to 10kg, 50kg, 100kg.
46.	Toilet paper		- 200, 300 leaves per roll of 140 to 160 sq. cm. per leaf.
47.	Wheat bran		- 250g, 500g, 1 kg, thereafter by steps of 1kg to 10kg, 20kg 50kg, 90kg.
48.	Wheat flour and wheat grain		- 250g, 500g, 1kg, thereafter by steps of 1kg to 10kg; 20kg, 50kg, 90kg.
49.	Wheat pollard		- 50kg thereafter by steps of 25kg.
50.	Bread in any form		- 100g, 250, 500g, 800g, 1kg.

- |                  |             |   |
|------------------|-------------|---|
| 51.<br>(Chibuku) | Opaque beer | - 500ml, 1 litre, 2 litres, 2.5 litres, 5 litres, 10 litres, 20 litres. |
| 52.              | Spirits     | - 35ml or its multiples.  |



## TWELFTH SCHEDULE

### GOODS REQUIRING STATEMENT OF WEIGHT OR MEASURE

#### DESCRIPTION OF GOODS

1. Paint (excluding paint packed in tubes, jars or boxes commonly sold as artists or children's paints).
2. Varnish.
3. Distemper.
4. Thinner.
5. Enamel paint.
6. Lacquer.
7. Strainer.
8. Sewing, knitting and embroidery cotton.
9. Bacon and sausages.
10. Barley.
11. Beans, gram peas.
12. Beer.
13. Biscuits.
14. Butter.
15. Cashew nuts (in shell).
16. Cassava.
17. Castor oil.
18. Castor seed.
19. Cement.
20. Coffee, tea (other than tea in chests) cocoa powder, chicory mixture.
21. Cooking fat including dripping lard and shredded suet.
22. Custard powder.
23. Charcoal.
24. Edible oil.
25. Cream (not exceeding 1 litre).
26. Flour of oats, rice, beans, rye, soya beans, self-raising flour.
27. Ghee.
28. Jam, marmalade, honey, jelly.
29. Liquid fuel.
30. Liquid fungicides and liquid insecticides.
31. Liquid soap, liquid detergent (not exceeding 5 litres).
32. Liquid polish.
33. Lubricating oil excluding grease (not exceeding 20 litres).

34. (a) Maize flour.  
(b) Maize grain.  
(c) Maize bran.
35. Margarine and mixture of butter and margarine.
36. Milk (not exceeding 5 litres) excluding evaporated unsweetened milk and sweetened condensed milk.
37. Milk powder including milk food and milk food substitutes for feeding infants.
38. Millet, groundnuts and sorghum.
39. Molasses, treacle and syrup.
40. Rich bran.
41. Rice.
42. Salt.
43. Rice paddy.
44. Soft drinks and mineral waters.
45. Soap.
46. Solid polish (other than shoe polish).
47. Shoe polish.
48. Squashes and fruit juices.
49. Spices.
50. Sweets (sugar confectionery).
51. Stout.
52. Sunflower seed.
53. Sugar.
54. Wheat bran.
55. Toilet paper.
56. Wheat pollard.
57. Wheat flour and wheat grain.

APPENDIX  
(Section 25)

**THIRTEENTH SCHEDULE**  
**(Section 24)**

**PART I**  
**THE ZAMBIA WEIGHTS AND MEASURES**  
**AGENCY**

1. (1) The seal of the Agency shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of Agency

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of *three* years from the date of appointment and shall be eligible for re-appointment for one further term of *three* years:

Provided that the first member shall be appointed for periods ranging from two to *three* years in order to facilitate retirement by rotation.

Tenure of  
office and  
vacancy

(2) A member may resign upon giving one month's notice, in writing, to the organisation which nominated the member and to the Minister.

(3) The office of the member shall become vacant-

(a) upon the member's death;

(b) if the member is absent without reasonable excuse from

three consecutive meetings of the Board of which the member has had notice;

(c) on ceasing to be a representative of the organisation which nominated the member;

(d) if the member becomes mentally or physically incapable of performing the duties of a member of the Board; or

(e) if the member is declared bankrupt.

(4) On the expiration of the period for which a member is appointed the member shall continue to hold office until a successor has been appointed but in no case shall the further period exceed four months.

**3.** Whenever the office of a member becomes vacant before the expiry of term of office, the Ministry may appoint another member in place of the member who vacates office but that member shall hold office only for the unexpired part of term.

**4.** (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every *three* months at such places and times as the Chairperson may determine.

(3) The Chairperson may, upon giving notice of not less than fourteen days, call a meeting of the Board and shall call a special meeting to be held within *fourteen* days of receipt of a written request to the Chairperson by at least five members of the Board.

(4) If the urgency of any particular matter does not permit the giving of such notices as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter Board.

Filling of casual vacancy

(5) Five members of the Board shall form a quorum at any meeting of the Board.

Proceedings of Board

(6) There shall preside at any meeting of the Board-

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and the Vice-Chairperson such member as the members present may elect for the

purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Board but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

**5.** (1) The Board may, for the purpose of performing its functions under this Act, constitute such committees as it considers necessary and may delegate to any committee such of its functions as it considers fit.

(2) The Board may appoint as members of a committee, persons who are, or are not, members of the Board, except that at least one member of a committee shall be a member of the Board.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board a committee may regulate its own procedure.

**6.** The members of the Board or any committee shall be paid such allowances as the Board may, with the approval of the Minister, determine.

**7.** (1) If a member or person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or person or the member or person's spouse is directly or indirectly interested in a private capacity, the member or person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A declaration of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

**8.** (1) A person shall not, without the consent in writing given by, or on behalf of, the Agency, publish or disclose to any person otherwise than in the course of duties, the contents of any document, communication, or information which relates to, and which has come to the person's knowledge in the course of the person's duties under this Act.

Committees of  
Board

(2) Any person who knowingly contravenes the provisions of subparagraph (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding *ten* thousand penalty units or to imprisonment for a period not exceeding *three* months, or to both.

Allowances for  
members

Disclosure of  
interest

Prohibition of  
disclosure of  
information

## **PART II**

# **FINANCIAL PROVISIONS**

**9.** (1) The funds of the Agency shall consist of such moneys as may- Funds of Agency

(a) be appropriated to the Agency by Parliament for the purposes of the Agency;

(b) be paid to the Agency by way of fees, levy, loans, grants or donations; and

(c) vest in or accrue to the Agency.

(2) The Agency may-

(a) accept moneys by way of grants donations from any source in Zambia and subject to the approval of the Minister, from any source outside Zambia; and

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such money as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Agency-

(a) salaries, allowances, loans, gratuities and pensions of staff of the Agency and other payments for the recruitment and retention of staff;

(b) such reasonable travelling and subsistence allowances for members and members of any committee of the Board when engaged in the business of the Board and at such rates as the Board may, with the approval of the Minister, determine; and

(c) any other expenses incurred by the Agency in the performance of its functions.

(4) The Agency may, with the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

**10.** The financial year of the Agency shall be the period of *twelve* months ending on 31<sup>st</sup> December of each year.

**11.** (1) The Agency shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Agency shall be audited annually by independent auditors appointed by the Agency, subject to the approval of the Minister.

(3) The auditor's fees shall be paid by the Agency.

**12.** (1) As soon as practicable, but not later than *ninety* days after the end of the financial year, the Agency shall submit to the Minister a report concerning its activities during the financial year.

Financial year

(2) The report referred to in subsection (1) shall conclude information on the financial affairs of the Agency and there shall be appended to the report-

Accounts

(a) an audited balance sheet;

(b) an audited statement of the income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

Annual report



## SUBSIDIARY LEGISLATION

### **WEIGHTS AND MEASURES THE WEIGHTS AND MEASURES (ASSIZE) REGULATIONS [ARRANGEMENT OF REGULATIONS]**

## **PART I**

### **PRELIMINARY**

#### Regulation

1. Title
2. Interpretation

## **PART II**

### **GENERAL**

3. Exemptions from the Act
4. Stamp of assize
5. Seal of assize
6. Rejection mark
7. Marking of capacity or denomination
8. Graduations
9. Improper use of instruments, weights or measures
10. Conditions for refusal to assize

## **PART III**

### **WEIGHING INSTRUMENTS**

11. Testing of weighing instruments
12. Limits of error and sensitiveness
13. Paises
14. Counterpoise weights
15. Knife edges and bearings
16. Balance
17. Automatic weighing machines
18. Beam scales
19. Counter machines
20. Crane machines
21. Deadweight machines
22. Platform machines and weighbridges
23. Self-indicating weighing instruments
24. Spring balances
25. Steelyards and wall beams

## **PART IV**

### **WEIGHTS**

26. Weights
27. Weights not assizable

## **PART V**

### **MEASURES**

28. Dry measures of capacity
29. Liquid measures of capacity
30. Measures of length
31. Vehicle tanks

## **PART VI**

# **MEASURING INSTRUMENTS**

- 32. Bulk flowmeters
- 33. Fabric-measuring instruments
- 34. Liquid measuring devices
- 35. Petrol pumps
- 36. Automatic measuring instruments

FIRST SCHEDULE-Tables showing limits of error and sensitiveness:

Table I          Beam scales-Class 1

Table II         Beam scales-Class 2

Table III        Beam scales-Class 3

Table IV         Counter machines

Table V          Crane machines and weighbridges

Table VI         Deadweight machines

Table VII        Platform machines, bench platform machines, dormant platform machines, steelyards and wall beams

Table VIII       Weights

Table IX         Metric carat weights

Table X          Measures of length

Table XI         Measures of capacity

Table XII        Graduated glass measures

SECOND SCHEDULE-Abbreviations of denominations

THIRD SCHEDULE-Denominations of masses and measures which are permitted for use in trade:

Part I Masses

Part II Measures

**SECTION 27-THE WEIGHTS AND MEASURES  
(ASSIZE)  
REGULATIONS\***

**Regulations by the Minister**

\*These Regulations are continued in operation by virtue of section 15 of the Interpretation and General Provisions Act (Cap. 2). Reference to a Section of an Act in these regulations means reference to the Repealed Act.

***Statutory  
Instrument  
175 of  
1971***

## **PART I**

### **PRELIMINARY**

1. These Regulations may be cited as the Weights and Measures (Assize) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"approved" means approved by the Minister;

"assize" includes to re-assize;

"automatic measuring instrument" means a measuring instrument for the automatic measuring and filling of liquids into containers;

"automatic weighing machine" means a weighing instrument in which special self-acting machinery is used to effect all or some of the following:

(a) an automatic feed;

(b) the rapid weighing of pre-determined quantities;

(c) the registration and summation of loads;

or other similar purposes;

"beam scale" means an equal-armed weighing instrument, the pans of which are below the beam;

"bulk flowmeter" means a measuring instrument designed to measure liquid for individual deliveries of 500 litres or more, whether or not individual deliveries of less than 500 litres may also be made by means of the same instrument;

"capacity" means-

(a) in relation to a weighing instrument, the maximum load which it is constructed to weigh as marked on such instrument in accordance with the provisions of regulation 7;

(b) in relation to a measure or measuring instrument, the maximum volume, quantity or length which it is constructed to contain or measure, as the case may be;

"compartment", in relation to a vehicle tank, means a subdivided portion of that tank;

\*These Regulations are continued in operation by virtue of section 15 of the Interpretation and General Provisions Act (Cap. 2). Reference to a Section of an Act in these regulations means reference to the Repealed Act.

"counter machine" means an equal-armed weighing instrument of a capacity not exceeding 30 kg, the pans of which are above the beam;

"crane machine" means-

(a) a suspended unequal-armed compound lever weighing instrument fitted with a loadhook suspended from knife edges, and provided with poises moving over graduated scales to indicate weight;

or

(b) a suspended self-indicating hydraulic or spring-actuated weighing instrument;

which has a capacity of not less than 1,000 kg;

"deadweight machine" means an equal-armed weighing instrument of a capacity exceeding 50 kg, the pans or platform of which are above the beam;

"difference chart", in relation to a weighing instrument, means a chart on which, by means of a pointer or other indicator, excess or deficiency from a pre-determined weight is indicated;

"error", in relation to an instrument, means the extent to which such instrument indicates in excess or deficiency of standard weight or measure;

"fabric-measuring instrument" means a measuring instrument designed and constructed to measure and to indicate the length of fabric or other material passed through it;

"liquid measuring device" means a measuring instrument provided with a measuring chamber or chambers designed for filling barrels, bottles, drums or other containers with pre-determined quantities of liquid or for dispensing liquids in small quantities from bulk;

"petrol pump" means a measuring instrument provided with either a meter or one or more measuring chambers, designed to measure liquid fuel or lubricating oil for individual deliveries of less than 500 litres, whether or not individual deliveries of more than 500 litres can also be made by means of the same instrument;

"platform machine" means an instrument other than a weighbridge used for determining the mass of a load supported on a platform not exceeding 3 m by 2 m in size and 5,000 kg load capacity, and shall include any instrument prescribed by the Minister as a platform machine;

"repaired", in relation to an instrument, means that the instrument has, since it was last assized, had an addition, replacement, repair or

adjustment made to a part which is essential to the use of such instrument;

"self-indicating weighing instrument" means a weighing instrument other than a spring balance on which the whole or a part of the weight of the goods weighed is indicated by means of a pointer moving over a chart, or by means of a chart moving in relation to a fixed pointer, and shall include any instrument prescribed by the Minister as a self-indicating weighing instrument;

"sensitiveness", in relation to a weighing instrument, means the actual weight which causes the beam or steelyard to turn;

"spring balance" means a weighing instrument having a capacity of less than 1,000 kg in which weight indications are dependent on the extension of springs and which is so constructed that the load is below the springs and is suspended directly from them;

"steelyard" means-

(a) a suspended unequal-armed single-lever weighing instrument, the shorter arm of which carries a loadhook suspended from knife edges, whilst the longer arm is provided with a poise moving over a graduated scale to indicate weight;

(b) a steelyard provided on a platform machine, weighbridge or other similar weighing instrument;

as the context requires;

"Table" means the appropriate table of allowances prescribed in the First Schedule;

"vehicle tank" means a measure mounted on a motor vehicle or trailer and used for the measurement of liquid fuel;

"vibrating weighing instrument" means a weighing instrument so constructed that the beam or steelyard returns to or oscillates about the position of equilibrium when disturbed therefrom;

"wall beam" means an unequal-armed multi-lever weighing instrument

designed to be affixed to a wall, having a loadhook suspended from knife edges on the lower lever, and provided with poises moving over graduated scales to indicate weight;

"weighbridge" means an instrument for determining the mass of a load carried by a vehicle for transport on a highway or railway, such load and vehicle being supported on a platform, or on rails fitted to a system of levers or load cells and indicating the mass by means of a steelyard, a spring or pendulum device or a digital counter, or printing mechanism which may be supplemented by a remote read-out or print-out mechanism in addition to any indicator at the actual weighbridge site, and shall include any instrument prescribed by the Minister as a weighbridge.

## **PART II**

### **GENERAL**

**3.** The provisions of the Act shall not apply to-

- (a) electricity meters;
- (b) gas meters;
- (c) taxi-meters;
- (d) water meters;
- (e) instruments used for grading or testing agricultural produce by weight.

Exemptions  
from the Act

**4.** The stamp of assize shall be a stamp incorporating the eagle of the Armorial Ensigns of Zambia, the letters "GRZ" and a stamp bearing a number signifying the year of assize.

Stamp of assize

**5.** (1) The seal of assize shall be a lead seal bearing a stamp incorporating the eagle of the Armorial Ensigns of Zambia, the letters "GRZ" and a letter of the alphabet.

Seal of assize

(2) Where use is made of a seal or seals of assize in terms of these Regulations, the removal of any such seal from an assized instrument shall be deemed to render that instrument unassized.



**6. (1)** The rejection mark shall be a mark of six-pointed star design. Rejection mark

(2) For the purposes of section *fourteen* of the Act, an assizer shall reject an instrument, weight or measure-

(a) if such instrument, weight or measure bears a stamp of assize, by obliterating such stamp with a rejection mark;

(b) if such instrument, weight or measure does not bear a stamp of assize, by stamping the rejection mark in a suitable position thereon;

(c) if such instrument bears a seal of assize, by the removal or defacing of such seal.

**7. (1)** The capacity of a weighing instrument shall be clearly and conspicuously stamped on the beam or steelyard or on a metal plate permanently secured to some prominent part of the instrument. Marking of capacity or denomination

(2) The capacity of a fabric-measuring instrument shall be clearly and conspicuously stamped thereon.

(3) The denomination of a weight shall, except where the small size of it renders it impracticable, be clearly and conspicuously stamped on an upper surface of the weight.

(4) The capacity of a measure shall, unless otherwise prescribed, be clearly and conspicuously stamped on the outside of the measure or on a metal plate permanently secured thereto.

(5) When an instrument, weight or measure is marked with its capacity or denomination, as the case may be, the denomination of weight or measure shall be stated in full or, in respect of a denomination specified in the first column of the Second Schedule, in full or in the abbreviated form specified opposite thereto in the second column of the Second Schedule.

**8. (1)** The graduations on an instrument or measure shall- Graduations

- (a) be indelible, clear, distinct and legible;
- (b) except in respect of a graduated glass measure, be uniformly spaced;
- (c) in the case of denominated graduations, be distinguished by longer lines than the intermediate graduations.

(2) The graduations on a steelyard shall-

- (a) consist of notches or incised or embossed lines so defined that the position of the poise with respect thereto is clearly indicated;
- (b) be cut, incised or embossed in one plane, at right angles to the steelyard and parallel to each other.

**9.** (1) No person shall use in trade an instrument which is erected or placed upon an unsuitable or insufficiently strong or stable base or foundation.

Improper use of instruments, weights or measures

(2) No person shall use in trade a platform machine or weighbridge to ascertain the weight of any vehicle or other article unless such instrument-

- (a) has a platform or platforms or a rail or rails, as the case may be, of sufficient size to support completely such vehicle or other article; and
- (b) is of sufficient capacity to permit of the weighing of such vehicle or other article when so supported on the platform or platforms, or rail or rails, as the case may be:

Provided that nothing shall prevent the use of any weighbridge to weigh one or more axles of a vehicle for the purposes of administering any law relating to road traffic.

(3) A person shall not use a counter machine or a self-indicating

weighing instrument provided with a sliding or tare weight otherwise than for factory use.

(4) A person shall not use in trade a spring balance which is not of a type approved in accordance with section *twelve* of the Act.

(5) Where a person uses in trade a dry measure of capacity for the measurement of any article, he shall ensure that the article is neither heaped nor pressed in the measure, but is level with the brim.

(6) Where two or more measures of length are attached to a counter, no person shall use in trade such measures unless they are contiguous or are not less than one metre apart.

(7) Where a person in a shop or other place sells by retail by weight any article which is weighed in the sight and presence of the purchaser and delivered to him immediately thereafter, he shall use for such weighing a weighing instrument which is so sited that the weighing and the weight indicated by the instrument are clearly visible to the purchaser at all times.

(8) No person shall use in trade, for the sale of liquid fuel, a bulk flowmeter for other than the liquid indicated thereon in accordance with regulation 32 (1) (f):

Provided that a bulk flowmeter marked "C" or "Diesel" may be used for paraffin or petrol or a prescribed liquid and a bulk flowmeter marked "B" or "Paraffin" may be used for petrol or a prescribed liquid.

(9) No person shall use or keep for use in trade any type of instrument made or sold for domestic, educational or health purposes and all such instruments imported into, manufactured or assembled in, Zambia shall be clearly marked "ILLEGAL FOR USE IN TRADE".

(10) No person shall supply any new or repaired instrument unless it has been assized:

Provided that any instrument which cannot be assized for any reason

shall be clearly marked "ILLEGAL FOR USE IN TRADE".

**10.** (1) An assizer shall refuse to assize an instrument, weight or measure which-

Conditions for  
refusal to assize

(a) is not properly constructed or when, in his opinion, its material or mode of construction or any part thereof or its nature or condition appears likely to render it unsuitable for use in trade;

(b) has unusual or novel features, unless it is of a design or pattern in respect of which a certificate has been issued in terms of section *twelve* of the Act;

(c) is not sufficiently strong to withstand the wear and tear of ordinary use in trade;

(d) is not complete in itself;

(e) is not in a clean state;

(f) bears a manufacturer's or other mark which might be mistaken for the stamp of assize.

(2) An assizer shall refuse to assize an instrument which-

(a) has interchangeable or reversible parts, unless the interchange or reversal does not affect the accuracy of the instrument;

(b) has removable parts, the removal of which would affect the accuracy of the instrument, unless the parts are such that the instrument cannot be used without them.

(3) An assizer shall refuse to assize a weighing instrument which-

(a) has a scoop, pan, plate or other part which is essential to its operation broken;

(b) has a scoop, pan or plate of such size or shape as may lead to incorrect weighing either through its fouling the housing of the scale, or

because proper contact between the knife edge and bearings is disturbed;

(c) has a goods-plate which is readily absorbent on account of faulty glazing or on account of the extent to which it is cracked or chipped;

(d) has a friction plate, stay, hook or loop which is not of hardened steel or an approved material;

(e) has packing at the knife edges which, in the opinion of the assizer, is either excessive as to the number of pieces or is in other respects unsuitable for the purpose.

(4) An assizer shall refuse to assize an accelerating weighing instrument, other than an accelerating deadweight machine.

(5) An assizer shall refuse to assize-

(a) a petrol pump driven by means of an electric motor unless the supply of electricity to such motor is controlled by switches, fuses or cut-out devices isolated from the pump and locked securely to prevent unauthorised use or interference;

(b) a bulk flowmeter fitted with gravity and power delivery systems if the change-over valve leaks any quantity in excess of 0.5 litre when set in any position.

(6) An assizer shall refuse to assize and on inspection shall reject any instrument alleged to conform to an international specification until such specification is approved.

## **PART III**

# **WEIGHING INSTRUMENTS**

**11.** (1) Subject to the provisions of this regulation, a weighing instrument shall be tested by the direct application of standard weights.

Testing of  
weighing  
instruments

(2) An automatic weighing machine shall be tested-

(a) where practicable, by the direct application of standard weights;  
and

(b) by comparing the load delivered against standard weights.

(3) Subject to the provisions of sub-regulation (5), a weighbridge shall be tested by the direct application-

(a) of standard weights; or

(b) of test weights provided by the owners, contractors or the Government.

(4) Subject to the provisions of sub-regulation (5), a weighing instrument kept in stock for sale which is tested on the premises of a dealer in or repairer of scales shall be tested by the direct application-

(a) of standard weights; or

(b) of test weights provided by the dealer or repairer, as the case may be.

(5) When a weighing instrument is tested and sufficient standard or test weights are not available, auxiliary material may be used to make weight.

**12.** (1) A weighing instrument shall be tested for error by ascertaining the weight required to overcome the error in that instrument.

Limits of error  
and  
sensitiveness

(2) A vibrating weighing instrument shall be tested for sensitiveness by loading the instrument to its capacity, or as near thereto as is practicable, with the beam or steelyard in a horizontal position and ascertaining that the addition of the amount shown in the appropriate table for an instrument of that class and capacity causes the beam or steelyard to

turn.

(3) An accelerating deadweight machine shall be tested for acceleration by loading the instrument to its capacity, or as near thereto as is practicable, with the beam at the extremity of its travel, and ascertaining that the subtraction of the amount shown in the third column of Table VI for an instrument of that capacity causes the beam to return to its initial position.

(4) The limit of error allowed and the sensitiveness required in a weighing instrument of a particular class shall be-

(a) in the case of a new or repaired instrument, the appropriate limit of error and sensitiveness prescribed in this Part;

(b) in the case of a weighing instrument, other than an automatic weighing or measuring instrument, which is not new or repaired, twice the appropriate limit of error and sensitiveness prescribed in this Part.

(5) The limit of error allowed and the sensitiveness required in a weighing instrument of a capacity not specified in the appropriate table shall be the limit of error and the sensitiveness which bear the same proportion to the capacity of that instrument as the limits of error and sensitiveness for a similar instrument of the next lower capacity specified in the table bear to the capacity of such latter instrument.

(6) Where a weighing instrument is tested at graduations below the capacity of that instrument, the limit of error allowed shall be-

(a) below one-quarter of the capacity, one-quarter of the prescribed limit of error;

(b) one-quarter of the capacity or over but not exceeding three-quarters of the capacity, one-half of the prescribed limit of error;

(c) above three-quarters of the capacity, the prescribed limit of error.

**13.** (1) Where lead is used for adjusting purposes on any poise, it shall Poises

not come into contact with the beam or steelyard.

(2) A poise shall be provided with an adjusting hole of such size, shape and design as to permit readily of necessary adjustment.

(3) A poise shall be so constructed that no part thereof can be detached without the use of a mechanical appliance.

**14.** (1) A counterpoise weight shall be marked in equivalents of 5 kg, 10 kg, 20 kg, 25 kg, 50 kg, or 100 kg. Counterpoise weights

(2) A counterpoise weight used, or intended for use, on a platform machine used for weighing corrosive articles, including hides and skins, shall be made of brass, nickel-steel, or other corrosion-resisting metal.

(3) A counterpoise weight shall have only one undercut adjusting hole containing fixed lead sufficient to cover adequately the bottom of such hole, and with room to permit future adjustments.

(4) A counterpoise weight of an actual weight of 100 grams or less shall be made of brass.

(5) Subject to the provisions of sub-regulation (6), where more than one platform machine, provided with counterpoise weights, is kept or used by any person on any premises or on a public market, each such counterpoise weight shall be identified with the weighing instrument to which it belongs by-

(a) a number conspicuously and indelibly marked and corresponding to a number similarly marked on the pillar and on the counterbalance of the instrument; or

(b) a band of paint, of a colour in distinct contrast to the colour of the weight, on the edge of the weight, corresponding to a band of paint of the same colour on the pillar and on the counterbalance of the instrument.

(6) The provisions of sub-regulation (5) shall not apply to any



counterpoise weight adjusted to a ratio of 50:1 or 100:1 precisely.

(7) A counterpoise weight of metric denomination shall be distinctly different from any other counterpoise weights in shape or in colour.

**15.** (1) Knife edges shall-

Knife edges and bearings

(a) be firmly secured in position;

(b) be in true parallelism; and

(c) bear throughout the entire length of the parts designed to be in contact with the bearings.

(2) Knife edges and bearings shall be of hardened steel, agate or an approved material and the load-carrying parts shall not show scratches when tested by means of the application of a superfine smooth file.

**16.** (1) A weighing instrument shall be in balance-

Balance

(a) when unloaded; and

(b) where a loose receptacle or frame is used in conjunction with such instrument, when the receptacle or frame is attached thereto.

(2) Balance shall be indicated-

(a) in the case of a vibrating weighing instrument, by the beam or steelyard returning to the position of equilibrium when disturbed therefrom;

(b) in the case of a self-indicating weighing instrument or a weighing instrument provided with a graduated indicating plate or a difference chart, by the pointer coming to rest at the position of equilibrium or zero graduation with the bubble of any spirit level provided in its true position;

(c) in the case of a counter machine constructed on the Beranger principle, by two pointers, each attached to a subsidiary beam, coming to rest directly opposite each other;

(d) in the case of an accelerating deadweight machine, by the beam, on being released from the stop under the weights-pan, falling gently to the stop under the goods-pan.

(3) Balance shall not be affected when the load is removed from the instrument.

(4) Where a weighing instrument is provided with a balance box or a balance or gravity ball, such device shall be capable of adjustment only by the use of a mechanical appliance.

**17.** (1) An automatic weighing instrument shall be-

Automatic  
weighing  
machines

(a) if of a pattern brought into use after the 30th October, 1959, certified by the Minister in terms of section *twelve* of the Act;

(b) securely fixed in the position in which it will operate;

(c) tested *in situ* with the material or produce it is intended to weigh;

(d) fitted with seals to protect all adjusting devices or have all such devices operable only with a special detachable key;

(e) marked with clear marks of identification on all parts that require to be dismantled for any purpose whatsoever, such marks to give a clear indication of the parts which are to match on reassembly;

(f) provided with suitable means of extracting from any hopper or conveyor such loads or sample deliveries as the assizer may require for his tests;

(g) tested by taking, subject to the provisions of regulation 11 (2), not less than twenty sample deliveries either at random or in sequence,

such test to be repeated as many times as the assizer considers necessary;

(h) marked with a stamp of assize upon a lead plug in a conspicuous place on the beam, main body or frame of the instrument.

(2) Subject to the provisions of regulation 12, the limits of error allowed on an automatic weighing machine shall be-

(a) for instruments in excess of 100 grams capacity-

(i) maximum error in excess of the amount purported to be delivered-one-half per centum in any article of the twenty or more samples;

(ii) maximum error in deficiency of the amount purported to be delivered-one-quarter per centum;

(iii) such that the average error of a sample of twenty or more deliveries does not exceed one-quarter per centum in excess only;

(b) for instruments of 100 grams or less in capacity, the errors allowed shall be double those specified in paragraph (a).

**18.** (1) Beam scales shall be classified as follows:

Beam scales

(a) Class 1, comprising precision balances provided with means for relieving all the knife edges and bearings and including single pan balances, optical projection balances and balances with weight-loading devices;

(b) Class 2, comprising cream test beams and beam scales, other than Class 1 beam scales, used for weighing chemicals, drugs, fine seeds or precious metals or stones;

(c) Class 3, comprising beam scales other than Class 1 or Class 2 beam scales.

(2) A new or repaired Class 2 or Class 3 beam scale shall be stamped "Class 2" or "Class 3", as the case may be.

(3) Any device for adjusting the balance of a beam scale shall be

permanently secured and so attached that it cannot readily be tampered with:

Provided that a Class 1 or Class 2 beam scale may be fitted with-

- (i) threaded balancing screws at the extremities of the beam;
- (ii) flags; or
- (iii) an approved balancing device.

(4) In a beam scale provided with a pointer moving across a graduated indicating plate or difference chart, the pointer shall travel beyond the extreme graduation on each side of the point of equilibrium or zero graduation; if the chart is graduated on the heavy side only, the pointer shall travel beyond the extreme graduation on that side and for a corresponding distance on the ungraduated side.

(5) A beam scale shall be tested-

- (a) with the pan loaded to half the capacity of the scale, and any difference in the accuracy of the instrument resulting from moving the knife edges or bearings laterally, or backwards or forwards, within the limits of movement, shall not exceed half the limit of error prescribed in sub-regulation (6);
- (b) at capacity.

(6) Subject to the provisions of regulation 12, the limit of error allowed and the sensitiveness required in a Class 1, Class 2 or Class 3 beam scale of a capacity specified in the first column of Table I, II or III, as the case may be, are those specified opposite thereto in the second column of Table I, II or III, as the case may be.

(7) On a beam scale the stamp of assize shall be stamped upon a lead plug inserted in the beam immediately under or over the fulcrum knife edge or as near thereto as is practicable or, where the beam is totally enclosed in a housing, upon a lead plug securely fitted in a cup riveted to that housing.

**19. (1) In a counter machine-**

- (a) the supports for the pans shall be of rigid structure;
- (b) the centre fork shall be so secured that it cannot twist or get out of place.

(2) A counter machine constructed on the Beranger principle shall, if it is-

- (a) a closed Beranger, have-
  - (i) its working parts totally enclosed in a housing;
  - (ii) pans which, if interchangeable, do not affect the balance when interchanged;
- (b) an open Beranger, have-
  - (i) a capacity not exceeding 15 kg;
  - (ii) a number stamped on any loose pan and on the frame or beam, such number commencing with the final two digits of the year in which it was manufactured;
  - (iii) the weights-pan of integral construction or securely fixed to its cross by means of two or more rivets;
  - (iv) the support for the goods-pan of welded or riveted construction and without holes in its upper surface;
  - (v) a frame of cast iron or mild steel, which stands level upon a level plate without rocking;
  - (vi) in the case of a steel frame, not less than three spreaders between the two sides to stiffen them;
  - (vii) if it is provided with anchor links, such links irremovable without the use of a mechanical appliance, and hardened taper pins as guard pins for securing such links;
  - (viii) pans of such shape that no tipping of the pan occurs when weights equal to half the capacity of the machine are placed in any position on either pan.

(3) Material used for balancing purposes shall be contained in a balance box which is-

(a) securely fixed to the under surface of a fixed weights-pan or of the support for a weights-pan;

(b) capable of containing lead to a weight not exceeding one per centum of the capacity of the machine.

(4) On a counter machine the travel of the beam each way from the horizontal position shall be, where the capacity of the machine is-

(a) not over 2 kg, not less than 6 mm;

(b) over 2 kg and not over 5 kg, not less than 7 mm;

(c) over 5 kg and not over 10 kg, not less than 8 mm;

(d) over 10 kg and not over 20 kg, not less than 10 mm;

(e) over 20 kg, not less than 12 mm.

(5) A counter machine shall be tested-

(a) with the pan loaded to half the capacity of the machine and any difference in the accuracy of the instrument resulting from moving the knife edges or bearings laterally, or backwards and forwards, within their limits of movement, shall not exceed half the limit of error prescribed in sub-regulation (6);

(b) with a weight or weights equal to half the capacity of the machine placed on the goods-pan anywhere within a distance from the centre equal to one-third the greatest length of the pan, or, if the pan has a vertical side, against the middle of that side, and a similar weight placed in any position on the weights-pan, and the machine shall indicate the same weight within half the limit of error prescribed in sub-regulation (6);

(c) at capacity with the weights placed centrally on each pan, unless

the goods-pan is in the form of a scoop in which case half the total weight shall be placed against the middle of the back of the scoop and the other half in any position on the scoop.

(6) Subject to the provisions of regulation 12, the limit of error allowed and the sensitiveness required in a counter machine of a capacity specified in the first column of Table IV are those specified opposite thereto in the second column of Table IV.

(7) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the beam:

Provided that in the case of a closed Beranger it may be stamped upon the housing or upon a lead plug inserted therein.

**20.** (1) In a crane machine the range of balance shall not exceed two per centum of the capacity of the machine. Crane machines

(2) A crane machine shall be tested at as many numbered graduations as the assizer considers necessary.

(3) Subject to the provisions of regulation 12, the limit of error allowed and the sensitiveness required in a crane machine of a capacity specified in the first column of Table V shall be double those specified opposite thereto in the second column of Table V.

(4) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous part of the steelyard or, where the machine has no steelyard, of the housing.

(5) An assizer shall refuse to assize a crane machine not constructed on the lever principle unless it is of a design or pattern in respect of which a certificate has been issued in terms of section *twelve* of the Act.

**21.** (1) In a deadweight machine-

Deadweight  
machines

(a) any goods platform shall not exceed in length the length of the beam and in width double the width of the beam and shall not be fitted with folding wings which increase such dimensions by more than one-third in either direction;

(b) any platform shall be made of metal or an approved material.

(2) Material used for balancing purposes shall be contained in a balance box securely fixed to the under surface of a platform.

(3) The travel of the beam from the horizontal position shall be not less than-

(a) in the case of an accelerating deadweight machine, 20 mm;

(b) in the case of a deadweight machine which is not an accelerating deadweight machine, 15 mm either way.

(4) A deadweight machine shall be tested-

(a) with weights equal to half the capacity of the machine placed successively at the middle of the front and of the back of each platform and centrally over the knife edges on each side, and the machine shall indicate the same weight within half the limit of error prescribed in sub-regulation (5);

(b) at capacity, and the weights shall be distributed evenly on the platforms.

(5) Subject to the provisions of regulation 12, in a deadweight machine of a capacity specified in the first column of Table VI-

(a) which is an accelerating deadweight machine, the limit of error allowed and the weight required to bring the beam back from its position of maximum displacement are those specified opposite thereto in the second and third columns respectively of Table VI;

(b) which is not an accelerating deadweight machine, the limit of



error allowed and the sensitiveness required are those specified opposite thereto in the second column of Table VI.

(6) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the beam.

**22.** (1) In a platform machine or weighbridge-

Platform  
machines and  
weighbridges

(a) the upper surface or edge of the steelyard shall be in a straight plane from the zero graduation to the nose end;

(b) there shall be no readily removable parts other than the counterbalance to support the counterpoise weights;

(c) adequate stops shall be provided to prevent any poise from travelling behind the zero graduation;

(d) provided with a load-carrying rail or rails, such rail or rails shall be distant from any other rail or rails not less than 10 mm: where such load-carrying rails overlap or have a bridging piece, a gap of 5 mm shall be maintained between such overlapping parts.

(2) A weighbridge shall have-

(a) provision for adequate drainage and the pit kept free from any accumulation of water, mud or debris;

(b) its approaches smooth, straight and level for a distance not less than the length of the platform at each end of such weighbridge;

(c) the building housing the chart or steelyard so constructed that the operator has a clear and unobstructed view of the entire platform or platforms;

(d) the platform so protected as to allow vehicles to pass on and off the platform at the ends only;

(e) foundations of adequate strength to support, without change of position, both the mechanism and a load equal to the capacity of the weighbridge;

(f) provision for adequate reinforcement in any concrete work to resist any point loading in any direction to the satisfaction of a competent civil engineer.

(3) Where a platform machine or weighbridge is not provided with a tare-beam, the weight of any loose receptacle or frame used in conjunction with the instrument shall be accurately compensated for by means of a counterpoise weight distinctive in shape from any of the ordinary counterpoise weights belonging to the instrument; such compensating weight shall have the words "TARE WEIGHT" legibly and conspicuously stamped on its edge.

(4) The range of balance-

(a) in a platform machine, shall not exceed one-half per centum of the capacity of the machine and shall be not less than one-eighth per centum of such capacity each way from the centre of travel of the ball;

(b) in a weighbridge, shall be double the range permitted in a platform machine.

(5) The travel of the steelyard each way from the horizontal position shall be not less than-

(a) in a platform machine, 10 mm;

(b) in a weighbridge, 12 mm.

(6) A platform machine or weighbridge shall be tested-

(a) with a load which is equal to, or is as near as is practicable to, one-quarter of its capacity, and the machine shall indicate the same weight within half the limit of error prescribed in sub-regulation (7), whether the load is placed on the middle or near the ends or corners of the platform;

(b) at as many numbered graduations of the steelyard or chart as the assizer considers necessary, and also each individual counterpoise weight, drop weight, tare bar, weigh bar, or any other device used to increase the capacity of the machine shall be tested;

(c) at capacity, with the weights and materials evenly distributed on the platform;

(d) and the instrument shall be correct whether the test is forward or backward;

(e) in the case of a dormant platform machine, weighbridge or overhead weigher, *in situ*, and it shall be correct when the load is run on or off the platform or load-carrying rail, as the case may be;

(f) and it shall, if fitted with a locking handle or relieving gear, be correct when the machine is put slowly out of and into action.

(7) Subject to the provisions of regulation 12, the limit of error allowed and the sensitiveness required are-

(a) in the case of a platform machine of a capacity specified in the first column of Table VII, those specified opposite thereto in the second column of Table VII;

(b) in the case of a weighbridge of a capacity specified in the first column of Table V, those specified opposite thereto in the second column of Table V.

(8) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible position on the instrument and the official date stamp shall be stamped upon the lead in the adjusting hole of any counterpoise or tare weight.

(9) An assizer shall refuse to assize-

(a) an instrument of the type known as Union scales;

(b) a platform machine having counterpoise weights which, when added to the full value of the steelyard reading, represent a weight greater or less than the capacity of the machine.

**23.** (1) In a self-indicating weighing instrument-

Self-indicating  
weighing  
instruments

(a) in which weight indications are dependent on the extension of a spring or springs, such spring or springs shall be iso-elastic or a temperature compensating device shall be incorporated;

(b) other than a dormant platform machine, weighbridge, suspended self-indicating weighing instrument or a self-indicating weighing instrument specifically designed for use in an out-of-level position, a circular spirit level or cross spirit level shall be provided;

(c) error due to parallax shall not exceed the value of the smallest subdivision;

(d) the indicating wire or the extremity of the indicating pointer shall not exceed in width or thickness the width of any graduation, and the extremity of the pointer shall meet but not obscure the graduations;

(e) which is new or repaired and is provided with a cylindrical or revolving chart, any indicating wire shall be a single wire;

(f) in which the chart is partly enclosed, the aperture through which the indications are read shall be sufficiently large to permit the next lower numbered graduation to be read.

(2) The graduations on the chart shall-

(a) in the case of a platform machine or weighbridge-

(i) not exceed 0.8 mm or 1.5 mm in width in a platform machine or weighbridge respectively; and

(ii) be not less than 3 mm apart, measured from centre to centre, whether or not they are on opposite sides of a dividing line;

(b) in the case of a self-indicating weighing instrument other than a

platform machine or weighbridge-

- (i) not exceed 0.4 mm in width;
- (ii) be not less than 1.5 mm apart, measured from centre to centre, whether or not they are on opposite sides of a dividing line:

Provided that a lens or other approved device may be fitted to the instrument for the purpose of magnifying the graduations so as to bring them into conformity with the provisions of this sub-regulation.

(3) The weight value of the smallest subdivision of the chart shall, where the capacity of the chart is-

- (a) not over 1 kg, not exceed 5 g;
- (b) over 1 kg and not over 10 kg, not exceed 10 g;
- (c) over 10 kg and not over 15 kg, not exceed 20 g;
- (d) over 15 kg and not over 25 kg, not exceed 50 g;
- (e) over 25 kg and not over 50 kg, not exceed 100 g;
- (f) over 50 kg and not over 100 kg, not exceed 200 g;
- (g) over 100 kg and not over 250 kg, not exceed 500 g;
- (h) over 250 kg and not over 500 kg, not exceed 1 kg;
- (i) over 500 kg and not over 1,000 kg, not exceed 2 kg;
- (j) over 1,000 kg and not over 2,000 kg, not exceed 5 kg;
- (k) over 2,000 kg and not over 5,000 kg, not exceed 10 kg;
- (l) over 5,000 kg and not over 15,000 kg, not exceed 20 kg;
- (m) over 15,000 kg, not exceed 50 kg.

(4) Paragraphs (a) to (m) shall apply to the value of steps in any digital or printing mechanism fitted to a self-indicating instrument, but where no dial is fitted to the instrument, weight values of half the amounts shown in this Part may be allowed in accordance with any certificate of pattern issued pursuant to section *twelve* of the Act.

(5) A self-indicating weighing instrument shall be tested-

(a) to ensure that the graduations indicating value in money are in alignment with those indicating weight, and a sufficient number of computations shall be checked to establish their accuracy;

(b) at as many graduations as the assizer considers necessary, and the instrument shall be correct whether the test is forward or backward;

(c) to ensure that the instrument, if fitted with two charts indicating weight, shows the same indication on both;

(d) if it is specifically designed for use in an out-of-level position, with the instrument in a level position and again with the instrument in an out-of-level position.

(6) Where a self-indicating instrument is designed to print tickets or provided with a digital read-out, any indication at zero shall show either a true zero or, if the balance is incorrectly set, then a false balance shall be indicated or printed, as the case may be.

(7) All self-indicating ticket printing instruments shall have an efficient stop fraud device to prevent the printing operation being performed before the indicator has come to rest or to prevent the printing of a ticket showing a weight that does not correspond with the weight indicated.

(8) Subject to the provisions of regulation 12-

(a) the limit of error allowed on a self-indicating weighing instrument is the weight corresponding to one-half of the smallest subdivision on the chart;

(b) the error on a self-indicating ticket printing or digital read-out

shall not exceed plus or minus one division of the chart, one step of the printing series or one increment of the digital read-out, as the case may be.

(9) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the instrument.

**24.** (1) In a spring balance-

Spring balances

(a) the chart shall-

(i) be clearly and idelibly marked "TRADE SPRING BALANCE" or "FOR TRADE USE";

(ii) bear a statement of the weight value of the smallest sub-division;

(iii) be made of white enamel, polished brass, or an approved material so protected that the graduations and other markings are clearly visible;

(b) the graduations on the chart shall not-

(i) exceed 0.8 mm in width; and

(ii) be less than 3 mm apart, measured from centre to centre, whether or not they are on opposite sides of a dividing line;

(c) where a temperature compensating device or isoelastic spring or springs is incorporated, it shall be capable of compensating temperature variations of 10 degrees Celsius in balance and at load;

(d) any ball-bearing unit shall be protected against dust and dirt;

(e) the extremity of the indicating pointer shall not-

(i) exceed in width or thickness the width of any graduation; and

(ii) be more than 2 mm from the chart;

(f) a suitable balancing device capable of adjustment only by the use of a mechanical appliance shall be provided;

(g) back-balanced for use with a bag, sack, pan or other means of loading, such fact shall be clearly stated on the chart.

(2) The weight value of the smallest subdivision of the chart shall, where the capacity of the chart is-

- (a) under 1 kg, not exceed 5 g;
- (b) 1 kg or over and under 5 kg, not exceed 10 g;
- (c) 5 kg or over and under 10 kg, not exceed 20 g;
- (d) 10 kg or over and under 20 kg, not exceed 50 g;
- (e) 20 kg or over and under 50 kg, not exceed 100 g;
- (f) 50 kg or over, not exceed one-half per centum of such capacity.

(3) The range of balance shall not exceed one per centum of the capacity of the spring balance.

(4) A spring balance shall be tested-

- (a) at as many graduations as the assizer considers necessary, and it shall be correct whether the test is forward or backward; and
- (b) the assizer may test the balance for efficiency or ability to recover by leaving on the pan or hook a load equal to the capacity of the balance for a period not exceeding twenty-four hours, and after the expiration of a further four hours testing for accuracy.

(5) Subject to the provisions of regulation 12, the limit of error allowed on a spring balance is the weight corresponding to one-half of the smallest subdivision.

(6) The stamp of assize shall be stamped upon a lead plug inserted in the chart, or in a prominent position on the instrument.

**25.** (1) In a steelyard or wall beam-

Steelyards and  
wall beams



(a) the steelyard shall be made of wrought-iron, steel or an approved metal and shall be perfectly straight;

(b) a stop to prevent excessive oscillation of the steelyard shall be provided;

(c) any loadhook shall be securely attached to the instrument;

(d) end fittings to prevent the poise-carrier riding off the steelyard shall be securely attached;

(e) any poise shall move freely without risk of injury to the notches and there shall be a stop to prevent it travelling behind the zero graduation.

(2) In a wall beam-

(a) the frame and bracket shall be of adequate strength to support, without deflection, both the wall beam and a load equal to the capacity of the wall beam;

(b) on a swivel bracket, the steelyard shall be level in all positions;

(c) the range of balance shall not exceed one-half per centum of the capacity of the wall beam.

(3) The travel of the steelyard of a wall beam each way from the horizontal position shall be not less than 10 mm.

(4) A wall beam or steelyard shall be tested at as many graduations as the assizer considers necessary, and the instrument shall be correct whether the test is forward or backward.

(5) Subject to the provisions of regulation 12, the limit of error allowed and the sensitiveness required are-

(a) in the case of a steelyard of a capacity specified in the first column of Table VII, double those specified opposite thereto in the

second column of Table VII:

(b) in the case of a wall beam of a capacity specified in the first column of Table VII, those specified opposite thereto in the second column of Table VII.

(6) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the instrument and a date stamp shall be stamped upon the lead in the adjusting hole of the poise.

(7) An assizer shall refuse to assize-

(a) a counter steelyard;

(b) a steelyard of a capacity of less than 50 kg;

(c) a steelyard with three hooks.

## **PART IV**

### **WEIGHTS**

**26.** (1) A weight shall-

Weights

(a) be free from flaws and, except for the marking of the denomination and the maker's name, be smooth on all its surfaces;

(b) if it is a new iron weight, be galvanised, oxidised, painted or protected by an approved process.

(2) If a weight is marked with the marker's name or any property mark, code or symbol, the size of the letters thereof shall not exceed one-half the size of the letters marking the denomination.

(3) A weight shall be hexagonal, rectangular bar, cylindrical or, in the case of weights of 500 mg or less, may be in the form of wire.

(4) The adjusting hole of a weight shall-

(a) be undercut, on the under surface of the weight, and shall not extend to the upper surface of the weight:

Provided that in the case of a cylindrical weight the assizer may accept arrangements for adjusting and stamping by means of a hole in the knob of the weight;

(b) be plugged with lead which, in the case of an iron weight, is not less than 3 mm thick.

(5) A weight shall be tested on an assizer's balance or beam scale against a standard weight.

(6) The limit of error allowed-

(a) on a weight of a denomination specified in the first column of Table VIII-

(i) which is made of iron, is that specified opposite thereto in the second column of Table VIII;

(ii) which is not made of iron, is that specified opposite thereto in the third, fourth or fifth column, as the case may be, of Table VIII;

(b) on a metric carat weight of a denomination specified in the first column of Table X, is that specified opposite thereto in the second column of Table X.

(9) The stamp of assize shall be stamped-

(a) if the weight is provided with an adjusting hole, upon the lead in that hole;

(b) if the weight is not provided with an adjusting hole, upon the under surface of the weight.

**27.** An assizer shall refuse to assize-

Weights not  
assizable

- (a) a weight made of solder, tin or any other soft metal;
- (b) a weight made of aluminium or any other metal of low density of over 1 g denomination;
- (c) a cased weight or weight made of two or more unalloyed metals;
- (d) a weight marked with a trade mark other than a marker's name;
- (e) an iron weight under 100 g;
- (f) an iron weight with a removable or split ring;
- (g) a new ring weight;
- (h) a weight provided with more than one adjusting hole;
- (i) a weight of a denomination not specified in Part I of the Third Schedule.

## **PART V**

### **MEASURES**

**28.** (1) A dry measure of capacity-

Dry measures  
of capacity

(a) shall be made of aluminium, brass, bronze, copper, nickel, sheet iron, steel, tin plate, or an approved material;

(b) may be protected by electro-plating, galvanisation, or an approved process;

(c) of 50 litres or under, shall be cylindrical in form with the internal diameter not differing by more than five per centum from the depth.

(2) The capacity of a dry measure of capacity shall be defined by the brim of the measure.

(3) A dry measure of capacity shall be tested either with water or in the following manner with fine seed:

(a) the standard shall be filled with seed passed through a hopper, a distance of 150 mm being left between the bottom of the hopper and the

top of the standard;

(b) the seed in the standard shall then be passed through the hopper into the measure being tested, a distance of 150 mm being left between the bottom of the hopper and the top of the measure.

(4) The limit of error allowed in a dry measure of capacity of a capacity specified in the first column of Table XI is that specified opposite thereto in the second column of Table XI.

(5) The stamp of assize shall be stamped near the brim of the measure directly above the position where the capacity is marked.

(6) An assizer shall refuse to assize a dry measure of capacity of a capacity not specified in paragraph 1 of Part II of the Third Schedule.

**29.** (1) A liquid measure of capacity-

Liquid  
measures of  
capacity

(a) shall be made of glass, aluminum, brass, bronze, copper, nickel, pewter, sheet iron, silver, steel, tin plate, white metal, or an approved material;

(b) may be protected by anodising, electro-plating, enamelling, galvanisation, tinning or an approved process;

(c) made of brass, bronze or copper shall have the inside surfaces well tinned;

(d) which is electro-plated shall be uniformly coated and shall show no signs of peeling;

(e) shall not have a strengthening rib or ring which might be mistaken for a graduation;

(f) shall not have a false bottom;

(g) made of metal shall not have a bottom rim of a depth greater than

is necessary to protect the bottom of the measure;

(h) shall not be provided with a lip or retaining edge which increases the capacity of the measure by more than ten per centum;

(i) shall drain completely when tilted to an angle of one hundred and twenty degrees from the vertical.

(j) if provided with a tap shall drain completely without a prolonged dribble when the tap is open and the measure is in a level position;

(k) shall have its capacity stamped on the upper part of the body of the measure or on a metal plate permanently secured to such part;

(l) made of glass which has its capacity defined by a line, shall have its capacity stamped near that line.

(2) The capacity of a liquid measure of capacity shall be clearly defined-

(a) if the measure is provided with a lip or retaining edge, by the bottom of the lip or retaining edge;

(b) if the measure is in the form of a milk can, by the bottom of the neck of the measure;

(c) if the measure is a glass measure other than a graduated glass measure, by-

(i) the brim of the measure; or

(ii) an indelible line not less than 50 mm in length and distant not less than 15 mm and not more than 40 mm from the brim;

(d) if the measure is a measure not referred to in paragraph (a), (b) or (c), by the brim of the measure.

(3) A metal dipping measure of capacity shall-

(a) be of circular or elliptical section with vertical sides;

- (b) be provided with a long handle;
- (c) have sides the height of which do not differ by more than ten per centum from one and a half times the mean dimension of its section;
- (d) not exceed one litre in capacity.

(4) A graduated glass measure shall-

- (a) be of conical or cylindrical form;
- (b) have a level base at right angles to the axis of the measure;
- (c) have graduations which are-
  - (i) parallel to the base of the measure;
  - (ii) not less than 1.5 mm apart;
  - (iii) in the case of back graduations, coincidental with the front graduations when the measure is standing in a level position.

(5) A liquid measure of capacity shall be tested against a standard measure; when testing a glass measure, the capacity of which is defined by a line, the level of the water shall be taken at the bottom of the meniscus.

(6) The limit of error allowed on a liquid measure of capacity is-

- (a) in the case of a graduated glass measure with an internal diameter, at the graduation tested, of approximately that specified in the first column of Table XII, that specified opposite thereto in the second column of Table XII;
- (b) in the case of a measure other than a graduated glass measure of a capacity specified in the first column of Table XI, that specified opposite thereto in the second or third column of Table XI, as the case may be.

(7) The stamp of assize shall be stamped-

(a) if the measure is a metal measure provided with a lip or retaining edge, at the bottom of the inside of the lip or retaining edge;

(b) if the measure is not a metal measure provided with a lip or retaining edge, near the position where the capacity is marked.

(8) An assizer shall refuse to assize a liquid measure of capacity of a capacity not specified-

(a) in the case of a graduated measure, in paragraph 1 of Part II of the Third Schedule;

(b) in the case of a measure other than a graduated glass measure, in paragraph 2 or 3 of Part II of the Third Schedule.

**30.** (1) A measure of length shall-

Measures of  
length

(a) be made of brass, hardwood, ivory, steel, woven tape or an approved material;

(b) if it is a rigid measure, be straight and free from flaws;

(c) if it is a wooden measure, have both ends capped with metal and the tips riveted, or fixed by an approved method;

(d) if it is provided with hinges or sliding or caliper arms, have no more play than is required for easy movement.

(2) A measure of length shall not be subdivided otherwise than into decimetres, centimetres and millimetres.

(3) A measure of length shall be tested-

(a) against a standard measure;

(b) in the case of a tape measure, whilst supported as far as practicable throughout its entire length on a plane and even base and



subjected-

- (i) in the case of a tape measure made wholly of metal, to 5 kg;
- (ii) in the case of a tape measure not made wholly of metal, to 1 kg;

tension or pull.

(4) The limit of error allowed on a measure of length shall be as specified in Table X.

(5) The stamp of assize shall be stamped-

- (a) if the measure is a tape measure, upon a metal label or disc securely fixed thereto;
- (b) if the measure is not a tape measure, near the zero graduation.

(6) An assizer shall refuse to assize a measure of length of a denomination not specified in paragraph 5 of Part II of the Third Schedule.

**31.** (1) A vehicle tank or compartment shall-

Vehicle tanks

- (a) be of cylindrical or elliptical section;
- (b) be fitted with a fixed-quantity indicator or provided with a dipstick by means of which the liquid can be measured;
- (c) if of elliptical section, have the length of the major axis of the section not more than one and a half times the length of the minor axis of the section;
- (d) have a delivery outlet, pipe and valves which are completely separate from any other delivery outlet, pipe and valves on the same motor vehicle or trailer;
- (e) have the delivery piping connected thereto of such design and construction that when the motor vehicle or trailer on which it is mounted is standing in a level position the tank or compartment can be

completely drained;

(f) be effectively ventilated to prevent the formation of air-pockets;

(g) if it is new, have the filler opening of such size and construction as to permit of internal inspection.

(2) In a vehicle tank or compartment fitted with a fixed-quantity indicator-

(a) the marking of the capacity on the tank or compartment shall be preceded by the word "CAPACITY" and followed by the words "TO INDICATOR";

(b) the tank or compartment shall be stamped with a number which corresponds to a number similarly stamped on the delivery outlet so as to identify it with that outlet;

(c) the indicator shall-

(i) be made of metal;

(ii) be fixed rigidly so as to indicate on the longitudinal axis and under the dome centrally situated on the top of such tank or compartment;

(iii) clearly and distinctly indicate, by means of a disc of at least 50 mm in diameter, the height to which the tank or compartment must be filled in order to contain its marked capacity;

(iv) be adjustable and so constructed that it can be sealed so as to prevent any change in its position without the seal being broken.

(3) In a vehicle tank or compartment provided with a dipstick-

(a) the tank or compartment shall have a guide tube for the dipstick, fixed centrally so that the dipstick indicates on the longitudinal axis;

(b) such dipstick shall be-

(i) made of metal;

(ii) graduated to indicate the actual contents of the measure in centimetres, an appropriate table of capacity being carried on the vehicle and identified with the vehicle tank concerned;

(iii) indelibly stamped with a number which corresponds to a number similarly stamped on the tank or compartment so as to identify it with that tank or compartment;

(iv) suspended from the upper rim of the guide tube by a metal crossbar, collar, or hilt.

(4) The volume of a vehicle tank or compartment shall exceed the marked capacity of such tank or compartment by not less than one and one-half per centum of such capacity.

(5) A vehicle tank or compartment shall be tested-

(a) with the tank or compartment in a level position;

(b) against standard measures or with a bulk flowmeter assized immediately prior to the testing of the vehicle tank or compartment;

(c) if it is provided with an emergency valve for closing the delivery outlet, with such emergency valve open.

(6) The limit of error allowed on a vehicle tank, compartment or dipstick is one-half per centum of its capacity at the indication tested.

(7) The stamp of assize shall be stamped-

(a) if the tank or compartment is fitted with a fixed-quantity indicator; upon a lead seal attached to the indicator;

(b) if the tank or compartment is provided with a dipstick upon the metal at the top and bottom of the dipstick.

(8) An assizer shall refuse to assize a vehicle tank or compartment provided with a dipstick unless an accurate chart of the capacity identified with the tank or compartment and with the dipstick has been supplied to him.

(9) An assizer shall refuse to assize a vehicle tank or compartment

which is deformed, dented, or otherwise damaged.

(10) An assizer shall refuse to assize a dipstick which strikes the bottom of the tank or guide tube.

## PART VI

# MEASURING INSTRUMENTS

32. (1) In a bulk flowmeter-

Bulk  
flowmeters

(a) an air separator shall be provided which-

(i) prevents air passing through the meter to such an extent as to affect the accuracy of delivery; and

(ii) ensures non-registration when the supply of liquid fuel or oil fails;

(b) there shall be no leakage;

(c) the figures on any indicator shall be indelible, clear and legible;

(d) the maker's name shall be stamped on the instrument;

(e) the maximum and minimum rates of flow in litres, dekalitres or cubic metres per minute shall be shown;

(f) an indication engraved on a metal plate of the liquid fuel the meter is adjusted to deliver consisting of-

(i) the name in full of the liquid fuel; or

(ii) one of the following code letters:

"A" Petrol;

"B" Paraffin or turbine fuel;

"C" Diesel or other fuel oil;

shall be fixed to the body of the meter.

(2) A bulk flowmeter shall be tested-

(a) after any dry hose has been flushed and the instrument reset to zero;

(b) to ensure that whenever the instrument is reset to zero, the indicating pointer is in alignment with the zero indication;

(c) by passing the appropriate liquid through the meter into a standard measure in as many deliveries and of such quantities as the assizer considers necessary, or by comparison of the indication of the meter under test with the indication of an approved master meter or proving loop;

(d) with varying heads of liquid or with varying bore by manipulation of the delivery valve so far as is practicable.

An assizer may require these tests to be carried out using different liquids.

When for any reason a bulk flowmeter is tested with a liquid other than that indicated on it in accordance with sub-regulation (1) (f), such meter, if adjusted for diesel fuel and tested with petrol, shall deliver not less than 0.3 per centum in excess of the quantity purported to be delivered or, if tested with paraffin, not less than 0.2 per centum in excess of the quantity purported to be delivered.

A meter adjusted for paraffin and tested with petrol shall deliver not less than 0.1 per centum in excess of the quantity purported to be delivered.

In any event the meter shall be correct within the allowances prescribed by these Regulations.

(3) The limit of error allowed on a bulk flowmeter is one-half per centum of the quantity tested, in excess only.

(4) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the meter; a seal of assize shall

be affixed where necessary to prevent access to the working parts or adjusting device without the seal being broken.

**33.** (1) In a fabric-measuring instrument-

Fabric-measuring  
instruments

(a) the measuring rollers shall, when in position for measuring, be in true parallelism;

(b) a braking device shall be fitted which ensures non-registration when the supply of fabric fails;

(c) the rollers shall be free when the instrument is reset;

(d) the chart or charts shall, when the instrument is reset, return to zero either automatically or by the operation of a special handle or device provided for that purpose;

(e) the indications shall be by means of graduations not less than-

(i) 20 mm apart in the case of graduations of a length value of 100 mm;

(ii) 3 mm apart in the case of graduations of a length value of 25 mm;

or by counters.

(2) A fabric-measuring instrument shall be tested-

(a) by passing the standard or the fabric normally measured by that instrument through the instrument at right angles to the axis of the measuring rollers;

(b) and if it is necessary to remove the standard or fabric during the test, this shall only be done when an integral number of metres of the standard or fabric has passed through the instrument and the standard or fabric shall be re-inserted at the zero or initial graduation of the standard or fabric;

(c) and the instrument shall be correct whether the test is forward or backward;

- (d) to ensure that-
  - (i) the instrument, if fitted with two charts, shows the same indication of length on both;
  - (ii) any totalising meter functions properly and correctly;
  - (iii) the parts work freely throughout the range of the instrument;
  - (iv) there is no back-lash in the mechanism;
  - (v) any overrun brake fitted shall bring the indicator to a halt immediately the standard or fabric used for the test leaves the measuring roller.

(3) The limit of error allowed on a fabric-measuring instrument is, for each metre or portion thereof indicated, 2 mm in deficiency and 4 mm in excess.

(4) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the instrument; a seal of assize shall be affixed where necessary to prevent access to the working parts or adjusting device without the seal being broken.

**34.** (1) In a liquid measuring device-

Liquid  
measuring  
devices

- (a) adequate provision to prevent the formation of airlocks shall be made;
- (b) there shall be no leakage;
- (c) any valve shall work freely.

(2) A liquid measuring device shall be tested-

- (a) after the device and any delivery hose or measure used in the test has been flushed;
- (b) in the case of each separate measuring chamber-

(i) by passing the liquid from the chamber into a standard measure or, where this is not practicable, into the barrel, bottle, drum or other container and then into a standard measure;

(ii) where it is not practicable to test the liquid with a standard measure, by ascertaining the net weight of the liquid delivered and converting such weight into volume, basing the computation on the specific gravity of the liquid.

(3) The limit of error allowed on a liquid measuring device is one-half per centum of the quantity purported to be delivered, in excess only:

Provided that the limit of error allowed on a 35 ml dispensing or measuring tap is 0.5 ml, in excess only.

(4) The stamp of assize shall be stamped-

(a) upon a lead plug inserted in a conspicuous and easily accessible part of the device; and

(b) if the device is provided with a metal displacer or displacers to alter the capacity of a measuring chamber, upon such displacer or displacers.

A seal of assize shall be affixed where necessary to prevent access to the working parts or adjusting device without the seal being broken.

**35.** (1) In this regulation-

Petrol pumps

"price indicator" means an indicator showing the value in money of the liquid fuel or oil delivered;

"volume indicator" means an indicator showing the volume of liquid fuel or oil delivered.

(2) A petrol pump shall-

(a) be constructed to deliver liquid fuel or oil at one outlet only;

(b) be provided with a clear and legible volume indicator;



(c) not have a counting or totalising device which may be confused with the volume indicator;

(d) not leak at any point;

(e) not, unless written permission from an assizer has been obtained, be fitted with a delivery hose exceeding 5 metres in length.

When measuring the length of a delivery hose-

(i) the length of the nozzle shall be included;

(ii) the length of any swing or radial arm shall be excluded;

(iii) which is retractable, the hose shall be measured from the point where it emerges from the housing and when fully extended;

(f) if it is of fixed type-

(i) be securely mounted on a solidly constructed, level base;

(ii) be so sited as to permit the purchaser to have a clear and unobstructed view of the volume indicator and any price indicator or measuring chamber provided;

(iii) be so sited that the adjusting mechanism and the plug for the stamp of assize are readily accessible;

(g) if it is used to measure oil, have a delivery hose which is permanently filled to the nozzle.

(3) A petrol pump provided with a meter shall-

(a) be incapable of operation until the volume indicator and any price indicator are reset to zero;

(b) if it is used to measure liquid fuel, be-

(i) provided with a sight glass which clearly shows whether the delivery hose is completely filled before, during and after delivery; and

(ii) conspicuously marked "THIS GLASS MUST BE FULL BEFORE AND AFTER DELIVERY";

(c) not be fitted with a swing arm unless such arm-

(i) has a radius of swing not exceeding 2 metres;

(ii) is provided with a sight glass of an approved pattern at the highest point of the swing arm or extension pipe immediately before the connection to the flexible hose;

(d) have a clear indication on the housing or dial of the position of the lead seals and the plug for the stamp of assize;

(e) be provided with an air separator or cut-off valve which ensures non-registration when the supply of liquid fuel or oil fails;

(f) be provided with a delivery hose which is permanently filled to the nozzle.

(4) A petrol pump provided with one or more measuring chambers shall-

(a) have any measuring chamber clearly visible and made of clear glass;

(b) have the delivery hose so positioned as to allow complete discharge of the liquid measured from the delivery outlet of the pump;

(c) if it has more than one measuring chamber, be provided with a valve to prevent the liquid flowing from one chamber into another;

(d) have each measuring chamber denominated.

(5) In a petrol pump provided with a price indicator, the indicator shall incorporate a device which clearly indicates the price per litre and regulates the registration on such indicator.

(6) A petrol pump shall be tested-

(a) if it is provided with one or more measuring chambers, after passing at least 5 litres of liquid through the delivery hose to prevent undue absorption during the test;

(b) by passing the liquid into a standard measure in as many deliveries and of such quantities as the assizer considers necessary;

(c) if it is provided with a meter, by a slow test which does not exceed a time limit of thirty seconds per 5 litres on any quantity delivered;

(d) to ensure that-

(i) back-drainage does not exceed 25 ml per hour;

(ii) it is correct, whether the pump is operated rapidly or slowly;

(iii) the indications on the volume indicator are in agreement with those on the price indicator and with the price per litre indicated by the device referred to in sub-regulation (5), and a sufficient number of computations shall be checked to establish their accuracy;

(iv) if it is fitted with a nozzle control valve, no liquid fuel or oil is delivered when such valve is open and the pump is at rest;

(v) if it is fitted with two volume indicators, after delivery it shows the same indication of volume on both such indicators;

(vi) if it is fitted with two price indicators, after a delivery it shows the same indication of value in money on both such indicators.

(7) The limit of error allowed on a petrol pump is one-half per centum of the quantity purported to be delivered, in excess only:

Provided that in a petrol pump used to measure lubricating oil, where a quantity of one litre or less is indicated, the limit of error allowed is 2 per centum of the quantity purported to be delivered, in excess only.

(8) The stamp of assize shall be stamped upon a lead plug inserted in a conspicuous and easily accessible part of the pump. A seal of assize shall be affixed where necessary to prevent access to the working parts or adjusting device without the seal being broken.

**36.** (1) An automatic measuring instrument shall be-

Automatic  
measuring  
instruments

(a) certified by the Minister in terms of section *fifteen* of the Act;

(b) securely fixed in the position in which it will operate;

- (c) tested *in situ* with the liquid it is intended to measure;
- (d) fitted with seals to protect all adjusting devices or have all such devices operable only with a special detachable key;
- (e) marked with clear marks of identification on all parts that require to be dismantled for any purpose whatsoever, such marks to give a clear indication of the mating parts which are to be matched on reassembly;
- (f) tested at various heads and rates of delivery where these are not uniform;
- (g) tested by taking not less than twenty samples either at random or in sequence;
- (h) marked with the stamp of assize upon a lead plug on a conspicuous part of the instrument on the main body of the machine.

(2) The limits of error allowed on an automatic measuring instrument shall be-

- (a) maximum error in excess of the amount purported to be delivered into the container-one per centum;
- (b) maximum error in deficiency of the amount purported to be delivered into the container-0.5 per centum;
- (c) such that the average error of a sample of twenty or more deliveries does not exceed 0.5 per centum in excess only.

(3) The provisions of regulation 12 (4) (b) shall not be applied to automatic weighing or measuring instruments.

# FIRST SCHEDULE

(Regulation 2)

## TABLES SHOWING LIMITS OF ERROR AND SENSITIVENESS

### TABLE I

BEAM SCALES: CLASS 1

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
10 g	1 mg
20 g	2 mg
50 g	3 mg
100 g	4 mg
200 g	5 mg
500 g	6 mg
1 kg	12 mg
2 kg	25 mg
5 kg	50 mg
10 kg	70 mg
20 kg	100 mg

Application of the sensitiveness allowance to a Class 1 beam scale in equilibrium shall cause a change of rest point of not less than 5 divisions of the scale.

### TABLE II

BEAM SCALES: CLASS 2

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
50 g	15 mg
200 g	25 mg
500 g	30 mg
1 kg	60 mg
2 kg	120 mg
5 kg	250 mg

10 kg	350 mg
20 kg	500 mg
50 kg	1 g

Application of the sensitiveness allowance to a Class 2 beam scale in equilibrium shall cause a change of rest point of not less than 5 divisions of the scale.

### TABLE III

#### BEAM SCALES: CLASS 3

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
500 g	200 mg
1 kg	300 mg
2 kg	400 mg
5 kg	600 mg
10 kg	800 mg
20 kg	1,000 mg
50 kg	1,500 mg

Above 50 kg capacity add to the above 400 mg for each 20 kg of additional capacity.

Application of the sensitiveness allowance to a Class 3 beam scale shall cause a change of rest point of not less than 10 mm shown by the end of the indicator.

### TABLE IV

#### COUNTER MACHINES

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
1 kg	2 g
2 kg	4 g
5 kg	5 g
7 kg	5 g
10 kg	10 g
15 kg	10 g
20 kg	15 g
30 kg	20 g

Application of the sensitiveness allowance to a counter machine shall show a change of position of the scales of not less than 10 mm or the full fall or travel specified in regulation 19 (4).

## TABLE V

### \*CRANE MACHINES AND WEIGHBRIDGES

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
1,000 kg	400 gk
2,000 kg	800 gk
5,000 kg	1,500 gk
10,000 kg	2 kg
20,000 kg	4 kg
50,000 kg	6 kg
100,000 kg	8 kg
200,000 kg	15 kg

\*The error allowed and sensitiveness for lever type crane machines are double the amounts shown above.

## TABLE VI

### DEADWEIGHT MACHINES

<i>Capacity</i>	<i>Error and sensitiveness</i>	<i>Recovery</i>
50 kg	20 g	50 g
100 kg	40 g	100 g
200 kg	80 g	200 g
500 kg	120 g	300 g

Deadweight machines include single lever coal scales and scales formerly known as "bob up" scales.

Recovery is the weight required to bring the beam back, from its position of maximum displacement, to the horizontal.

## TABLE VII

### PLATFORM MACHINES, BENCH PLATFORM MACHINES, DORMANT PLATFORM MACHINES, STEELYARDS AND WALL BEAMS

<i>Capacity</i>	<i>Error allowed and sensitiveness</i>
-----------------	--

50 kg	20 g
100 kg	40 g
200 kg	50 g
500 kg	100 g
1,000 kg	200 g
2,000 kg	400 g
5,000 kg	800 g

Steelyards commonly used as butchers' steelyards are allowed double the amounts shown above.

## TABLE VIII

### WEIGHTS

<i>Denomination</i>	FOR GENERAL USE		PRECISION WEIGHTS	
	<i>Errors in excess only</i>		<i>Errors in excess or deficiency</i>	
	<i>Iron weights</i>	<i>Others</i>	<i>Class I</i>	<i>Class II</i>
20 kgi	3 gm	1.5 gm	100 mg	500 mg
10 kgi	2 gm	1 gm	50 mg	250 mg
5 kgi	1 gm	500 mg	25 mg	125 mg
2 kgi	600 mg	300 mg	10 mg	50 mg
1 kgi	400 mg	200 mg	5 mg	20 mg
500 gm	200 mg	100 mg	2.5 mg	10 mg
200 gm	100 mg	50 mg	1.0 mg	10 mg
100 gm	40 mg	20 mg	0.5 mg	5.0 mg
50 gm	-	15 mg	0.25 mg	2.0 mg
20 gm	-	10 mg	0.1 mg	1.0 mg
10 gm	-	5 mg	0.05 mg	0.5 mg
5 gm	-	5 mg	0.05 mg	0.5 mg
2 gm	-	5 mg	0.05 mg	0.5 mg
1 gm	-	2 mg	0.05 mg	0.5 mg
500 mg	-	2 mg	0.05 mg	0.5 mg
200 mg	-	2 mg	0.05 mg	0.5 mg
100 mg	-	2 mg	0.05 mg	0.5 mg
50 mg	-	2 mg	0.02 mg	0.2 mg
20 mg	-	1 mg	0.02 mg	0.2 mg
10 mg	-	0.5 mg	0.02 mg	0.2 mg
5 mg	-	0.2 mg	0.02 mg	0.2 mg
2 mg	-	0.2 mg	0.02 mg	0.2 mg



1 mg                    -                    0.1 mg                    0.02 mg                    0.1 mg

NOTE-Class I precision weights comply with NPL. 1961 Spec.

Class II precision weights comply with old NPL. Class B Spec.

Errors above 100 g for precision weights are extrapolated. Weights below 10 mg will be tested only as parts of complete sets by special arrangement.

**TABLE IX**

METRIC CARAT WEIGHTS

<i>Denomination</i>	<i>Error in excess only</i>	
500 CM (=100 g)	10 mg	
200 CM	5 mg	
100 CM	2 mg	
50 CM (=10 g)	2 mg	
20 CM	1.0mg	
10 CM	1.0mg	
5 CM (=1 g)	1.0mg	
2 CM	1.0mg	
1 CM	1.0mg	
0.5 CM	(=0.1 g)	0.5 mg
0.2 CM	0.5	mg
0.1 CM	or under	0.2 mg

NOTE-This series of weights is limited and should be used only when precision metric weights are not suitable.

**TABLE X**

MEASURES OF LENGTH

<i>Denomination</i>	<i>End Measures</i>		<i>Line Measures</i>	
	<i>Long</i>	<i>Short</i>	<i>Long</i>	<i>Short</i>
100 mm	-	-	20 mm	20 mm
50 mm	-	-	15 mm	15 mm
30 mm	-	-	10 mm	10 mm
20 mm	-	-	7.5 mm	7.5 mm
10 mm	-	-	5.0 mm	5.0 mm
5 mm	-	-	2.5 mm	2.5 mm
3 mm	3 mm	1.5 mm	1.5 mm	1.5 mm
2 mm	2 mm	1.0 mm	1.0 mm	1.0 mm

1 mm	1 mm	0.5 mm	0.5 mm	0.5 mm
500 mm	0.8 mm	0.4 mm	0.4 mm	0.4 mm

The above errors are to apply to metal measures. Other measures shall have double the above allowances.

## TABLE XI

### MEASURES OF CAPACITY

*Errors in excess only*

<i>Capacity</i>	<i>Conical Metal</i>		<i>Others Metal</i>		
100 litres or over	0.1% of capacity		0.2% of capacity		
50	1	65	ml	125	ml
20	1	50	ml	100	ml
10	1	40	ml	75	ml
5	1	25	ml	50	ml
2	1	12.5	ml	25	ml
1	1	7.5	ml	15	ml
500	ml	5.0	ml	10	ml
200	ml	2.5	ml	5	ml
100	ml	1.5	ml	2.5	ml
50	ml	1.25	ml	2.0	ml
35	ml	1.00	ml	1.5	ml
25	ml	0.65	ml	1.5	ml
20	ml	0.5	ml	1.0	ml
10	ml	0.25	ml	0.5	ml

Measures other than metal measures may have an error in excess only of 5 times the allowance for conical metal measures shown above.

## TABLE XII

### GRADUATED GLASS MEASURES

<i>Approximate internal diameter</i>	<i>Error allowed in excess or deficiency</i>
100 mm	1 ml
90 mm	1 ml
80 mm	0.8 ml
70 mm	0.8 ml
60 mm	0.6 ml
50 mm	0.6 ml

40 mm	0.4 ml
30 mm	0.3 ml
20 mm	0.15 ml
10 mm	0.05 ml

Burettes, pipettes, measuring flasks and cylinders shall conform to tolerances not less severe than an approved international standard specification.

# SECOND SCHEDULE

(Regulation 7 (5))

## ABBREVIATIONS OF DENOMINATIONS

<i>Denomination</i>	<i>Abbreviation</i>
MASSES	
Kilogram	kg
Gram	g
Decigram	dg
Centigram	cg
Milligram	mg
Metric Carat	C.M.
MEASURES	
Litre	l
Decilitre	dl
Centilitre	cl
Millilitre	ml
Metre	m
Decimetre	dm
Centimetre	cm
Millimetre	mm
Cubic centimetre	c.c. or c <sup>3</sup>
Cubic metre	cu.m or m <sup>3</sup>

# THIRD SCHEDULE

(Regulations 27, 28 (6), 29 (8) and 30 (6))

## DENOMINATIONS OF MASSES AND MEASURES WHICH ARE PERMITTED FOR USE IN TRADE

### PART I

#### MASSES

20 kilograms	5 grams
10 kilograms	2 grams
5 kilograms	1 gram
2 kilograms	0.5 gram
1 kilogram	0.2 gram
500 grams	0.1 gram
200 grams	0.05 gram
100 grams	0.02 gram
50 grams	0.01 gram
20 grams	0.005 gram
10 grams	0.002 gram
	0.001 (=1 mg)
500 metric carats	1 metric carat
200 metric carats	0.5 metric carat
100 metric carats	0.25 metric carat
50 metric carats	0.2 metric carat
20 metric carats	0.1 metric carat
10 metric carats	0.05 metric carat
5 metric carats	0.02 metric carat
2 metric carats	0.01 metric carat
	0.005 metric carat

### PART II

#### MEASURES

##### 1. GRADUATED GLASS MEASURES

2 litres	25 millilitres
1 litre	20 millilitres
500 millilitres	10 millilitres
250 millilitres	5 millilitres

200 millilitres  
100 millilitres  
50 millilitres

2 millilitres  
1 millilitre

## 2. MEASURES OF CAPACITY OTHER THAN GRADUATED MEASURES OF GLASS

20 litres	50 millilitres
10 litres	35 millilitres
5 litres	25 millilitres
2 litres	20 millilitres
1 litre	10 millilitres
0.5 litre or 500 ml	5 millilitres
0.2 litre or 200 ml	2 millilitres
100 millilitres	1 millilitre

## 3. MEASURES OF CUBIC CAPACITY OR VOLUME

1 cubic metre or multiples of 1 cubic metre  
500 cubic decimetres  
200 cubic decimetres  
100 cubic decimetres  
50 cubic decimetres  
20 cubic decimetres  
10 cubic decimetres

## 4. MEASURES OF AREA

1 square metre or multiples of 1 square metre  
1 square decimetre or multiples of 1 square decimetre  
1 square centimetre or multiples of 1 square centimetre

## 5. MEASURES OF LENGTH

1 metre and an integral number of metres not exceeding 100 metres.  
1 decimetre and an integral number of decimetres not exceeding one metre.  
1 centimetre and an integral number of centimetres not exceeding one metre.  
1 millimetre and an integral number of millimetres not exceeding one metre.

**SECTION 44-THE WEIGHTS AND MEASURES  
(ASSIZE FEES) REGULATIONS.  
*Regulations by the Minister***

**Statutory  
Instrument  
1 of 1996**

**1.** These Regulations may be cited as the Weights and Measures (Assize Fees) Regulations.

Title

**2.** In these Regulations, unless the context otherwise requires-

Interpretation

"applicant" means a person referred to in section *fifteen* of the Act who having an instrument, weight or measure for use in trade, or in his possession or charge for use in trade notifies the Assizer in writing of the particulars of such instrument, weight or measure and the place where it is kept and requests that such instrument, weight or measure be assized at that place; and includes any person notifying an Assizer of the said particulars in a request for the assize of an instrument, weight or measure in advance of a notice published in terms of section *seventeen* of the Act;

"assize station" means a place or an area specified in a notice where persons called upon must produce any instrument in use or possession or charge for use in trade for the purpose of its being assized;

"special applicant" means a person, other than an applicant, who notifies the Assizer of the particulars of an instrument or measure and requests that such instrument or measure be assized at the place where it is kept; and shall include an instrument maker, repairer or seller.

**3.** Subject to regulation 5, there shall be charged in respect of the assizing or rejection of instruments the fees prescribed in the First Schedule.

Testing fees

**4.** Subject to the provisions of regulation 5 there shall be charged in respect of-

Adjusting and  
services fees

(a) the adjustment of weights and measures, the fees prescribed in Part I of the Second Schedule;

(b) the miscellaneous services mentioned in Part II of the Second Schedule, the fees prescribed in that Part.

**5.** Subject to paragraphs (a) and (b) of regulation 4, where an instrument is assized or rejected for an applicant at a place other than- Attendance fees

(a) an assize office; or

(b) an assize station;

the appropriate fees chargeable in terms of regulations 3 and 4 shall be the appropriate fee increased by the attendance fee prescribed in Part III of the Second Schedule.

**6.** (1) Where an Assizer tests an instrument on the premises of a special applicant, there shall be charged, in respect of each journey made by the assizer to the premises- Travelling and subsistence fees

(a) where the journey is made by motor vehicle, a fee at the rate of 0.25 fee units per kilometre or part thereof in respect of the distance between the premises and the assize office at which the Assizer is stationed; or the attendance fees specified in Part III of the Second Schedule, whichever is the greater;

(b) where the journey is made by air, road or rail, a fee equal to the cost of a return economy air fare, or first class return bus or train fare from the assize office at which the Assizer is stationed to the airport, bus station or railway station nearest to the premises, plus any costs incurred by the Assizer in travelling from the airport, bus station or railway station, as the case may be, to the premises; or

(c) a fee of 500 fee units or the cost of accommodation, whichever is the greater, where the Assizer obtains sleeping accommodation away from the situation of the assize office at which the aforesaid Assizer is stationed.

(2) The fee prescribed in paragraph (a) or (b) of sub-regulation (1) shall not be charged where the special applicant provides suitable transport for the journey.

(3) When two or more special applicants are dealt with in one journey the fees laid down in sub-regulation (1) may be apportioned between such applicants.

**7.** Where an assizer with standard weights provided and carried by the Fees for the use



government, tests a weigh-bridge, on the premises of an applicant or special applicant, there shall be charged in addition to any other fee prescribed in these Regulations-

and transport of test weights provided by Government

(a) the total transportation costs of moving the standard weights to and from the premises of the applicant or special applicant and this shall include the cost of fuel, lubricants, subsistence allowances for the assizer and driver and mileage at the rate of 5 fee units per kilometre; or

(b) a fee equal to the current daily pay and overtime for the truck crew.

**8.** (1) Where any testing is carried out for the mutual benefit of the owners or users of an instrument on one hand and the Assize Department, on the other hand, other than upon request made by the applicant, the testing fees, travel and subsistence fees and fees for carriage of standards set out for the applicants and special applicants may be charged.

Fees to be charged in other cases

(2) Where any person uses standard weights to test an instrument other than a weigh-bridge the fees shown in regulation 7 (a) and (b) shall be charged.

(3) Where any instrument is tested for a Government Department using standard weights, testing fees, travel and subsistence fees, or fees for the carriage standards set out for applicants or special applicants, shall be charged.

**9.** The Weights and Measures (Assize Fees) Regulations, 1979, are hereby revoked.

Revocation of S.I. No. 113 of 1979

# FIRST SCHEDULE

(Regulation 3)

## TESTING FEES

### WEIGHING INSTRUMENTS

1. Testing a weighing instrument other than an automatic weighing instrument or a specified spring balance, of a capacity of-

	<i>Fee units</i>
(a) under 5 kilograms	50
(b) 5 kilograms or over but under 10 kilograms	100
(c) 10 kilograms or over, but under 20 kilograms	150
(d) 20 kilograms or over, but under 50 kilograms	200
(e) 50 kilograms or over, but under 100 kilograms	250
(f) 100 kilograms or over, but under 500 kilograms	300
(g) 500 kilograms or over, but under 2 tons	350
(h) 2 metric tons or over, but under 5 tons	400
(i) 5 metric tons or over, but under 10 tons	450
(j) 10 metric tons or over, but under 20 tons	500
(k) 20 metric tons or over, but under 50 tons	1,000
(l) 50 metric tons or over and under 100 tons	1,500
(m) 100 metric tons or over	2,000

The fees for self-indicating scale, including a spring self-indicating scale or a spring balance, other than a suspended spring balance listed in paragraph 2, shall be the above fees increased by 100 per centum.

The fees for an optical or electronic self-indicating price computing counter scale or an optical or electronic digital heavy duty scale shall be the above fees increased by 200 per centum.

2. A crane weigher or a suspended spring balance of a capacity of-

	<i>Fee units</i>
(a) under 50 kilograms	100
(b) 50 kilograms, but under 100 kilograms	150
(c) 100 kilograms, but under 200 kilograms	200
(d) 200 kilograms, but under 1,000 kilograms	250
(e) 1,000 kilograms or over	300

3. An automatic conveyor type weigher 500

4. An automatic weighing machine, when the capacity of each

individual unit is-

(a)	under 5 kilograms	100
(b)	50 kilograms, but under 100 kilograms	150
(c)	100 kilograms, but under 500 kilograms	200
(d)	200 kilograms, but under 1,000 kilograms	250
(e)	1,000 kilograms and over	300

## WEIGHTS

	<i>Fee units</i>	
(a)	Any high precision weight of 1 kilogram and under	50
(b)	Any high precision weight of over 1 kilogram	50
(c)	Any weight of 5 kilograms and under	50
(d)	Any weight of 5 kilograms and over	50
(e)	Weigh bridge test weights	2,000

## MEASURES OF CAPACITY

	<i>Fee units</i>	
1.	Any graduated measure of a	
capacity of 1 litre or under	50	
2.	Any ungraduated measure of	
capacity of:		
(a)	1 litre or 500 millilitres	75
(b)	1 litre or 500 millilitres	75
(c)	10.5 or 2 litres	75
(d)	20 litres or over, but under 50 litres	100
(e)	50 litres or over, but under 100 litres	150
(f)	100 litres or over, but under 200 litres	200
(g)	200 litres or over, but under 500 litres	250
(h)	500 litres or over, but under 1,000 litres	300
(i)	1,000 litres or over	350
3.	Precision measure of capacity for use as a working standard:	
Any precision measure of capacity of:		
	<i>Fee units</i>	
(a)	below 20 litres	300
(b)	20 litres, to 25 litres	400
(c)	50 litres, to 100 litres	500
(d)	200 litres, to 225 litres	600
4.	(1) A vehicle tank or compartment when tested, of capacity of:	
	<i>Fee units</i>	

- |      |         |   |     |
|------|---------|---|-----|
|      | (a)     | for the first 500 litres  | 100 |
|      | (b)     | Over 500 litres:  |     |
| (i)  |         | for the first 500 litres  | 100 |
| (ii) |         | for each additional 500 litres or part thereof  | 50  |
|      | (2)     | The fee for an Assize seal fixed on each compartment of a tank lorry shall be   | 50  |
|      | (3) (a) | The fee for replacement of a valid tanker vehicle certificate shall be 50% of the fee in paragraph (4) (1).   |     |
|      | (b)     | When a vehicle tanker certificate is issued, the certificate number of that certificate shall be reflected on the Assize fees receipt so issued to the owner of the vehicle tanker. |     |
|      | (c)     | At no time shall be a valid tanker vehicle certificate be issued without duty assizing the vehicle tanker and the relevant assize fees being charged.                               |     |

## MEASURE OF LENGTH

### 1. Measure of length of:

		<i>Fee units</i>
(a)	over 3 metres	100
(b)	3 metres or under	50

## MEASURING INSTRUMENTS

		<i>Fee units</i>
1. (a)	A bulk-flow metre with manual billing mechanism	500
(b)	A bulk-flow metre with automatic or set stop mechanism	500
(c)	A bulk-flow metre of 90 millimetres bore or less	750
(d)	A bulk-flow metre with automatic set stop billing mechanism	800
(e)	A bulk-flow metre with temperature compensation device	1,000
(f)	A bulk metre of over 20 millimetre bore	unspecified
(g)	Master metre of 90 millimetre bore	unspecified
(h)	A master metre of over 90 millimetre bore	unspecified
(i)	A proving loop	unspecified
(j)	A turbine meter	unspecified
(k)	A data recording pulsator or print-out device	unspecified
(l)	A remote read-out device	unspecified
2.	A liquid fuel or lubricating-oil measuring instrument, other than a bulk-metre:	
(a)	incorporating a flow meter	100

(b)	incorporating a flow meter and price computer	200
(c)	incorporating blending system	500
(d)	digital read out petrol pump	400
3. (a)	an instrument for measuring spirituous liquor of a capacity of 35ml	50
(b)	a beer measuring instrument	100
4.	A fabric-measuring instrument with or without a price computing unit:	
(a)	of 50 metres or over	100
(b)	under 50 metres	50

When fees are shown as unspecified, a charge covering the cost to the Assize Department on a time and expenses basis shall be made.

## SECOND SCHEDULE

(Regulations 4, 5, and 6)

### PART I

#### ADJUSTING FEES

	<i>Fee units</i>
1. Any weight of 5 kilograms and over	50
2. Any other weight	50
3. Any precision weight	100
4. Any poise	50
5. Any measure of capacity:	
(a) under 1 litre	50
(b) 1 litre, but under 5 litres	75
(c) 5 litres, but under 10 litres	80
(d) 10 litres, but under 50 litres	85
(e) 50 litres, but under 250 litres	90
(f) 250 litres, but under 1,000 litres	95
(g) 1,000 litres or over	100

### PART II

#### FEES FOR MISCELLANEOUS SERVICES

	<i>Fee units</i>
1. Denominating a weight or measure	100
2. Affixing a solder pad, stud plug or seal	100
3. Permit for use of an unassized instrument	100
4. Examination of instrument for approval under section 15 in addition to the Appropriate fees, plus attendance fee, travelling allowance, etc.	1,500
5. Examination for and issue of certificate of competence	500
6. Renewal of certificate of competence	250
7. Replacement of lost or stolen die	1,000

### **PART III**

#### **ATTENDANCE FEE**

	<i>Fee units</i>
1. Within an urban council	100
2. Outside an urban council, but not more than 20 kilometres from it	250
3. Outside an urban council, but not more than 40 kilometres from it	500
4. Where staff are required to attend at a distance exceeding 80 kilometres, such costs not exceeding the cost to Government of the service rendered, plus, lodging and mileage shall be charged in addition to any fee set out for assizing or adjusting as set out herein.	

### **PART IV**

#### **HIRE CHARGES AND DELAY CHARGES**

Where a contractor, scale-maker, erector, repairer, fitter or any person contracts to hire the testing equipment and carrying facilities belonging to the Government without the attendance of an Assizer, a charge of 1,000 fee units per day, hire charge for the first 5 days and 2,000 fee units per day thereafter, shall be charged in addition to any subsequent test fee.

### **PART V**

#### **WEIGHBRIDGE**

When a contractor, scale-maker, erector, repairer or any person acting for an applicant or a special applicant fails to complete the submission and assizing of a single weighbridge in a full working day a delay charge of 100 penalty units per day shall be charged for each day the work is not complete.

A full working day is a period of eight hours whether continuous or not on consecutive days.

The hirer shall have the services of a competent driver and crane hand and shall insure both equipment and staff for all risks during the period that they are engaged on his premises.

**SECTION 27-THE WEIGHTS AND MEASURES  
(ASSIZER'S CERTIFICATE) REGULATIONS**  
*Regulations by the Minister*

***Statutory  
Instrument  
177 of  
1971***

1. These Regulations may be cited as the Weights and Measures (Assizer's Certificate) Regulations.

Title

2. The Minister may issue an assizer's certificate to a person who is the holder of-

Assizer's  
certificate

(a) a certificate of qualification as an inspector of weights and measures issued by the Department in the United Kingdom responsible for the administration of the Weights and Measures Act, 1963, of the United Kingdom;

(b) any other equivalent qualification accepted by the Minister.

**SECTION 27-THE WEIGHTS AND MEASURES  
(CERTIFICATE OF COMPETENCE) REGULATIONS**  
*Regulations by the Minister*

***Statutory  
Instrument  
178 of  
1971***

1. These Regulations may be cited as the Weights and Measures (Certificate of Competence) Regulations.

Title

2. Any person may apply to the Superintendent for a certificate of competence.

Application for  
certificate

3. (1) The Superintendent shall cause an applicant for a certificate of competence to be examined as to his knowledge of the Weights and Measures Act and particular classes of instruments or measures for which the applicant wishes to hold a certificate of competence.

Examination for  
certificate

(2) The examination mentioned in sub-regulation (1) shall be conducted in such a manner as the Superintendent sees fit, and the examination in the theory, construction, installation and repair of instruments or measures may be waived in the case of applicants who have served or undergone a recognised period of training in the repair of such instruments or measures.



**4.** (1) If the Superintendent is satisfied that an applicant for a certificate of competence has sufficient knowledge of the Weights and Measures Act and Regulations and is a person who can manufacture, install and repair instruments or measures, as the case may be, to comply with the requirements of the Weights and Measures Act and Regulations he shall, upon receipt of the prescribed fee, issue the applicant with a certificate of competence.

Issue of certificate

(2) A certificate of competence may be issued for all or any particular class of instruments or measures.

**5.** A certificate of competence shall expire on the 31st December each year but may be renewed upon application to the Superintendent and on payment of the prescribed fee, and the Superintendent shall renew the certificate if he is satisfied that the work of the holder is satisfactory:

Duration and renewal of certificate

Provided that, where the Superintendent refuses to renew a certificate of competence he may, in writing, advise the applicant of the reasons for the refusal.

**6.** The Superintendent may at any time withdraw a certificate of competence if he is satisfied that the holder has failed to comply with the Weights and Measures Act and Regulations:

Withdrawal of certificate

Provided that, where a certificate of competence is withdrawn, the Superintendent may advise the holder in writing of the reasons for the withdrawal.

**7.** Any persons aggrieved by a decision of the Superintendent under these Regulations may appeal to the Minister whose decision shall be final.

Right of appeal to Minister

**8.** The Superintendent may delegate his powers under these Regulations in any special circumstances to any other officer of his Department.

Delegation of powers of Superintendent

**9.** The Superintendent and any other officer aforesaid shall not be

Refusal of

required to give any reason for refusing the issue to any person of a certificate of competence

certificate

## THE WEIGHTS AND MEASURES (SALE OF ARTICLES) REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### Regulation

1. Title
2. Application
3. Interpretation
4. Exemption from section 19 (1) of the Act
5. Exemption from section 20 (1) of the Act
6. Marking of wrappers or containers
7. Standard weight per bag or pocket
8. Pre-packed articles
9. Cement
10. Coal and coke
11. Fertiliser
12. Firewood
13. Meat
14. Cheese
15. Spirituous liquor
16. Agricultural produce
17. Bread
18. Dried fish
19. Lime
20. Milk and cream
21. Cooking oil

FIRST SCHEDULE-Pre-packed articles which may be marked "Net Weight when Packed"

SECOND SCHEDULE-Abbreviations of denominations

THIRD SCHEDULE-Standard weight per bag or pocket

FOURTH SCHEDULE-Pre-packed articles to be sold by weight and in fixed quantities

FIFTH SCHEDULE-Pre-packed articles to be sold by measure of capacity and in fixed quantities

**SECTION 27-THE WEIGHTS AND MEASURES (SALE OF ARTICLES) REGULATIONS**  
*Regulations by the Minister*

*Statutory Instruments*  
182 of 1971  
209 of 1972  
91 of 1985  
92 of 1985  
197 of 1986

1. These Regulations may be cited as the Weights and Measures (Sale of Articles) Regulations. Title
  
2. The provisions of these Regulations shall not apply to the sale of- Application
  - (a) any articles of food, other than intoxicating liquor, for consumption on the premises of the seller;
  - (b) any assortment of foods packed for sale as a meal and ready for consumption without cooking, heating or other preparation;
  - (c) articles intended for export which are so packed and marked and are consigned to a point outside Zambia;
  - (d) a single article, the retail price of which is not more than five ngwee.
  
3. In these Regulations, unless the context otherwise requires- Interpretation

"agricultural produce" means-

  - (a) beans, dhal, gram, lentils, onions or peas, when not in a green state;
  - (b) barley, buckwheat, cassava, maize but not including green maize on the cob, millet, munga, oats, paddy, rupoko, rice, rye, sorghum, wheat, or any other cereal;

(c) bean meal, bran, crushed maize, flour, hominy chop, sorghum meal, maize cones, maize grits, maize meal, maize offals, maize seconds, mealie rice, munga meal, pollard, rupoko meal, rye meal, samp, or any other meal or milled product of grain;

(d) chaff, fodder, forage, lucerne or teff grass;

(e) castor seed, groundnuts, linseed, potatoes, seed cotton, sesame, sweet potatoes, sunflower seed, or sunnhemp seed;

(f) beetroots, carrots, parsnips, tomatoes or turnips;

"Board" means the Dairy Produce Board established under section *three* Cap. 235 of the Dairy Produce Board (Establishment) Act;

"coke" includes any solid fuel derived from coal or of which coal or coke is a constituent;

"dried fish" means fish which has been sun-dried or smoked;

"dried fruit" includes candied peel and crystallised or glace fruits;

"fertiliser" means any substance which is intended or offered for improving or maintaining the growth of plants or the productivity of the soil, but does not include-

(a) farmyard, stable or village manure;

(b) compost;

(c) wood ash;

(d) gypsum;

(e) town refuse or night soil;

"meat" means the carcass, part of a carcass or offal of any animal or poultry being a carcass, part of a carcass or offal suitable for human consumption and whether fresh, frozen, chilled, pickled, cured, salted, dried, minced, cooked, or manufactured into brawn, polony, or

sausages;

"milk" means cow's milk, whether pasteurised, separated, skimmed, or subjected to any other process, but does not include dried, evaporated, or condensed milk;

"spirituous liquor" means brandy, gin, rum, vodka or whisky;

"weight" includes mass;

"wool" means yarns-

(a) of natural wool or synthetic fibres; or

(b) of mixtures containing natural wool and additionally or alternatively synthetic fibres;

packed and intended for hand-knitting.

**4.** (1) Subject to the provisions of sub-regulation (2), the provisions of subsection (1) of section *nineteen* of the Act shall not apply to sweets and chocolates. Exemption from section 19 (1) of the Act

(2) When sweets or chocolates are sold by weight, the weight of only the immediate wrapping, if any, of each individual sweet or chocolate shall be included in the weight of the sweets or chocolates so sold.

**5.** The provisions of subsection (1) of section *twenty* of the Act shall not apply to- Exemption from section 20 (1) of the Act

(a) any pre-packed article specified in the First Schedule if the wrapper or container of the article is marked in accordance with the provisions of regulation 6 with the net weight, at the time that it is pre-packed, of the article and the statement of the weight is preceded or followed by the words "net weight when packed";

(b) any groundnuts, sorghum, maize, munga or rupoko, sold in quantities of not less than 15,000 kg, if the invoice or delivery note required in terms of subsection (2) of section *nineteen* of the Act contains a statement similar in all material particulars to the following:

*"This sale of groundnuts/sorghum/maize/munga/rupoko, which is not*

*less than 15,000 kg, is made by total net weight and the bags in which the articles are packed do not comply with the provisions of section twenty of the Weights and Measures Act; the purchaser of these articles who resells them by weight as pre-packed articles in quantities of less than 15,000 kg shall comply with the provisions of the said section."*

**6.** (1) For the purposes of sections *eighteen* and *twenty* of the Act, the wrapper or container of an article shall be marked with a statement of the weight or measure, as the case may be, of the article in a manner complying with the provisions of this regulation. Marking of wrappers or containers

(2) The marking of the net weight or the measure of the article shall be clearly and legibly stamped, printed or written-

(a) in a prominent position and so placed, whether upon an inner or outer wrapper or container or upon both, that it can easily be read without detaching or unwrapping any of the wrappers or containers;

(b) in letters, or figures and letters, of a size not less than half the average size of the letters used to describe the contents nor less than 5 mm in height:

Provided that-

(i) where the wrapper or container, or the label containing a printed description of the contents and affixed thereto, is so small as to preclude the marking in letters, or figures and letters, of the size prescribed, such marking may be in smaller letters, or figures and letters, if they are clear and legible;

(ii) where the average size of the letters used to describe the contents is greater than 75 mm, it shall not be necessary for the marking to be in letters, or figures and letters, more than 40 mm in height;

(c) in terms of the largest denomination of weight or measure contained therein and, where necessary, of the next following smaller denomination.

(3) For the purposes of this regulation, denominations of weight shall be in grams or in kilograms and denominations of capacity shall be in millimetres or in litres.

(4) Subject to the provisions of regulation 5, the marking of the net weight or the measure on the wrapper or container of an article sold by weight or measure shall be without any qualification.

(5) The denomination of weight or measure shall be stated in full or, in respect of a denomination specified in the first column of the Second Schedule, in full or in an abbreviated form specified opposite thereto in the second column of the Second Schedule.

(6) For the purposes of this regulation, the wrapper or container of an article shall be deemed to be marked with a statement of weight or measure if the statement is marked on a label-

(a) securely attached to the wrapper or container; or

(b) inserted within the wrapper or container or, where more than one wrapper or container is used, within the outer wrapper or container, in such a manner that it cannot be removed without first breaking open the wrapper or container.

**7.** (1) The standard weight for a bag of any article specified in the first column of Part I of the Third Schedule shall be the net weight specified opposite thereto in the second column of Part I of the Third Schedule. Standard weight per bag or pocket

(2) The standard weight for a pocket of any article specified in the first column of Part II of the Third Schedule shall be the net weight specified opposite thereto in the second column of Part II of the Third Schedule.

**8.** (1) Subject to the provisions of sub-regulation (3), no person shall sell any pre-packed article specified in the first column of the Fourth Schedule otherwise than by weight and in a quantity specified opposite thereto in the second column of the Fourth Schedule. Pre-packed articles

(2) No person shall sell any pre-packed article specified in Part I of the Fifth Schedule otherwise than by measure of capacity and in a quantity specified in Part II of the Fifth Schedule.

(3) The provisions of sub-regulation (1) shall not apply to any

pre-packed article, other than wool-

(a) the weight of which does not exceed 50 g; or

(b) packed in a tube;

if the wrapper or container of the article is marked in accordance with the provisions of regulation 6, with the net weight of the article.

(4) The provisions of sub-regulations (1) and (2) shall not apply to any article pre-packed at any place outside Zambia, if the wrapper or container of the article is marked in accordance with the provisions of regulation 6-

(a) in the case of any article specified in the first column of the Fourth Schedule, with the net weight of the article; or

(b) in the case of any article specified in Part I of the Fifth Schedule, with the measure of capacity of the article.

*(As amended by No. 209 of 1972)*

**9.** No person shall sell pre-packed cement otherwise than by weight and in quantities of 50 kg or multiples thereof. Cement

**10.** No person shall sell coal or coke otherwise than by weight. Coal and coke

**11.** (1) Subject to the provisions of sub-regulation (2), no person shall sell any fertiliser otherwise than by weight. Fertiliser

(2) The provisions of sub-regulation (1) shall not apply to a fertiliser sold in liquid form.

**12.** (1) Subject to the provisions of sub-regulation (2), no person shall sell firewood otherwise than- Firewood

(a) by weight; or

(b) in quantities of 1 cubic metre or an integral multiple of 1 cubic



metre.

(2) The provisions of sub-regulation (1) shall not apply to firewood sold in quantities of less than 50 kg.

**13.** (1) Subject to the provisions of sub-regulation (3), no person shall sell any meat otherwise than by weight. Meat

(2) The invoice or delivery note required in terms of subsection (2) of section *nineteen* of the Act shall, in respect of the sale of any meat sold by weight, specify-

(a) the name and address of the seller;

(b) the name and address of the purchaser;

(c) the weight, grade and designation of each cut of meat delivered; and

(d) the price per kilogram of, or the total price charged for, each cut of meat delivered.

(3) The provisions of sub-regulation (1) shall not apply to the sale of brains, head or feet.

(4) In the case of the retail sale of pre-packed meat, the wrapper or container shall be clearly marked showing the weight, designation and price of each cut of meat.

**14.** No person shall sell cheese otherwise than by weight. Cheese

**15.** (1) For the purposes of this regulation, "sell from bulk" means to sell from a bottle or other container any quantity which is less than the original quantity contained in such bottle or other container. Spirituous liquor

(2) Subject to the provisions of sub-regulation (3), no person shall sell from bulk for consumption on his premises any spirituous liquor

otherwise than-

- (a) by measure of capacity; and
- (b) in quantities of 35 millilitres or 70 millilitres.

(3) The provisions of sub-regulation (2) shall not apply to spirituous liquor sold in the form of a cocktail.

**16.** (1) Subject to the provisions of sub-regulation (2), no person shall sell any agricultural produce otherwise than by weight or by measure of capacity. Agricultural produce

(2) The provisions of sub-regulation (1) shall not apply to the sale by auction of any agricultural produce which is-

- (a) not contained in a sack or container; and
- (b) sold in quantities not exceeding 15 kg in weight.

**17.** A person shall not sell bread or other wheat products set out in the Sixth Schedule otherwise than- Bread

- (a) by weight; and
- (b) in quantities respectively specified therefor in the Sixth Schedule, or an integral multiple of such weight:

Provided that such quantities may be exceeded by a weight not exceeding proportionally 50 g for each 40 g.

*(As amended by S.I. No. 92 of 1985)*

**18.** No person shall sell dried fish otherwise than by weight. Dried fish

**19.** No person shall sell lime otherwise than by weight. Lime

**20.** (1) Subject to the provisions of sub-regulation (2), no person shall sell milk or cream- Milk and cream

(a) otherwise than by measure of capacity and in quantities of 0.1 litre, 0.25 litre, 0.5 litre, 1 litre or an integral multiple of 1 litre;

(b) in a container having a capacity which exceeds the quantity of milk or cream sold in that container by more than five per centum of such quantity.

(2) The provisions of sub-regulation (1) shall not apply to-

(a) milk or cream sold to a creamery, dairy or factory for manufacturing purposes;

(b) tinned or bottled cream sold by weight.

(3) Any can used for the delivery of milk or cream sold by weight to a creamery, dairy or factory for manufacturing purposes shall have its tare weight conspicuously stamped on the side or neck thereof.

(4) Where the quantity of milk in terms of measure of capacity sold to a creamery, dairy or factory is to be determined by weighing, the basis of computation shall not exceed 1,080 grams per litre, nor be less than 1,070 grams per litre.

**21.** (1) A person shall not sell any edible oil which is pre-packed in Zambia otherwise than by measure of capacity and in a quantity specified in the Sixth Schedule. Cooking oil

(2) Where any edible oil is sold by decanting-

(a) a certified standard measure shall be used;

(b) the seller shall satisfy the buyer that the correct quantity is being decanted;

(c) reasonable time shall be allowed for the oil to drain out of the measure;

(d) the quantities in which such oil may be sold shall be specified in the Sixth Schedule.

*(As amended by S.I. No. 91 of 1985)*

# FIRST SCHEDULE

*(Regulation 5)*

PRE-PACKED ARTICLES WHICH MAY BE MARKED "NET WEIGHT WHEN PACKED"

1. Carbonate of soda, sulphate of soda, or Epsom salts
2. Soap made in bar or tablet form and packed in cases
3. Tobacco
4. Dried fruit
5. Cheese in its original wrappings
6. Ham in its original wrappings or preserving materials
7. Fertilisers
8. Compound feeding stuffs for animals
9. Seed potatoes
10. Yeast
11. Any grade of ferrous sulphate other than the exsiccated variety, zinc sulphate, copper sulphate, sodium sulphite, sodium thiosulphate or lead nitrate
12. Wool

# **SECOND SCHEDULE**

## ***(Regulation 6 (5))***

### **ABBREVIATIONS OF DENOMINATIONS**

#### **WEIGHTS**

<i>Denomination</i>	<i>Abbreviation</i>
Kilogram	kg
Gram	g
Decigram	dg
Centigram	cg
Milligram	mg
Metric carat	C.M.

#### **MEASURES**

Litre	l or lit
Decilitre	dl
Centilitre	cl
Millilitre	ml
Metre	m
Decimetre	dm
Centimetre	cm
Millimetre	mm
Cubic centimetre	c.c. or cm <sup>3</sup>
Cubic metre	cu.m or m <sup>3</sup>

# THIRD SCHEDULE

## (Regulation 7)

### PART I

### STANDARD WEIGHT PER BAG

<i>Article</i>	<i>Net Weight</i>
Barley	70 kg
Beans, all varieties	90 kg
Bran, maize	32 kg
Bran, wheaten	45 kg
Buckwheat	70 kg
Bullrush millet	90 kg
Bullrush millet meal	90 kg
Coal	50 kg
Coke	25 kg
Cow peas	90 kg
Finger millet	90 kg
Flour, wheaten	90 kg
Gram	90 kg
Groundnut cake	70 kg
Groundnut meal	90 kg
Groundnuts, shelled	80 kg
Groundnuts, unshelled	30 kg
Hominy chop	70 kg
Maize, crushed, seconds or grits	90 kg
Maize, dried and off the cob	90 kg
Maize flour	90 kg
Maize germ meal	70 kg
Maize meal	90 kg
Oats, crushed	50 kg
Oats, uncrushed	70 kg
Pollard	45 kg
Rice paddy	80 kg
Rye	90 kg
Rye meal	45 kg
Sorghum	90 kg
Sorghum meal	90 kg
Sunflower seed	70 kg
Sunnhemp seed	90 kg
Sweet potatoes	55 kg
Wheat	90 kg

PART II

**STANDARD WEIGHT PER POCKET**

<i>Article</i>	<i>Net Weight</i>
Maize flour	45 kg
Maize meal	45 kg
Onions	12 kg
Potatoes	15 kg
Wheat flour	45 kg



# FOURTH SCHEDULE

(Regulation 8 (1) and (4))

## PRE-PACKED ARTICLES TO BE SOLD BY WEIGHT AND IN FIXED QUANTITIES

<i>Pre-packed Articles</i>	<i>Quantity</i>
1. Butter, dripping, lard, margarine or any other animal or vegetable an integral cooking fat not in liquid form, but excluding peanut butter.	100 g, 250 g or multiple of 500 g.
2. Tea, including bush tea, ground coffee, cocoa and other beverages in flaked, granulated or powdered form, but excluding-	100 g, 250 g, 500 g or an integral multiple of 500 g.
(a) dried or evaporated milk; and	
(b) soluble coffee extracts; and	
(c) soluble coffee and chicory extracts; and	
(d) soluble tea compounds; and	
(e) fruit flavoured drinks in dried form.	
3. Soluble coffee extracts, soluble coffee and chicory extracts and soluble tea compounds.	100 g, 250 g, 500 g, 750 g, 1 kg or an integral multiple of 500 g.
4. Honey, jam, jelly, marmalade, syrup or treacle, but excluding jelly crystals.	100 g, 200 g, 300 g, 400 g, 450 g, 500 g, 1 kg or an integral multiple of 1 kg.
5. Breakfast foods manufactured from a cereal.	100 g, 150 g, 200 g, 300 g, 500 g, or an integral multiple of 500 g.
6. Macaroni, spaghetti, vermicelli or any similar product or substitute therefor, whether flavoured or not, which is not tinned.	100 g, 200 g, 500 g, 1 kg or an integral multiple of 1 kg.
7. Cornflour, self-raising flour, rice, sago, semolina or tapioca.	100 g, 200 g, 500 g, 1 kg or an integral multiple of 1 kg.
8. Flour, but excluding flour of a type specified in paragraph 7 or 9.	500 g or integral multiples of 500 g, not exceeding 5 kg, 10 kg, 20

kg, 45	kg or 90 kg.
9. Maize meal or maize flour. g, 1 kg, kg, or 90	20 g, 50 g, 100 g, 200 g, 500 2 kg, 5 kg, 10 kg, 20 kg, 45 kg.
10. Maize germ meal. not	An integral multiple of 500 g exceeding 5 kg, 10 kg, 20 kg, 45 kg or 70 kg.
11. Meal, but excluding meal of a type specified in paragraph 9 or 10. multiple of 500 g kg,	An integral not exceeding 5 kg, 10 kg, 20 45 kg or 90 kg.
12. Salt, but excluding rock or flavoured salt. integral kg,	100 g, 200 g, 500 g, or an not exceeding 5 kg, 10 kg, 20 50 kg, or 100 kg.
13. Castor, cube, icing, loaf or tablet sugar. multiple of 1	200 g, 1 kg or an integral kg.
14. Sugar, but excluding sugar of a type specified in paragraph 13. an integral 20 kg	200 g, 500 g, 1 kg or multiple of 1 kg up to 10 kg, or 50 kg.
15. Dried fruit. kg.	100 g, 200 g, 500 g, 1 kg or an integral multiple of 1
16. Peanut butter. kg.	100 g, 200 g, 400 g, 1 kg or an integral multiple of 1
17. Nuts, including peanuts, nuts and dried fruit mixtures, potato crisps, g, 100 g, 125 g, chips and puffs. kg kg.	20 g, 25 g, 50 200 g, 250 g, 300 g, 500 g, 1 or an integral multiple of 1

# **FIFTH SCHEDULE**

*(Regulation 8 (2) and (4))*

## **PRE-PACKED ARTICLES TO BE SOLD BY MEASURE OF CAPACITY AND IN FIXED QUANTITIES**

### **PART I**

#### PRE-PACKED ARTICLE

1. Brake fluid
2. Benzine, paraffin, petrol, turpentine or turpentine substitute
3. Lubricating oil
4. Linseed oil
5. Creosote or creosote substitute
6. Methylated spirits
7. Liquid paint, enamel or lacquer, in a condition ready for use
8. Varnish, wood stain or wood preservative
9. Revoked by S.I. No. 91 of 1985
10. Vinegar
11. Liquid fertiliser

### **PART II**

#### QUANTITY

- 10 ml or an integral multiple of 10 ml not exceeding 100 ml.
- 20 ml or an integral multiple of 20 ml not exceeding 500 ml.
- 25 ml or an integral multiple of 25 ml not exceeding 375 ml.
- 50 ml or an integral multiple of 50 ml not exceeding 1 litre, 2 litres, 2.5 litres, 3 litres, 5 litres or an integral multiple of 5 litres.

# **SIXTH SCHEDULE**

*(Regulation 21)*

#### QUANTITIES IN WHICH EDIBLE OIL MAY BE SOLD

- 100 ml, 200 ml, 250 ml, 600 ml, 750 ml, one litre, 2.5 litres and 5 litres.

(As amended by S.I. No. 91, 92 of 1985 and No. 197 of 1986)

**SECTION 27-THE WEIGHTS AND MEASURES  
(STANDARD) REGULATIONS**  
*Regulations by the Minister*

*Statutory  
Instrument  
176 of 1971*

- |   |   |
|---|---|
| <p><b>1.</b> These Regulations may be cited as the Weights and Measures (Standards) Regulations.</p>  | <p>Title</p>                                |
| <p><b>2.</b> (1) A national standard shall be authenticated by a certificate issued by the National Physical Laboratory of the United Kingdom or by the Standard Weights and Measures Department of the United Kingdom responsible for the administration of the Weights and Measures Act, 1963, of the United Kingdom, or any other equivalent authority recognised by the Minister which-</p> <p>(a) describes and identifies the standard;</p> <p>(b) states the actual error found on verification; and</p> <p>(c) specifies any special conditions applying during the verification.</p> <p>(2) A local standard shall be authenticated by a certificate issued by the Superintendent which-</p> <p>(a) describes and identifies the standard; and</p> <p>(b) states the actual error found on verification.</p> <p>(3) A working standard shall be authenticated by a certificate issued by an assizer which-</p> <p>(a) describes and identifies the standard; and</p> <p>(b) states that the error found on verification is within the limits laid down by these Regulations.</p> | <p>National local and working standards</p> |
| <p><b>3.</b> All working standards shall be verified in comparison with local</p>   | <p>Verification of</p>                      |

standards at intervals not exceeding-

- (a) in the case of standards of mass, one year;
- (b) in the case of metric carat standards of mass, five years;
- (c) in the case of standards of length, five years;
- (d) in the case of measures of capacity, one year.

standards at  
certain intervals

**4.** In local standards, the limit of error allowed-

- (a) on a mass of a denomination specified in the first column of Part I or II of the First Schedule, is that specified opposite thereto in the second column of Part I or II respectively of the First Schedule;
- (b) on a measure of capacity of a capacity specified in the first column of Part I or II of the Second Schedule, is that specified opposite thereto in the second column of Part I or II respectively of the Second Schedule;
- (c) on a measure of length of a capacity specified in the first column of the Third Schedule, is that specified opposite thereto in the second column of the Third Schedule.

Limit of error  
allowed in local  
standards

**5.** (1) Subject to the provisions of sub-regulation (2), a working standard shall, when verified, be adjusted to agree with the local standard with which it is compared.

Adjustment of  
working  
standards

(2) The limit of error allowed on an iron working standard of mass of a denomination of 1 kg or over which is used for the testing of weighing instruments shall be 100 mg per kilogram in excess only, but the limit of error on a 500 kg roller mass shall be 100 grams in excess only.

**6.** (1) The local standards shall be kept at the Weights and Measures offices established at Lusaka and Ndola.

Location of  
standards

(2) The national standards of mass, length and capacity shall be kept at the Weights and Measures office in Lusaka.

# FIRST SCHEDULE

(Regulation 4 (a))

## LIMITS OF ERROR ON LOCAL STANDARDS

### PART I

#### MASSES

<i>Denomination of mass</i>	<i>Error allowed in excess or deficiency</i>
20 kilograms.....	150 milligrams
10 kilograms.....	100 milligrams
5 kilograms.....	50 milligrams
2 kilograms.....	30 milligrams
1 kilogram.....	20 milligrams
500 grams.....	10 milligrams
200 grams.....	10 milligrams
100 grams.....	4 milligrams
50 grams.....	3 milligrams
20 grams.....	2 milligrams
18 grams.....	2 milligrams
10 grams.....	1 milligram
9 grams.....	1 milligram
5 grams.....	1 milligram
2 grams.....	1 milligram
1 gram.....	0.4 milligram
5 decigrams.....	0.4 milligram
2 decigrams.....	0.4 milligram
1 decigram.....	0.4 milligram
5 centigrams.....	0.4 milligram
2 centigrams.....	0.2 milligram
1 centigram.....	0.1 milligram
5 milligrams or under.....	0.04 milligram

### PART II

## METRIC CARAT MASSES

<i>Denomination of mass</i>	<i>Error allowed in excess or deficiency</i>
200 metric carats or over.....	1 milligram
100 metric carats .....	0.4 milligram
50 metric carats .....	0.4 milligram
20 metric carats .....	0.2 milligram
10 metric carats .....	0.2 milligram
5 metric carats .....	0.2 milligram
2 metric carats .....	0.2 milligram
1 metric carat.....	0.2 milligram
0.5 metric carat.....	0.1 milligram
0.25 .....metric carat	0.1 milligram
0.2 metric carat.....	0.1 milligram
0.1 metric carat or under .....	0.04 milligram

# SECOND SCHEDULE

(Regulation 4 (b))

## LIMITS OF ERROR ON LOCAL STANDARDS

### PART I

#### MEASURES OF CAPACITY

<i>Capacity</i>	<i>Error allowed in excess or deficiency</i>
20 litres.....	10 millitres
10 litres.....	5 millilitres
5 litres.....	2.5 millilitres
2 litres.....	1.25 millilitres
1 litre .....	0.5 millilitre
500 millilitres .....	0.4 millilitre
200 millilitres .....	0.3 millilitre
100 millilitres .....	0.2 millilitre
50 millilitres .....	0.15 millilitre
20 millilitres .....	0.1 millilitre
10 millilitres .....	0.08 millilitre
5 millilitres .....	0.06 millilitre
2 millilitres .....	0.04 millilitre
1 millilitres .....	0.04 millilitre

The above table shall apply to all forms of local standard measures of capacity excepting measures of cubic content.

### PART II

#### GRADUATED GLASS MEASURES

<i>Capacity of measure</i>	<i>Error allowed in excess or deficiency</i>
above 100 millilitres .....	0.5 millilitre
above 20 millilitres and not exceeding 100 millilitres.....	0.3 millilitre



above 5 millilitres and not exceeding 20 millilitres.....	0.2 millilitre
above 2 millilitres and not exceeding 5 millilitres.....	0.1 millilitre
not exceeding 2 millilitres.....	0.05 millilitre

# THIRD SCHEDULE

(Regulation 4 (c))

## LIMITS OF ERROR ON LOCAL STANDARDS

### MEASURES OF LENGTH

<i>Denomination</i>	<i>Error allowed in excess or deficiency</i>
50 metres.....	4.0
millimetres	
30 metres.....	4.0
millimetres	
20 metres.....	2.5
millimetres	
10 metres.....	2.5
millimetres	
5 metres.....	2.5
millimetres	
3 metres.....	2.5
millimetres	
2 metres.....	0.5
millimetres	
1 metre .....	0.25
millimetres	
1 decimetre.....	0.1 millimetres
1 centimetre.....	0.05 millimetres

## CHAPTER 404 THE STANDARDISATION OF SOAP ACT

### ARRANGEMENT OF SECTIONS

#### Section

1. Short title
2. Interpretation

3. Ingredients of soaps
4. Restriction on manufacture of soap
5. Inspection of premises
6. Penalties

## CHAPTER 404

### STANDARDISATION OF SOAP

24 of 1957  
 19 of 1959  
 Act No.  
 13 of 1994

An Act to regulate and control the manufacture of soap; and to provide for matters incidental thereto.

[29th November, 1957]

1. This Act may be cited as the Standardisation of Soap Act. Short title
  
2. In this Act, unless the context otherwise requires- Interpretation

"soap" means the product which results from the process of the saponification of fats and oils-

  - (a) with sodium hydroxide or potassium hydroxide; or
  - (b) by the neutralisation of fatty acids with sodium hydroxide or potassium hydroxide or their carbonates or bi-carbonates; or
  - (c) by the neutralisation of fatty acids with ammonia or triethanolamine.
  
3. (1) Soap in the form of bars, tablets, flakes or chips for household, laundry or toilet purposes- Ingredients of soaps
  - (a) shall contain not less than forty-five per centum of fatty acids, of

which not more than one-third may be replaced by resin acids; and

(b) shall not contain more than one-quarter of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide); and

(c) shall be free from any harmful ingredients.

(2) Liquid soap-

(a) shall contain not less than fifteen per centum of fatty acids, of which not more than one-quarter may be replaced by resin acids; and

(b) shall contain not more than one-twentieth of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide); and

(c) shall be free from harmful ingredients.

(3) Soft soap-

(a) shall contain not less than thirty-five per centum of fatty acids, of which not more than one-third may be replaced by resin acids; and

(b) shall contain not more than three-quarters of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide).

**4.** (1) Except with the written consent of the Minister, no person shall manufacture for sale any soap of which the composition, at the time when the soap is packed, does not comply with the relevant provisions of section *three*.

Restriction on  
manufacture of  
soap

(2) Any person who manufactures any soap in contravention of the provisions of subsection (1) shall be guilty of an offence.

**5.** (1) Any person generally or specially authorised thereto by the Minister may at any time enter upon premises where soap is manufactured and take samples of soap for examination or analysis.

Inspection of  
premises

(2) Any person who owns, occupies or is in control of any premises where soap is manufactured, and every person employed upon such premises, shall, when required, permit any person authorised under the provisions of subsection (1) to enter such premises in the course of his duties and to exercise the powers conferred by subsection (1).

(3) Any person who fails to comply with the provisions of subsection (2) or who hinders or obstructs any person in the exercise of the powers conferred by subsection (1) shall be guilty of an offence.

**6.** (1) Any person guilty of an offence under the provisions of this Act shall be liable- Penalties

(a) for a first offence, to a fine not exceeding three thousand penalty units; and

(b) for a second or subsequent offence, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

(2) Where any person is convicted of an offence under the provisions of section *four*, the court by which he is so convicted may order that any soap which is the subject-matter of such offence shall be forfeited to and become the property of the Government and any soap so forfeited may thereafter be disposed of as the Minister may direct.

*(As amended by Act No. 13 of 1994)*

## CHAPTER 405 THE MERCHANDISE MARKS ACT

### ARRANGEMENT OF SECTIONS

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title

2. Interpretation

## **PART II**

### **APPLICATION OF TRADE MARKS AND TRADE DESCRIPTIONS**

3. Application of trade marks and trade descriptions

## **PART III**

### **MARKING OF GOODS AND PROHIBITIONS IN RELATION TO TRADE MARKS AND TRADE DESCRIPTIONS**

4. Certain acts deemed to be a forgery of a trade mark
5. Forgery of trade marks and other acts prohibited
6. Prohibition of sale of goods bearing forged trade mark or false trade description
7. Prohibition of sale of imported goods unless accompanied by indication of origin
8. Prohibition of sale of goods made in Zambia unless accompanied by indication of origin
9. Importation of certain goods prohibited
10. Manner of application of mark
11. Marking of goods on importation
12. Removal of indication of origin from imported goods prohibited
13. Indication of origin and compliance with specified standards in the case of certain classes of goods
14. Indication of origin of certain goods may be prescribed
15. Use of certain marks may be prohibited
16. Submission of representations by interested persons

## **PART IV**

### **MISCELLANEOUS**

Section

17. Implied warranty on sale of marked goods
18. Sale of goods in bottles marked with owner's name
19. Appointment of inspectors and powers of police officers and inspectors
20. Evidence
21. Aiding and abetting offences
22. Limitation of prosecution
23. Offences and penalties
24. Forfeiture

**CHAPTER 405**

**MERCHANDISE MARKS**

*Federal Acts*  
17 of 1957  
17 of 1959  
*Government*  
*Notices*  
153 of 1964  
497 of 1964  
*Statutory*  
*Instrument*  
175 of 1965  
*Act*  
23 of 1965  
13 of 1994

An Act to provide for the marking of goods, and for matters incidental thereto.

[7th March, 1958]

**PART I**

**PRELIMINARY**

1. This Act may be cited as the Merchandise Marks Act.

Short title

*(As amended by G.N. No. 153 of 1964)*

2. In this Act, unless the context otherwise requires-

Interpretation

"apply to" means to emboss, impress, engrave, etch or print upon, weave or otherwise work into or annex or affix to, and cognate expressions shall be construed accordingly;

"bottle" means a bottle made of glass, earthenware or plastic material;

"covering" includes any stopper, cask, bottle, vessel, box, cover, wrapper, capsule, case, frame or container;

"customs officer" means any officer of the Department of Customs and Excise and any other person appointed by the Controller of Customs and Excise for the discharge of any duties in connection with the administration of the Customs and Excise Act;

Cap. 322

"false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false or misleading in a material respect and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act;

"goods" means anything which is the subject of trade, manufacture or merchandise;

"goods assembled externally" means goods assembled in any country outside Zambia;

"goods manufactured externally" means goods manufactured, made or produced in any country outside Zambia;

"goods mixed externally" means goods the ingredients of which have been mixed in any country outside Zambia and were manufactured, made or produced in-



(a) a country other than the country in which they were mixed; or

(b) more than one country;

"inspector" means an inspector appointed under the provisions of section *nineteen*;

"label" includes any band or ticket;

"mix" includes blend and cognate expressions shall be construed accordingly;

"name" includes any abbreviation of or addition to a name;

"offending mark" means-

(a) in relation to goods manufactured externally, goods assembled externally or goods mixed externally-

(i) a mark applied to those goods containing any name being or purporting to be the name of any manufacturer, producer, trader, assembler or mixer in Zambia or the name of any town, place or district in Zambia; or

(ii) a trade mark or trade description applied to those goods containing-

A. a direct or indirect reference to any town, place or district outside Zambia; or

B. a direct or indirect reference (other than the name of a country applied to those goods so as to indicate that they were manufactured, produced, assembled or mixed in that country) to a country outside Zambia;

(b) in relation to goods manufactured, made, produced, assembled or mixed in Zambia, a trade mark or trade description applied to those goods containing a direct or indirect reference to any town, place, district or country outside Zambia;

"sell" includes to expose for sale or have in possession for the purpose of sale or for any purpose of trade or commerce, and cognate expressions shall be construed accordingly;

"trade description" means any description, statement or other indication, direct or indirect, as to-

(a) the number, quantity, measure, gauge or weight of any goods; or

(b) the standard of quality of any goods, according to a classification commonly used or recognised in the trade; or

(c) the name of the manufacturer, producer, assembler or mixer of any goods;

(d) the place or country in which any goods were manufactured, made, produced, assembled or mixed;

(e) the fitness for purpose, strength, performance or behaviour of any goods; or

(f) the mode of manufacturing, producing, assembling or mixing of any goods;

(g) the material of which any goods are composed; or

(h) the fact of any goods being the subject of an existing patent, privilege or copyright;

and the use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act;

"trade mark" means a mark which is used upon or in connection with goods for the purpose of indicating that they are, by virtue of manufacture, production, selection, certification, dealing with or offering for sale, the goods of the proprietor or of a person who is, in terms of any enactment in force within Zambia, the registered user thereof.

*(As amended by No. 17 of 1959 and G.N. No. 153 of 1964)*

## PART II

### APPLICATION OF TRADE MARKS AND TRADE DESCRIPTIONS

3. (1) A person shall be deemed to apply a trade mark or trade description to goods if he-

Application of  
trade marks and  
trade  
descriptions

- (a) applies it to the goods themselves; or
- (b) applies it to any covering, label, reel or other thing in or attached to which the goods are sold; or
- (c) places, encloses or annexes the goods which are sold in, with or to any covering, label, reel or other thing to which a trade mark or trade description has been applied; or
- (d) uses a trade mark or trade description in any manner so as to be likely to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or trade description.

(2) Goods delivered in pursuance of an offer or request made by reference to a trade mark or trade description appearing in any sign, advertisement, invoice, wine list, business letter, business paper or other commercial communication shall, for the purposes of paragraph (d) of subsection (1), be deemed to be goods in connection with which the trade mark or trade description is used.

(3) A person shall be deemed falsely to apply to goods a trade mark who, without the consent of the proprietor or of any person who is, in terms of any enactment in force within Zambia, the registered user thereof, applies to the goods that trade mark or a mark so nearly resembling it as to be likely to deceive.

(4) Any person who applies to goods any word, name, letter, figure or mark, or arrangement or combination thereof, whether consisting of or including a trade mark or part of a trade mark or not, which is likely to

lead to the belief that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, shall be deemed to apply a false trade description to the goods.

*(As amended by G.N. No. 153 of 1964)*

### **PART III**

## **MARKING OF GOODS AND PROHIBITIONS IN RELATION TO TRADE MARKS AND TRADE DESCRIPTIONS**

- 4.** A person shall be deemed to forge a trade mark if he-
- (a) without the consent of the proprietor of the trade mark, makes that trade mark or a mark so nearly resembling that trade mark as to be likely to deceive; or
  - (b) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise;
- and any trade mark so made or falsified is in this Act referred to as a forged trade mark.

Certain acts deemed to be a forgery of a trade mark

- 5.** (1) No person shall-

Forgery of trade marks and other acts prohibited

- (a) forge any trade mark; or
- (b) make any die, block, machine or other instrument for the purpose of forging or of being used for forging a trade mark; or
- (c) dispose of or have in his possession any die, block, machine or other instrument for the purpose of forging a trade mark; or
- (d) falsely apply to goods any trade mark or a mark so nearly resembling a trade mark as to be likely to deceive; or
- (e) without the consent of the proprietor of a trade mark, make, import or have in his possession any device for applying that trade mark to goods or make any reproductions, replicas or representations of that trade mark or import them otherwise than on goods to which they have

been applied for the purpose of applying them contrary to the provisions of this Act; or

(f) make, import or have in his possession any device for applying to any goods a mark so nearly resembling a trade mark as to be likely to deceive; or

(g) make, import or have in his possession any coverings, labels, reels or any reproductions, replicas or representations of a trade mark or a mark so nearly resembling a trade mark as to be likely to deceive for the purpose of applying them to goods contrary to the provisions of this Act; or

(h) apply any false trade description to goods.

(2) It shall be a sufficient defence to any charge under subsection (1) if the accused satisfies the court that he acted without intent to defraud.

(3) In any prosecution for a contravention of paragraph (b), (d) or (h) of subsection (1), it shall be a sufficient defence if the accused satisfies the court that-

(a) in the ordinary course of his business he was employed, on behalf of other persons, either to make dies, blocks, machines or other instruments for making or being used in making trade marks, or, as the case may be, to apply trade marks or trade descriptions to goods and that in the case which is the subject of the charge he was so employed by some other person and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

(b) he took reasonable precautions against committing the offence charged; and

(c) he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark or trade description; and

(d) on request made by an inspector, police officer or customs officer, he gave to such inspector or such officer all the information in his power with respect to the persons on whose behalf the trade mark or trade description was applied.

6. (1) No person shall sell any goods-

Prohibition of  
sale of goods  
bearing forged  
trade mark or  
false trade  
description

(a) to which any forged trade mark or false trade description is applied; or

(b) to which any trade mark or a mark so nearly resembling a trade mark as to be likely to deceive is falsely applied.

(2) It shall be a sufficient defence to any charge under subsection (1) if the accused satisfies the court that-

(a) having taken all reasonable precautions against committing an offence against this Act, he had at the time of the sale no reason to suspect the genuineness of the trade mark or trade description and, on request made by an inspector, police officer or customs officer, he gave to such inspector or such officer all the information in his power with respect to the persons from whom he obtained such goods; or

(b) otherwise he had acted innocently.

7. (1) Subject to the provisions of subsection (2), no person shall sell or for the purpose of advertising goods distribute any goods manufactured externally, any goods assembled externally or any goods mixed externally or samples of such goods to which there is applied an offending mark unless there is also applied to those goods in the manner specified in section *ten* the name of the country in which those goods were manufactured, assembled or mixed so as to indicate that those goods were manufactured, assembled or mixed, as the case may be, in that country.

Prohibition of  
sale of imported  
goods unless  
accompanied by  
indication of  
origin

(2) This section shall not have effect in respect of the application of a name or trade mark to-

(a) parts or materials of a type suitable only for consumption in a

process of manufacture; or

(b) articles to be used as coverings, labels or reels or to articles in or with which goods manufactured, made, produced, assembled or mixed in Zambia are to be sold;

if the name or trade mark so applied is the name or trade mark of a manufacturer, producer, assembler, mixer of or trader in those goods in Zambia and the name or trade mark is applied with his consent.

(3) The Minister may, by statutory notice, suspend, in relation to any goods or class of goods, the operation of subsection (1).

*(As amended by No. 17 of 1959 and G.N. No. 153 of 1964)*

**8.** (1) No person shall sell or for the purpose of advertising goods distribute in Zambia any goods manufactured, made, produced, assembled or mixed in Zambia or samples of such goods to which there is applied an offending mark unless there is also applied to those goods in the manner specified in section *ten* the name of Zambia so as to indicate that those goods were manufactured, made, produced, assembled or mixed, as the case may be, in Zambia.

Prohibition of sale of imported goods unless accompanied by indication of origin

(2) The Minister may, by statutory notice, suspend, in relation to any goods or class of goods, the operation of sub-section (1).

*(As amended by No. 17 of 1959 and G.N. No. 153 of 1964)*

**9.** No person shall import into Zambia any goods-

(a) to which any forged trade mark or false trade description is applied or to which any trade mark or a mark so nearly resembling a trade mark as to be likely to deceive is falsely applied; or

(b) which it would be an offence to sell or distribute in terms of section *seven* or *eight*.

*(As amended by G.N. No. 153 of 1964)*

Importation of certain goods prohibited

**10.** (1) Whenever the name of the country in which goods were manufactured, made, produced, assembled or mixed is applied to goods for the purposes of section *seven* or *eight*, that name shall be applied in a

Manner of application of mark

conspicuous manner-

(a) (i) in the case where an offending mark is applied to the goods themselves, to the goods themselves; or

(ii) in the case where an offending mark is applied to any covering, label or other attachment, either by means of such covering, label or other attachment or to the goods themselves;

(b) so as to render unlikely the obliteration, erasure or detachment of such name in the ordinary course of handling prior to sale to the consumer; and

(c) in a prominent position and so placed that it can be easily read without detaching or unwrapping any part of the covering in which the goods may be offered for sale, or wherever an offending mark is applied.

(2) Notwithstanding the provisions of subsection (1), the Minister may, by statutory notice, and for the purposes of sections *seven* and *eight*, prescribe in respect of goods specified in such notice the manner in which the name of the country shall be applied and in that event the provisions of subsection (1) shall not apply in relation to those goods.

(No. 17 of 1959 as amended by G.N. No. 153 of 1964)

**11.** (1) If the import of any goods into Zambia is prohibited in terms of paragraph (b) of section *nine*, the Controller of Customs and Excise, after-

Marking of goods on importation

(a) being furnished by the importer thereof with proof of the country in which the goods were manufactured, made, produced, assembled or mixed; and

(b) being satisfied that the goods are capable of being marked so as to comply with the requirements of section *seven* or *eight*, as the case may be;

may, within such time as he may specify, permit the importer of the goods to mark them so as to comply with such requirements.

(2) If the goods are marked within the time specified in terms of subsection (1) to the satisfaction of the Controller of Customs and Excise, such goods may, notwithstanding the provisions of section *forty*

Cap. 322



of the Customs and Excise Act, be imported into Zambia.

*(As amended by No. 17 of 1959 and G.N. No. 153 of 1964)*

**12.** (1) No person shall remove, alter or obliterate an indication of origin applied to goods in accordance with the provisions of section *seven, eight or eleven*.

Removal of  
indication of  
origin from  
imported goods  
prohibited

(2) It shall be a sufficient defence to any charge under subsection (1) if the accused satisfies the court that the removal, alteration or obliteration was not made for the purpose of concealing the origin of the goods at the time of sale.

**13.** The Minister may, after such investigation as he thinks fit, by statutory notice, prohibit the importation for sale or the sale of goods of any class or description, unless all or any of the following requirements, as specified in such notice, have been complied with:

Indication of  
origin and  
compliance  
with specified  
standards in the  
case of certain  
classes of goods

(a) there are applied to the goods words stating clearly the country in which they were manufactured, made, produced, assembled or mixed and such words are applied in such manner as may be specified in the notice or, if no manner is specified, in a conspicuous manner;

(b) the goods bear such mark as may be specified in the notice and conform to such standard as may be prescribed in the notice;

(c) there are applied to the goods in a conspicuous manner and as specified in the notice words or letters stating clearly the materials of which they are composed and, if so specified in the notice, the percentages of such materials calculated either by weight or by volume;

(d) there are applied to second-hand goods which have been reconditioned, rebuilt or remade, whether in Zambia or elsewhere, in the manner specified in the notice, words stating clearly that they have been reconditioned, rebuilt or remade, as the case may be;

(e) in the case of goods to which there is applied any number which, in the opinion of the Minister, is likely to lead to the belief that such number refers to a unit of quantity, measure, gauge, or weight, there are added words stating clearly to what such number refers.

*(As amended by No. 17 of 1959 and G.N. No. 153 of 1964)*

**14.** If the Minister, after such investigation as he thinks fit, is satisfied, Indication of

in the case of goods of any class or description which are made or produced in one country, that-

origin of certain goods may be prescribed

(a) such goods-

(i) have undergone in another country any treatment or process resulting in a substantial change in the goods; or

(ii) have had a considerable part of the labour expended in the manufacture or production of such goods expended in another country; or

(iii) are largely composed of materials made or produced in another country; and

(b) it is desirable that disclosure be made with respect to such goods of the facts referred to in sub-paragraph (i), (ii) or (iii) of paragraph (a);

he may, by statutory notice, prohibit the importation for sale or the sale of such goods, unless there are applied to them in a conspicuous manner words specified in the notice making disclosure of the facts referred to concerning such goods.

*(As amended by G.N. No. 153 of 1964)*

**15.** The Minister may, after such investigation as he thinks fit, by statutory notice, prohibit, either absolutely or conditionally, the application to goods of any mark, word, letter or figure or of any arrangement or combination thereof.

Use of certain marks may be prohibited

**16.** Before the Minister issues any notice under section *thirteen*, *fourteen* or *fifteen*, he shall, by Gazette notice, invite representations on the matter within a period stated and take into consideration all representations so submitted.

Submission of representations by interested persons

*(As amended by G.N. No. 153 of 1964)*

## **PART IV**

### **MISCELLANEOUS**

**17.** Every person who sells any goods to which a trade mark or trade description has been applied shall be deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied or that the trade

Implied warranty on sale of marked

description is not a false trade description, as the case may be, unless the contrary is expressed in writing signed by the seller or on his behalf and delivered at the time of the sale to and accepted by the purchaser.

goods

**18.** No person shall sell in any bottle, to which or to the stopper of which have been indelibly applied words indicating that the bottle is the property of a named person, goods resembling or so nearly resembling goods manufactured or produced for sale in any such bottle by such named person as to be likely to deceive.

Sale of goods in bottles marked with owner's name

**19.** (1) The Minister may appoint any person to be an inspector for the purposes of this Act.

Appointment of inspectors and powers of police officers and inspectors

(2) Any inspector who produces a certificate of his appointment under subsection (1) or any police officer may, at any time during the hours when the premises are open for business, enter any premises on which he has reason to believe there are kept for sale any goods, whether imported into or manufactured in Zambia, and, on giving a receipt therefor, may, without payment, take and remove samples of any such goods for examination or inspection or for any other purpose relating to the provisions of this Act.

(3) A police officer or inspector taking a sample in terms of subsection (2) shall forthwith notify the person on whose premises the sample is taken, or his agent, that the sample is taken in pursuance of the provisions of this Act and shall, if required so to do at the time of giving such notification, select a second like sample or, if practicable, divide the sample into two parts and mark and seal and leave with that person or agent either the second sample or one part of the divided sample.

(4) Any sample taken by a police officer or inspector under the powers conferred upon him by subsection (3) shall, whenever possible, be returned by him to the person from whose premises it was removed or to his agent.

(5) No person shall obstruct a police officer or inspector in the execution of the powers conferred upon such officer or such inspector

by this section.

(As amended by G.N. No. 153 of 1964)

**20.** (1) Any invoice or other document submitted or used by an importer or any other person in connection with the importation of goods in respect of which a prosecution is brought under this Act may be produced as evidence in any criminal proceedings without calling the person who prepared or signed it. Evidence

(2) In any prosecution for an offence under the provisions of this Act, evidence that any imported goods were shipped at any port of call shall be *prima facie* evidence that those goods were made or produced in the country within which that port is situated.

(3) Where, in any prosecution for a contravention of this Act, the consent of the proprietor of a trade mark is a relevant issue, the onus of proving the consent of such proprietor shall lie on the accused.

**21.** No person shall within Zambia procure, counsel, aid, abet or be accessory to the commission outside Zambia of any act which, if committed in Zambia, would be an offence under this Act. Aiding and abetting offences

(As amended by G.N. No. 153 of 1964)

**22.** No prosecution for any offence under the provisions of this Act shall be commenced after the expiration of a period of three years reckoned from the date on which the offence was alleged to have been committed or one year next after the first discovery thereof by an inspector, police officer, or customs officer, whichever expiration first happens. Limitation of prosecution

**23.** Subject to the provisions of this Act, any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall be liable- Offences and penalties

(a) on first conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding one year;

(b) on the second or any subsequent conviction, to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding two years;

or to both.

*(As amended by Act No. 13 of 1994)*

**24.** (1) Upon conviction of an offender under this Act, the Judge or magistrate presiding at the trial may, in addition to passing sentence, declare any goods in respect or by means of which the offence was committed to be forfeited to the Government, unless the owner of the goods or any person acting on his behalf or other person interested in the goods shows cause to the contrary.

Forfeiture

(2) If any goods in respect or by means of which it is suspected that an offence under this Act has been committed are seized by a police officer under any written law and taken before a magistrate, and, if no prosecution is instituted following that seizure, the magistrate shall, on application by a police officer, cause a notice to be published in the *Gazette* and in a newspaper circulating in his district stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods shall be declared forfeited.

(3) At such time and place, the magistrate may, unless the owner of the goods or any person acting on his behalf or other person interested in the goods shows cause to the contrary, declare such goods to be forfeited to the Government.

(4) Any goods declared to be forfeited under this section shall, without compensation, vest in the Government and may, by direction of the Minister responsible for finance, be sold or destroyed or appropriated to the Government.

*(As amended by G.N. No. 153 of 1964)*

## SUBSIDIARY LEGISLATION

MERCHANDISE MARKS

CAP. 405

**SECTION 7-THE MERCHANDISE MARKS (SECTION 7 SUSPENSION) NOTICE**  
*Notice by the Minister*

*Government Notices*  
**154 of 1964**  
**497 of 1964**  
*Statutory*

1. This Notice may be cited as the Merchandise Marks (Section 7 Suspension) Notice. Title
2. The operation of subsection (1) of section *seven* of the Act is suspended in relation to- Suspension
- (a) the goods specified in the First Schedule to which there is applied an offending mark, namely, a mark containing any name being or purporting to be the name of any manufacturer, producer, trader, assembler or mixer in Zambia or the name of any town, place or district in Zambia;
- (b) (i) the goods specified in Part I of the Second Schedule to which there is applied an offending mark, namely, a mark containing any name being or purporting to be the name of any manufacturer, producer, trader, assembler or mixer in Zambia or the name of any town, place or district in Zambia;
- (ii) the goods specified in Part II of the Second Schedule to which there is applied an offending mark, namely, a mark containing any name being or purporting to be the name of any manufacturer, producer, trader, assembler or mixer in Zambia or the name of any town, place or district in Zambia;
- (iii) the goods specified in Part III of the Second Schedule to which there is applied an offending mark, namely, a mark containing any name being or purporting to be the name of any manufacturer, producer, trader, assembler or mixer in Zambia or the name of any town, place or district in Zambia;
- (c) the goods specified in Part I of the Third Schedule to which there is applied an offending mark being a trade mark or trade description which contains a direct or indirect reference to any town, place or district specified in Part II of that Schedule;
- (d) the goods specified in Part I of the Fourth Schedule to which there is applied an offending mark being a trade mark or trade description specified in Part II of that Schedule which contains a direct or indirect reference to any town, place or district specified in Part III of that Schedule;

(e) the goods specified in Part I of the Fifth Schedule to which there is applied an offending mark being a trade mark or trade description specified in Part II of that Schedule which contains a direct or indirect reference (other than the name of a country applied to those goods so as to indicate that they were manufactured, produced, assembled or mixed in that country) to the country specified in Part III of that Schedule.

# FIRST SCHEDULE

*(Paragraph 2 (a))*

Denatured ethyl alcohol for aircraft use, or partly derived from crude petroleum oils.

Products wholly or partly derived from crude petroleum oils.

Corrosion preventatives wholly or partly derived from crude petroleum oils.

Substances for the prevention or destruction of weeds or pests including sheep and cattle dips and dipping powders and materials suitable only for dip; substances for the prevention or cure of disease in plants or trees.

Substances for the prevention of wood rot and substances for the preservation of wood.

Bitumen emulsions wholly or partly derived from crude petroleum oils.



# **SECOND SCHEDULE**

*(Paragraph 2 (b))*

## **PART I**

Any substance included in the list of poisons published in terms of the Pharmacy and Poisons Act (Chapter 536).

## **PART II**

Any substance sold by a pharmacist, medical practitioner or veterinary surgeon for medicinal purposes.

## **PART III**

Contact lenses and spectacles for sight correction, including frames and lenses for such spectacles.

# THIRD SCHEDULE

*(Paragraph 2 (c))*

## PART I

Brake lining rivets.

Internal combustion engines, their parts, equipment and accessories, not being designed specially for aircraft.

Fractional horse-power motors.

Motor vehicles, parts, spare parts and accessories therefor (but excluding tyres and tubes).

Tools, mechanics' and artisans', and workshop appliances.

## PART II

Anglia	Fargo	Pontiac
Austin	Harrison	Racine
Bedford	Hereford	Rochester
Belvedere	Hudson	Saginaw
Bradford	Humber	Saratoga
Burlington	Isis	Savoy
Cadillac	Kingsway	Texas
Cambridge	Lincoln	Thames
Chicago	Luton	Toledo
Churchill	McKinnon	Toranon
Cleveland	Monterey	Vauxhall
Cowley	Montlhery	Versailles
Dagenham	New Yorker	Westminister
Detroit	Oxford	Windsor
Dodge	Plymouth	Wolseley

# FOURTH SCHEDULE

*(Paragraph 2 (d))*

## PART I

Toilet soap in tablet form, shaving soap and shampoos.

Toilet preparations n.e.e., including liquid perfumery, powders, washes, pomatums, cosmetics, pastes, dyes and hair oils, but not including tooth powders, tooth pastes and tooth washes.

Perfumes containing more than 2 per centum of alcohol by volume at a temperature of 51 degrees Fahrenheit.

Tooth powders, tooth pastes and tooth washes.

Finger nails, slip (artificial nails).

## PART II

Helena Rubenstein

Elizabeth Arden

Max Factor

Charles of the Ritz

Revlon

Dorothy Gray

Richard Hudnut

Northern Wassen

Avon

Steiner

Shulton

Gemey

Yardley

Lentheric

Harriet Hubbard Ayer

Three Flowers

Innoxia

Vitapointe

## PART III

Cape Town

Hamburg

Hollywood

Leiden

London

Montreal

New York

Paris

Toronto

Sydney

*(As amended by No. 47 of 1965)*

# **FIFTH SCHEDULE**

*(Paragraph 2 (e))*

PART I

Watches

PART II

Bernex

PART III

Switzerland

**SECTION 8-THE MERCHANDISE MARKS (SECTION 8 SUSPENSION) NOTICE**  
*Notice by the Minister*

*Federal  
Government  
Notices  
200 of 1962*

1. This Notice may be cited as the Merchandise Marks (Section 8 Suspension) Notice.

Title

2. The operation of subsection (1) of section *eight* of the Act is suspended in relation to the classes of goods specified in Part I of the Schedule to which there is applied a trade mark or trade description containing a direct or indirect reference to any place specified in Part II of the Schedule.

Suspension

# SCHEDULE

*(Paragraph 2)*

## PART I

1. "Innoxia" toilet preparations, including liquid perfumery, powders, washes, pomatums, cosmetics, pastes, dyes and hair oils, but not including tooth powders, tooth pastes and tooth washes.
2. "Innoxia" perfumes containing more than 2 per centum of alcohol by volume at a temperature of 51 degrees Fahrenheit.

## PART II

London

Paris

Sydney

**CHAPTER 406**  
**THE COPYRIGHT AND PERFORMANCE RIGHTS ACT**

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

Section

1. Short title
2. Interpretation
3. Works of unknown authorship and joint authorship
4. Publication and first publication
5. Application to all existing works
6. This Act binds the Republic

**PART II**

**COPYRIGHT**

NATURE OF COPYRIGHT

7. Copyright a form of property
8. Categories of works in which copyright subsists
9. Qualifying conditions
10. First ownership of copyright
11. Transfer of copyright

DURATION OF COPYRIGHT

12. Literary, musical and artistic works
13. Audiovisual works and sound recordings
14. Broadcasts and cable programs
15. Computer programs
16. Typographical arrangements

## INFRINGEMENT OF COPYRIGHT

17. Acts controlled by copyright
18. Copyright is infringed by the doing of a controlled act
19. Copyright is infringed by importation, etc. of infringing copies

### Section

20. Copyright is infringed by making or trading in articles for making infringing copies, or transmission for the purpose of making infringing copies

21. Acts which do not constitute infringements

## COLLECTING SOCIETIES

22. Collecting societies may be authorised to represent copyright owners

23. Disputes with registered collecting societies

## MORAL RIGHTS

24. Moral rights

## **PART III**

## **ENFORCEMENT OF COPYRIGHT**

25. Infringement actionable by copyright owner
26. Right to delivery up of infringing copies
27. Restriction on importation of infringing copies
28. Offences
29. Presumption as to possession of copies
30. Presumptions as to existence of copyright



31. Presumptions as to authorship and date of publication
32. Affidavit admissible in evidence
33. Issue of warrants to enter, search and seize
34. Power to use force, detail persons
35. Sealing of things
36. List of things seized or sealed
37. Articles in containers-need only to examine sample
38. Obstruction to search

#### **PART IV**

#### **REGISTER OF COPYRIGHTS**

39. The register of copyrights
40. Registration and issue of certificate
41. Transfer of registration
42. Rectification of register
43. Issue of new certificate

#### **PART V**

#### **RIGHTS IN PERFORMANCES**

##### Section

44. Interpretation
45. Conferment of performer's right and recording right

46. Transfer of rights
47. Duration of rights in performances
48. Infringement of performer's rights
49. Infringement of recording rights
50. Acts which do not constitute infringements
51. Infringement of performer's right is actionable
52. Offence of infringing performer's or recording right
53. False representation of authority to give consent

## **PART VI**

### **MISCELLANEOUS**

54. Registrar of Copyright
55. Registrar may authorise translation and reproduction of works in certain cases
56. Application of Act to works, etc. originating in other countries
57. Regulations
58. Transitional provisions
59. Repeal of Cap. 701

## **CHAPTER 406**

### **COPYRIGHT AND PERFORMANCE RIGHTS**

Act No.  
44 of 1994

An Act to provide for copyright in literary, musical and artistic works, computer programs, audiovisual works, sound recordings, broadcasts and cable programs; to provide for rights in performances; to repeal the Copyright Act; and to provide for matters incidental to or connected with the foregoing.

[31st December, 1994]

## **PART I**

### **PRELIMINARY**

1. This Act may be cited as the Copyright and Performance Rights Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation  
"adaptation" includes-
  - (a) in relation to any literary work-
    - (i) a translation of the work; or
    - (ii) a version of the work in which the story or action is conveyed solely or principally by means of pictures;
  - (b) in relation to a literary work in a non-dramatic form, a version of the work (whether in its original language or in a different language) in a dramatic form;
  - (c) in relation to a literary work in a dramatic form, a version of the work (whether in its original language or in a different language) in a non-dramatic form;
  - (d) in relation to a musical work, an arrangement or transcription of the work;
  - (e) in relation to an artistic work in two dimensions, the reproduction of that work in an object in three dimensions; and in

relation to a computer program, a version of the program in which it is converted from one computer language or code into another.

"artistic works" includes works of artistic craftsmanship, including designs for fabrics, carpets and tapestry, and, irrespective of artistic quality-

- (a) paintings, drawings, etchings, lithographs, wood cuts, engravings and prints;
- (b) maps, plans, charts, diagrams, illustrations and sketches;
- (c) works of sculpture;
- (d) works of architecture in the form of either buildings or models; and
- (e) photographs;

"audiovisual work" means the aggregate of a series of related visual images, together with accompanying sounds, if any, which is capable of being shown as a moving picture by means of a mechanical, electronic or other device and irrespective of the nature of the material support on which the visual images and sounds are carried, but does not include a broadcast;

"author" means-

- (a) in relation to an audiovisual work or sound recording, the person who causes the audiovisual work or recording to be made;
- (b) in relation to a broadcast, the person who is responsible for the contents of the broadcast and for arranging for its transmission;
- (c) in relation to a cable program, the person who is responsible for including it in the cable program service by which it is transmitted;
- (d) in relation to the typographical arrangement of a published edition, the publisher of the edition; and

(e) in relation to any other work, the individual who created the work;

"broadcast"-

(a) used as a noun, means the aggregate of sounds, or of sounds and visual images, or other information, embodied in a program as transmitted by broadcasting; and

(b) used as a verb, means to transmit, by the emission of electro-magnetic energy otherwise than over a path that is provided by a material substance, for reception by members of the public, visual images or sounds, or both, capable of being received by members of the public in possession of suitable apparatus, regardless of whether-

(i) the apparatus includes special decoding devices;

(ii) the members of the public are in Zambia or elsewhere;

(iii) the electro-magnetic energy is carried, after the initial transmission but before it is received by members of the public, on a path provided by a material substance; or

(iv) any member of the public actually receives the images or sounds;

"cable program" means the aggregate of sounds, or of sounds and visual images, or other information, embodied in a program as transmitted by a cable program service;

"cable program service" means a service that transmits, by the emission of electro-magnetic energy over a path that is provided by a material substance, for reception by members of the public, visual images or sounds, or both, capable of being received by members of the public in possession of suitable apparatus, regardless of whether-

(a) the apparatus includes special decoding devices;

(b) the members of the public are in Zambia or elsewhere; or

(c) any member of the public actually receives the images or

sounds;

"collecting society" means a collecting society as defined in section *twenty-two*;

"communication to the public" of a work includes the performance, playing or showing of the work in public;

"compilation" means a collection or assembly of works or other material or data which by reason of selection or arrangement of the contents of the collection or assembly constitutes a product of creativity;

"computer program" means a set of instructions, whether expressed in words or in schematic or other form, which is capable, when incorporated in a machine readable medium, of causing an electronic or other device having information-processing capabilities to indicate, perform or achieve a particular function, task or result;

"controlled act" means an act referred to in section *seventeen* in relation to a work subject to copyright;

"convention" means the Berne Convention for the Protection of Literary and Artistic Works of 9th September, 1886, completed at Paris on 4th May, 1896, revised at Berlin on 13th November, 1908, completed at Berne on 20th March 1914, revised at Rome on 2nd June, 1928, at Brussels on 26th June, 1948, at Stockholm on 14th July, 1967 and at Paris on 24th July, 1971 and amended on 28th September, 1979;

"Convention country" means a country prescribed in regulations made for the purposes of this definition, being a member of the Union established by the Convention;

"copy" means a reproduction of a work or of an adaptation of a work, whatever the medium in which the reproduction is made or stored;

"court" means the High Court for Zambia;

"dramatic work" includes a work of dance or mime, whether recorded in writing or other notation, or in an audiovisual work;

"first published" has the meaning given by section *four*;

"infringing copy" means a copy of a work in which copyright subsists-

(a) the making of which constituted an infringement under this Act of the copyright in the work;

(b) the making of which would have constituted an infringement under this Act of the copyright in the work, if the copy had been made in Zambia; or

(c) the making of which would have constituted a breach of an exclusive licensing agreement, if the copy had been made in Zambia;

"joint authorship" has the meaning given by section *three*;

"literary work" includes a dramatic work or an arrangement of information in tabular form;

"photograph" means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced, but does not include a part of an audiovisual work;

"publish" has the meaning given by section *four*;

"registered collecting society" means a collecting society registered by the Registrar under section *twenty-two*;

"Registrar" means the Registrar of Copyright appointed under section *fifty-four*;

"sound recording" means-

(a) a recording of sounds, from which the sounds may be reproduced; or

(b) a recording of the whole or any part of a literary or musical work, from which sounds reproducing the work may be produced;

regardless of the medium on which the recording is made or the

method by which the sounds are reproduced or produced;

"substantial part" includes any part of a work which on its own can be identified as a part of the work by someone who is familiar with the work;

"unknown authorship" has the meaning given by section *three*;

"work" means a product of creativity in a category referred to in section *eight*.

**3.** (1) For the purposes of this Act-

Works of  
unknown  
authorship and  
joint authorship

(a) a work is of unknown authorship if the identity of none of the authors is known;

(b) subject to paragraph (c), the identity of an author shall be regarded as unknown if it is not possible for a person to ascertain his identity by reasonable inquiry; and

(c) the identity of an author that has once been known shall not subsequently be regarded as unknown.

(2) For the purposes of this Act, a work is of joint authorship if it is produced by the collaboration of two or more authors and the contribution of each author is not distinct from that of the other author or authors.

(3) Unless the context requires otherwise, a reference in this Act to the author of work shall, in relation to a work of joint authorship, be read as a reference to all the authors of the work.

**4.** (1) For the purposes of this Act, a work, other than a broadcast or cable program, is published when copies of the work are made available to the public, whether for gain or not.

Publication and  
first publication



(2) For the purposes of this Act, the first publication of a work, other than a broadcast or cable program, is-

(a) the earliest publication of the work made with the authority of the copyright owner; or

(b) any publication of a work made with the authority of the copyright owner within thirty days after the earliest such publication.

(3) For the purposes of this section, any distribution or circulation of a work by way of sale or rental constitutes making copies of the work available to the public.

(4) The following shall not constitute publication for the purposes of this Act:

(a) in the case of a literary or musical work-

(i) the performance of the work; or

(ii) the broadcasting of the work or its inclusion in a cable program service (otherwise than for the purposes of an electronic retrieval system);

(b) in the case of an artistic work-

(i) the exhibition of the work;

(ii) the making available to the public of a graphic work representing, or of photographs of, a work of architecture in the form of a building, or model for a building, a sculpture or a work of artistic craftsmanship;

(iii) the making available to the public of a film including the work; or

(iv) the broadcasting of the work or its inclusion in a cable program service (otherwise than for the purposes of an electronic retrieval system);

(c) in relation to an audiovisual work or sound recording-

(i) the showing or playing of the work in public; or

(ii) the broadcasting of the work or its inclusion in a cable program service (otherwise than for the purpose of an electronic retrieval

system).

- |  |                                   |
|--|-----------------------------------|
| 5. Subject to section <i>fifty-eight</i> , this Act shall apply in relation to works whether created before or after the commencement of this Act. | Application to all existing works |
| 6. This Act shall bind the Republic.   | This Act binds the Republic       |

## PART II

### COPYRIGHT

#### NATURE OF COPYRIGHT

- |   |   |
|---|---|
| 7. Copyright is a property right which shall subsist in accordance with this Act in the products of creativity specified in section <i>eight</i> .  | Copyright a form of property                    |
| 8. (1) The products of creativity in which copyright may subsist under this Act are the following categories of works:  | Categories of works in which copyright subsists |
| (a) original-<br>(i) literary works;<br>(ii) musical works;<br>(iii) artistic works; or<br>(iv) computer programs;<br><br>(b) compilations;<br><br>(c) audiovisual works;<br><br>(d) sound recordings;<br><br>(e) broadcasts; |   |

(f) cable programs;

(g) typographical arrangements of published editions of literary works.

(2) Copyright shall not subsist in a Bill introduced into Parliament or in an Act of Parliament.

(3) Copyright shall not subsist in a literary or musical work or in a computer program unless and until it is recorded in writing or in some other form, and a reference in this Act to the time of making of such a work is a reference to the time at which it is so recorded.

(4) Copyright shall subsist in a work within one of the categories specified in sub-section (1) only if the qualifying conditions specified in section *nine* in respect of that category are fulfilled.

**9.** (1) Copyright shall subsist in-

Qualifying  
conditions

(a) a work of any category specified in section *eight*, other than a typographical arrangement of a published edition, if, at the time of completion of the work, the author of the work was-

(i) a citizen of, or habitually resident in, Zambia or a convention country; or

(ii) a body corporate incorporated in Zambia or a Convention country;

(b) a literary, musical or artistic work, a compilation, a computer program, an audiovisual work or a typographical arrangement of a published edition, which is made or first published in Zambia or a Convention country;

(c) a sound recording which is made or first published in Zambia or a Convention country;

(d) a broadcast which is first transmitted from a place in Zambia or a Convention country; or

(e) a cable program service which is first transmitted from a place in Zambia or a Convention country.

(2) In the case of a work of joint authorship-

(a) the reference in paragraph (1) (a) to the author shall be read as a reference to any of the authors; and

(b) where the work qualifies for copyright protection only under that paragraph, only those of the authors who satisfy the requirements of that paragraph shall be taken into account for the purposes of-

(i) section *ten* (first ownership of copyright);

(ii) section *twelve to fifteen* (duration of copyright); and

(iii) sub-section (3) of section *twenty-one* (acts which do not constitute infringements).

**10.** (1) The first ownership of copyright under this section shall be subject to any agreement under sub-section (3) of section *eleven* to assign the ownership of a copyright expected to arise in the future.

First ownership  
of copyright

(2) Subject to this section, the author of a work shall be the first owner of the copyright which subsists under this Act in the work.

(3) Where a work, other than a broadcast or a cable program, is-

(a) made by the author in the course of his employment; or

(b) made by the author on the commission of some other person;

the employer or the person who commissioned the work shall be the first owner of the copyright.

(4) Where a work was completed in a convention country other than Zambia, the law of that country in relation to first ownership of copyright shall apply.

**11.** (1) Copyright shall be transferable by assignment, by testamentary disposition or by operation of law. Transfer of copyright

(2) An assignment of copyright may be limited by reference to-

(a) one or more particular acts which the copyright owner has the exclusive right to authorise under this Act;

(b) a part of the period for which the copyright subsists under this Act; or

(c) a specified country or geographic area.

(3) Copyright which is expected to arise in the future may be assigned.

(4) An assignment of copyright shall be in writing signed by or on behalf of the assignor.

#### DURATION OF COPYRIGHT

**12.** (1) Subject to this section, copyright in a literary, musical or artistic work or compilation shall expire at the end of the period of fifty years from the end of the calendar year in which the author dies. Literary, musical and artistic works

(2) If the work is produced by a public officer or employee of the Government of Zambia or of a Convention country in the course of his employment, and the Government concerned is the first owner of the copyright in the work, the copyright in the work shall expire at the end of the period of fifty years from the end of the calendar year in which the work is made.

(3) If the work is of unknown authorship, the copyright in the work shall expire at the end of the period of fifty years from the end of the calendar year in which the work is first published, unless the identity of the author of the work becomes known before that date.

(4) In the case of a work of joint authorship-

(a) the reference in sub-section (1) to the death of the author shall be read as a reference to the death of the last to die of the authors whose identity is known; and

(b) the reference in sub-section (3) to the identity of the author becoming known shall be read as a reference to the identity of any of the authors becoming known.

**13.** Copyright in an audiovisual work or sound recording shall expire-

(a) at the end of the period of fifty years from the end of the calendar year in which it is made; or

(b) at the end of the period of fifty years from the end of the calendar year in which it is first published, if it is published within the period referred to in paragraph (a).

Audiovisual works and sound recordings

**14.** Copyright in a broadcast or cable program shall expire at the end of the period of fifty years from the end of the calendar year in which the broadcast or cable program was first transmitted.

Broadcasts and cable programs

**15.** Copyright in a computer program shall expire at the end of the period of fifty years from the end of the calendar year in which the program was first published.

Computer programs

**16.** Copyright in the typographical arrangement of a published edition shall expire at the end of the period of twenty-five years from the end of the calendar year in which the edition was first published.

Typographical arrangements

#### INFRINGEMENT OF COPYRIGHT

**17.** (1) The owner of the copyright in a work shall have, in accordance with this Act, the exclusive right to do, or to authorise others to do, in Zambia or on any ship or aircraft registered in Zambia, the acts (in this Act called "controlled acts") specified in this section in relation to each category of work.

Acts controlled by copyright

(2) The controlled acts in relation to a literary or musical work or to a compilation or computer program are-

- (a) the publication;
- (b) the reproduction in any material form;
- (c) the broadcasting or inclusion in a cable program service;
- (d) the communication to the public by any other means;
- (e) the importation into Zambia of copies; and
- (f) the adaptation;

of the work, together with any of the controlled acts in paragraphs (a) to (e) in relation to an adaptation of the work.

(3) the controlled acts in relation to an artistic work are-

- (a) the reproduction in any material form;
  - (b) the publication;
  - (c) the broadcasting or inclusion in a cable program service;
  - (d) the communication to the public by any other means; and
  - (e) the importation into Zambia of copies;
- of the work.

(4) The controlled acts in relation to an audiovisual work or sound recording are-

- (a) the adaptation;
- (b) the reproduction;
- (c) the publication;
- (d) the broadcasting or inclusion in a cable program;

(e) the communication to the public by any other means;  
and

(f) the importation into Zambia of copies;  
of the audiovisual work or sound recording, together with any of the  
controlled acts in paragraphs (b) to (e) in relation to an adaptation of the  
audiovisual work or sound recording.

(5) the Controlled acts in relation to a broadcast or cable program are-

(a) the reproduction;

(b) in the case of a broadcast-

(i) the re-broadcasting; or

(ii) the inclusion in a cable program;

(c) in the case of a cable program-

(i) the broadcasting; or

(ii) the inclusion in another cable program; and

(d) the communication to the public by any other means;  
of the broadcast or cable program.

(6) The controlled acts in relation to the typographical arrangement of a  
published edition are-

(a) the reproduction; and

(b) the importation into Zambia of copies;  
of the arrangement.

(7) The doing of an act controlled by the copyright in a work includes  
the doing of that act in relation to a substantial part of the work.

**18.** Subject to section *twenty-one*, copyright in a work is infringed by a Copyright is



person who, without the consent of the owner of the copyright, does, or authorises another person to do, a controlled act in relation to the work. infringed by the doing of a controlled act

**19.** Subject to section *twenty-one*, copyright in a work is also infringed by a person who, without the consent of the copyright owner-

Copyright is infringed by importation, etc. of infringing copies

(a) imports into Zambia otherwise than-

(i) for his private and domestic use; and

(ii) as items accompanying him on his entry into Zambia;

(b) possesses in the course of trade or business;

(c) sells or lets for hire, or offers or exposes for sale or hire;

(d) exhibits in public or distributes, in the course of trade or business; or

(e) distributes, otherwise than in the course of trade or business, to such an extent as to affect prejudicially the owner of the copyright;

articles which are infringing copies of the work, unless he satisfies the court that he did not know and had no reasonable grounds for knowing that the articles were infringing copies of the work.

**20.** (1) Subject to section *twenty-one*, copyright in a work is also infringed by a person who, without the consent of the owner of the copyright-

Copyright is infringed by making or trading in articles for making infringing copies, or transmission for the purpose of making infringing copies

(a) makes or causes to be made;

(b) imports into Zambia; or

(c) sells or lets for hire, or offers or exposes for sale or hire;

an article specifically designed or adapted for making copies of that particular work, unless he satisfies the court that he did not know and had no reasonable grounds for knowing that the article would be used for making such infringing copies.

(2) Copyright in a work is infringed by a person who, without the licence of the copyright owner, transmits the work by electronic means (otherwise than by broadcasting or by means of a cable transmission service) knowing or having reason to believe that infringing copies of the work will be made by means of the reception of the transmission in Zambia or elsewhere.

**21.** (1) Subject to sub-section (2), the following acts shall not constitute infringement of copyright:

Acts which do not constitute infringements

(a) fair dealing with a work for private study or for the purposes of research done by an individual for his personal purposes, otherwise than for profit;

(b) fair dealing with a work for the purposes of criticism or review, whether of that work or any other work, provided there is a sufficient acknowledgement;

(c) fair dealing with a work for the purposes of reporting current events-

(i) in a newspaper, magazine or similar periodical, provided there is a sufficient acknowledgement;

or

(ii) by broadcasting or by inclusion in a cable program service or by its use in an audiovisual work;

(d) the reproduction of a work for the purposes of judicial proceedings, or of any other proceedings before a tribunal established by law, or for the purposes of a report of judicial proceedings or any other such proceedings;

(e) the reading or recitation in public of any reasonable extract from a published literary work, provided there is a sufficient acknowledgement;

(f) the reproduction of a work for the purposes of the education system of Zambia-

(i) by a teacher or pupil in the course of instruction, provided that the reproduction is not made by means of an appliance capable of producing multiple copies; or

(ii) as part of the questions to be answered in an examination; or

(iii) in answer to such questions;

(g) the performance of a dramatic work by the staff and students of a school or other educational institution for the purposes of the education system of Zambia in the course of the activities of the school or institution, if the audience is composed exclusively of-

(i) the staff and students of the school or institution; or

(ii) the parents and guardians of the students; or

(iii) other persons directly connected with the activities of the school or institution;

(h) the incidental inclusion of a work in an artistic work, audiovisual work, sound recording, broadcast or cable program;

(i) the publishing, broadcasting, inclusion in a cable program service, or the communication to the public by any other means of anything whose making was, by virtue of paragraph (h), not an infringement of the copyright;

(j) the reproduction of a work by a library or archive designated for the purposes of this paragraph by the Minister for the purpose of making a copy of any item in the permanent collection of the library or archive-

(i) in order to preserve or replace that item by placing the copy in permanent collection either in addition to or in place of the item; or

(ii) in order to replace in the permanent collection of another designated library or archive an item which has been lost, destroyed or damaged:

Provided that it is not reasonably practicable to purchase a copy of the item in question;

(k) the reproduction of a computer program made from a copy of the program by the owner of that copy for the purpose of being used in place of that copy in the event that it is lost, destroyed or corrupted;

(l) the recording of a broadcast or cable program by an individual for the purpose of allowing the individual to listen to or view the broadcast or program at a time more convenient to him.

(2) An act which-

(a) conflicts with the normal commercial exploitation of a work; or

(b) unreasonably prejudices the legitimate commercial interests of the owner of the copyright in a work;

shall not, for the purposes of sub-section (1)-

(i) be treated as fair dealing with the work; or

(ii) be treated as an act to which paragraph (f) of sub-section (1) applies.

(3) Copyright in a literary, musical or artistic work is not infringed by an act done at a time when, or in pursuance of arrangements made at a time when-

(a) the work is of unknown authorship; and

(b) it is reasonable to assume-

(i) that copyright has expired; or

(ii) that the author died fifty years or more before the beginning of the calendar year in which the act is done or the arrangements are made.

(4) For the purposes of this section, "sufficient acknowledgement" means an acknowledgment identifying the work in question by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

## COLLECTING SOCIETIES

**22.** (1) For the purposes of this Act-

"collecting society" means an association, partnership or body corporate whose principal purpose, or one of whose principal purposes, is the representation of copyright owners in the negotiation and administration of collective copyright agreements;

"collective copyright agreement" means an agreement between a group of owners of copyrights and another person licensing the person to use material subject to any of the copyrights.

Collecting societies may be authorised to represent copyright owners

(2) A collecting society may apply to the Registrar for registration and, if the Registrar is satisfied that it qualifies under sub-section (1), he shall register it as such.

(3) The owner of a copyright may authorise a collecting society (whether or not registered) to negotiate and administer collective copyright licence agreements on behalf of the owner and other copyright owners.

(4) Sub-section (3) shall not have the effect of limiting any other right of an owner of a copyright under this Act.

**23.** (1) Where a dispute arises between a registered collecting society and a person who requires a licence from the collecting society regarding-

Disputes with registered collecting societies

(a) the decision of the collecting society whether or not to grant such a licence; or

(b) the terms and conditions on which the collecting society is prepared to grant the licence;

either party may refer the dispute to the Registrar for arbitration.

(2) Where a dispute has been referred to the Registrar under this section, the Registrar shall, in accordance with such procedure (if any) as may be prescribed-

(a) give both parties an opportunity to present their respective cases, either in person or through representatives, both orally and in writing; and

(b) after hearing both parties, make such written orders as he considers reasonable.

(3) An order by the Registrar under this section shall be binding on the parties.

## MORAL RIGHTS

**24.** (1) This section applies in relation to-

Moral rights

(a) the author of a literary, musical or artistic work, other than a computer-generated work; or

(b) the director of an audiovisual work;

other than a work to which sub-section (3) of section *ten* applied.

(2) Notwithstanding the transfer of the copyright, or any part of it, the author or director shall have the right-

(a) to be identified as the author or director of the works; and

(b) to object to any distortion, mutilation or other modification or derogatory action in relation to the work that would be prejudicial to his honour or reputation.

(3) The rights provided by this section shall expire on the death of the author or director.

(4) Where there is a dispute regarding the exercise by the author or director of his rights under this section, and the dispute is not resolved by negotiation between the parties, the dispute may be referred by any of the parties to the Registrar.

(5) After giving the parties to the dispute an opportunity of submitting representations, the Registrar shall give, in writing, such directions for settling the dispute as, in the circumstances, he considers reasonable, and the directions shall be binding on all parties to the dispute.

(6) The Court may, at the suit of the author or director, and subject to the provisions of the State Proceedings Act, grant an injunction- Cap. 71

(a) pending a settlement of dispute by the Registrar, in terms-

(i) prohibiting the doing of any disputed act in relation to the work concerned; or

(ii) prohibiting the doing of any disputed act in relation to the work concerned unless a disclaimer is made, in such terms and in such manner as the Court may approve, dissociating the author from the treatment of the work; or

(b) enforcing a settlement by the Registrar.

### **PART III**

#### **ENFORCEMENT OF COPYRIGHT**

**25.** (1) An infringement of copyright shall be actionable in the Court at the suit of the owner of the copyright. Infringement  
actionable by  
copyright  
owner

(2) Subject to this section, in an action for infringement of copyright, all such relief by way of damages, injunctions, accounts or otherwise shall be available to the plaintiff as is available in respect of the infringement of any other property right.

(3) In an action under this section, proof of actual damage shall not be required.

(4) In an action under this section, the plaintiff shall not be entitled to

damages if the defendant shows that he reasonably believed that no copyright subsisted in the work.

(5) No injunction shall be issued under sub-section (2) which requires a completed or partly built building to be demolished or which prevents the completion of a partly built building.

**26.** Where a person-

(a) has an infringing copy of a work in his possession, custody or control in the course of a trade or business; or

(b) has in his possession, custody or control an article specifically designed or adapted for making copies of a particular copyright work;

the court may, on the application of the owner of the copyright in the work, order that the infringing copy or the article be forfeited and delivered up to the owner of the copyright.

Right to  
delivery up of  
infringing  
copies

**27.** (1) The owner of the copyright in a literary or musical work, compilation, audiovisual work or sound recording, may, if the work has been published, give notice in writing to the Controller of Customs-

Restriction on  
importation of  
infringing  
copies

(a) that he is the owner of the copyright in the work; and

(b) that he requests the Controller to treat as prohibited goods, during the period specified in the notice, copies of the work which are infringing copies.

(2) The period specified in a notice under sub-section (1) shall not exceed-

(a) five years; or

(b) the remainder of the duration of the copyright;  
whichever is less.

(3) The Controller of Customs may require a notice given to him under this section to be supported by such evidence as he thinks necessary.



(4) Where the Controller of Customs is satisfied that there is a reasonable probability that attempts may be made to import infringing copies of the work, and that it is in the public interest that the copies be made prohibited imports-

(a) he shall issue a notice in the *Gazette* to the effect that, during a specified period (being a period not longer than that specified in the application) infringing copies of the work concerned shall be prohibited imports; and

(b) during the period so specified-

(i) a person shall not import infringing copies of the work concerned, otherwise than for his private and domestic use; and

(ii) any infringing copy imported in contravention of sub-paragraph (i) shall be subject to forfeiture.

**28.** (1) Any person who during the subsistence of copyright in a work- **Offences**

(a) makes for sale or hire any infringing copy;

(b) sells, lets for hire or by way of trade, exposes or offers for sale or hire any infringing copy;

(c) distributes infringing copies;

(d) possesses, otherwise than for his private and domestic use, any infringing copy;

(e) by way of trade, exhibits in public any infringing copy;

(f) imports into Zambia, otherwise than-

(i) for his private and domestic use; and

(ii) as items accompanying him on his entry into Zambia;  
an infringing copy; or

(g) makes or has in his possession any article used or intended to be used for the purpose of making infringing copies;

shall, unless he satisfies the Court that he had acted in good faith and had

no reasonable grounds for supposing that copyright would or might thereby be infringed, be guilty of an offence and shall be liable-

(i) on a first conviction, to a fine not exceeding-

(a) fifty thousand penalty units; or

(b) ten penalty units for each infringing copy;

whichever is greater, or to imprisonment for a term not exceeding five years, or to both; or

(ii) on a subsequent conviction, to a fine not exceeding-

(a) one hundred thousand penalty units; or

(b) twenty penalty units for each infringing copy;

whichever is greater, or to imprisonment for a term not exceeding ten years, or to both.

(2) A person who makes or imports for sale or hire any article specifically designed or adapted to circumvent the operation of a device or system designed or adapted to prevent or control the reproduction of a recording of a work shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(3) A person who dishonestly receives a program included in a broadcast or in a cable program service provided from a place in Zambia with intent to avoid payment of any charge applicable to the reception of the program shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years or to both.

(4) Where a person is charged with an offence against this section, the court may, whether or not he is convicted of the offence, order that any article in his possession which appears to the court to be an infringing copy, or to be an article used or intended to be used for making infringing copies or for the commission of an offence against this section, shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court thinks fit.

*(As amended by Act No. 13 of 1994)*

**29.** In any proceedings brought under this Act, a person who has in his possession, custody or control five or more infringing copies of a work in the same form shall be presumed to be in possession of, or to have imported, the copies otherwise than for private or domestic use.

Presumption as to possession of copies

**30.** (1) This section shall apply in proceedings for an infringement of the copyright in a work.

Presumptions as to existence of copyright

(2) Copyright shall be presumed to subsist in the work if the defendant does not put in issue the question whether copyright subsists therein.

(3) Where the subsistence of the copyright is proved or admitted or is presumed in accordance with sub-section (2), the plaintiff shall be presumed to be the owner of the copyright, if he claims to be the owner of the copyright and the defendant does not put in issue the question of his ownership thereof.

(4) If the question arises whether an article is an infringing copy of a work and it is shown-

(a) that the article is a copy of the work; and

(b) that copyright subsists in the work or has subsisted at any time; it shall be presumed that the article was made at a time when copyright subsisted in the work.

**31.** (1) This section shall apply in proceedings for an infringement of the copyright in a work other than a broadcast or cable program.

Presumptions as to authorship and date of publication

(2) Where a published work, in its published form, states, or carries a label or other mark that states-

(a) that a named person was the author of the work;

(b) in the case of an audiovisual work, that a named person was the director or producer of the audiovisual work;

(c) that a named person was the owner of the copyright at a specified time, being a time not later than the time of publication; or

(d) that the work was first published in a specified year or in a specified country;

the statement shall be admissible as evidence of the fact stated and shall be presumed to be correct.

(3) Where an audiovisual work, whether published or not, is shown in public, broadcast or included in a cable program service and the work as so shown, broadcast or included in the cable program service states-

(a) that a named person was the director or producer of the work;

(b) that a named person was the owner of the copyright at a specified time, being a time not later than the time of showing, broadcast or inclusion in the program; or

(c) that the work was first published in a specified year or in a specified country;

the statement shall be admissible as evidence of the fact stated and shall be presumed to be correct.

(4) Where an original artistic work carries a name purporting to be the name of the author, that person shall be presumed to be the author of the work.

(5) In the case of a work alleged to be a work of joint authorship, sub-sections (1), (2) and (3) shall apply in relation to each person alleged to be one of the authors of the work, as if references in those sub-sections to the author were references to one of the authors.

(6) Where, in an action for infringement in respect of a literary, musical or artistic work, a compilation or a computer program, sub-section (1) does not apply, but-

(a) the work qualifies for copyright protection by virtue of the country of its first publication; and

(b) a name purporting to be that of the publisher appeared on copies of the work as first published;

then, subject to sub-section (1), the person whose name so appeared shall be presumed to have been the owner of that copyright at the time of the publication.

(7) Where, in an action for infringement in respect of a literary, musical or artistic work, a compilation or a computer program, it is established that the author of the work is dead-

(a) the work shall be presumed to be an original work; and

(b) if it is alleged by the plaintiff that a publication on a specified date in a specified country was the first publication of the work, that publication shall be presumed to have been the first publication of the work and to have taken place in that country and on that date.

**32.** (1) Subject to this section, an affidavit or statutory declaration by any person claiming to be the owner of the copyright in any work eligible for copyright under this Act or by his agent, stating that-

Affidavit  
admissible in  
evidence

(a) at a time specified therein copyright subsisted in the work;

(b) the person is the owner of the copyright; and

(c) a copy of the work annexed thereto is a true copy thereof;  
shall be admissible in any proceedings under this Act as *prima facie* evidence of the facts contained therein.

(2) Where the affidavit or declaration is made by an agent of the person claiming to be the copyright owner, the document setting forth the agent's authority to act in the matter shall be annexed to the affidavit or declaration.

(3) If the ownership of the copyright is claimed by a body of persons (whether corporate or unincorporated), the affidavit or declaration shall

be made by a responsible officer of the body.

(4) Where the affidavit or declaration is made outside Zambia, the signature of the person before whom it is made shall be authenticated in accordance with the Authentication of Documents Act.

Cap. 75

**33.** (1) Where information is given on oath to a Magistrate that there is reasonable cause for suspecting that there is in any house or premises any infringing copy or any article used or intended to be used for making infringing copies, or any other article, book or document by means of or in relation to which an offence against section *twenty-eight* has been committed, the Magistrate may issue a warrant under his hand by virtue of which any police officer, of or above the rank of Inspector, named or referred to in the warrant may enter the house or premises at any reasonable time by day or night and search for and seize any such copy, contrivance, article, book or document.

Issue of warrants to enter, search and seize

(2) A police officer who seizes anything under this section shall, within forty-eight hours after the seizure, produce the same before a Magistrate, and upon the production the Magistrate shall direct the same to be kept in the custody of the officer in charge of the police for the purpose of any investigation or prosecution under this Act.

**34.** (1) Any police officer of or above the rank of Inspector may, in the exercise of powers conferred by or under section *thirty-three*, if it is necessary so to do-

Power to use force, detain persons

(a) break open any outer or inner door of a dwelling house or any other premises;

(b) forcibly enter any part of the premises;

(c) remove by force any obstruction to entry, search, seizure or removal; and

(d) detain every person found on the premises until the premises have been searched.

(2) Where a forcible entry is made under this section, the police officer concerned shall make arrangements to ensure that the premises are left

as secure as they were before the entry.

**35.** (1) Where it appears to a police officer exercising powers under this Part that it is not practical to seize and remove from where they are found any thing or document that he is entitled to seize in the exercise of his powers, by reason of their nature, size or amount, he may by any means seal the things or documents in the premises or container in which they are found.

Sealing of things

(2) A person who, without lawful authority, breaks, tampers with or damages such a seal or removes things or documents so sealed shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or imprisonment for a term not exceeding two years, or to both.

*(As amended by Act No. 13 of 1994)*

**36.** (1) A police officer seizing or sealing any infringing copy, contrivance, article, book or document under this Part shall prepare a list of the things seized or sealed and forthwith deliver a copy signed by him to the occupier, or his agents or servants present in the premises.

List of things seized or sealed

(2) If the premises are unoccupied, the police officer shall, wherever possible, affix a list of the things seized or sealed on a surface of the premises.

**37.** For the purposes of this Act, including any proceedings for infringement or for an offence under this Act, where a package, container or other receptacle containing articles alleged to be infringing copies or to be otherwise subject to seizure, has been seized, it shall be sufficient to examine a sample consisting of one percent of the articles, or five articles, whichever is the smaller number; and if it is established that all the articles in the sample are identical with each other, it shall be presumed that the remainder of the articles in the package, container or receptacle are identical with the articles in the sample.

Articles in containers need only to examine sample

**38.** Any person who-

Obstruction to search

(a) refuses a police officer access to any place when the officer is seeking to exercise his powers under this Act;

(b) assaults, obstructs, hinders or delays a police officer in effecting

any entry which the officer is entitled to effect under this Act, or in the execution of any duty imposed power conferred on him by this Act;

(c) refuses to give to a police officer any information relating to an offence or suspected offence under this Act or any other information which may reasonably be required of him and which he has in his knowledge or power to give; or

(d) knowingly gives false information to a police officer seeking to exercise his powers under this Act;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

*(As amended by Act No. 13 of 1994)*

## **PART IV**

### **REGISTER OF COPYRIGHTS**

**39.** (1) For the purposes of this Part, where the copyright in a work is owned by more than one person (otherwise than as joint owners) the rights held by each of those persons shall be regarded as a separate copyright.

The register of copyrights

(2) The Registrar shall keep a register of copyrights in works other than broadcasts or cable programs.

(3) The register, and copies of the works concerned, shall be made available for inspection by members of the public on payment of a fee of not more than twenty fee units, or such larger amounts as may be prescribed in the regulations.

(4) The existence and enforceability of a copyright shall be independent of whether or not it is registered under this Part.

**40.** (1) If the owner of a copyright in a work wishes to register it, he shall lodge with the Registrar-

Registration and issue of certificate



- (a) a claim for registration, in a form approved by the Registrar;
- (b) a copy of the work in which copyright is claimed;
- (c) particulars of-
  - (i) the owner of the copyright;
  - (ii) the type of copyright claimed and any limitations on the copyright held by that owner;
  - (iii) the date on which the copyright arose;
  - (iv) the person from whom the copyright was acquired, if the owner of the copyright is not the first owner of the copyright; and
  - (v) any other matters required by the approved form; and
- (d) a statutory declaration that he is the owner of the copyright described.

(2) Where a claim is for copyright in relation to a work already on the register, the Registrar may waive the requirement that a copy of the work be lodged with the application.

(3) On receiving a claim in accordance with this section, the Registrar shall register the copyright, assign it an identifying number and issue a certificate of registration stating-

- (a) that on the date specified in the certificate, the person named in the certificate claimed the copyright in the work;
- (b) the type of copyright claimed and any limitations;
- (c) the date on which the copyright arose; and
- (d) that a copy of the work may be inspected at the office of the Registrar.

(4) Where any particulars in relation to a registered copyright change, the owner of the copyright shall lodge details of the changed particulars with the Registrar.

**41.** Where a copyright is registered under this Part in the name of a person, the Registrar shall not transfer the registration to the name of another person except-

Transfer of registration

(a) on lodgement with the Registrar of an instrument, in a form approved by the Registrar, evidencing the assignment of the copyright to the other person and executed by both the assignor and assignee or by persons duly authorised on behalf of the assignor or assignee; or

(b) on presentation to the Registrar of such evidence as he may reasonably require that ownership of the copyright has devolved on the other person by reason of his being the legal personal representative, receiver or trustee in bankruptcy of the first person, or otherwise by operation of law.

**42.** Where a copyright is registered under this Part in the name of a person, and the court, on the application of another person, is satisfied that the other person is the owner of the copyright, the court may order that the Registrar rectify the register in the manner specified in the order.

Rectification of register

**43.** Where-

Issue of new certificate

(a) registration is transferred;

(b) the register is ordered to be rectified under this Part;

(c) particulars relating to a registered copyright are varied so that the certificate is no longer accurate; or

(d) the Registrar is satisfied that a certificate has been lost or destroyed;

the Registrar shall issue a new certificate of registration worded to meet the circumstances of the case.

## **PART V**

### **RIGHTS IN PERFORMANCES**

**44.** In this Part, unless the context otherwise requires-

Interpretation

"performer's right" means the right of a performer conferred by section *forty-five* in relation to a performance;

"performance" means-

- (a) a performance of drama, dance or mime;
- (b) a musical performance;
- (c) a reading or recitation of a literary work; or
- (d) a performance of a variety act or any similar presentation; insofar as it is a live performance given by one or more individuals;

"recording right" means the right of a performance recorder conferred by section *forty-five* in relation to a performance;

"qualifying person" means a person who is-

- (a) a citizen or habitual resident of; or
- (b) a body corporate incorporated in;

Zambia or another country to which the provisions of this Part have been applied under section *fifty-six*;

"qualifying performance" means a performance-

- (a) given by a person who is a citizen of, or habitual resident in; or
- (b) which takes place in;

Zambia or another country to which the provisions of this Part have been applied under section *fifty-six*.

**45.** (1) A performer shall have, in accordance with this Part, the right, in this Act called the "performer's right", to exploit a qualifying performance by him by means of the recording, broadcast or inclusion in a cable program service of the performance.

Conferment of performer's right and recording right

(2) A qualifying person who-

(a) has the benefit of an exclusive recording contract in relation to a performance; or

(b) has been licensed by a person who-

(i) has the benefit of an exclusive recording contract in relation to the performance; and

(ii) is not a qualifying person;

to make recordings of the performance with a view to their being sold, let for hire or shown or played to the public;

whether or not the performance is a qualifying performance, shall have a right, in this Act called the "recording right", to exploit the qualifying performance by him by means of the recording, broadcast or inclusion in a cable program service of the performance, in accordance with this Part and the exclusive recording contract.

(3) For the purposes of this section, a person has an "exclusive recording contract" with a performer if the person is entitled under the contract to the exclusion of all other persons (including the performer) to make recordings of one or more of his performances with a view to the recordings being sold or let for hire, or shown or played in public.

**46.** (1) Performer's right shall be a property right, but shall not be assignable or transferrable except on death by testamentary disposition or by the operation of law.

Transfer of rights

(2) Recording right shall not be assignable or otherwise transferable.

(3) Nothing in this section shall affect the creation of recording rights by the operation of sub-section (2) of section *forty-five* on licensing agreements.

**47.** Performer's right and recording right in relation to a performance shall subsist for fifty years from the end of the calendar year in which the performance takes place.

Duration of rights in performances

**48.** (1) Performer's right in relation to a performance is infringed by a

Infringement of

person who, without the consent of the performer-

performer's  
rights

(a) makes, otherwise than for his private and domestic use, a recording of the whole or any substantial part of a qualifying performance; or

(b) broadcasts live, or includes live in a cable program service, the whole or any substantial part of a qualifying performance.

(2) Performer's right in relation to a performance is infringed by a person who, without the consent of the performer-

(a) shows or plays in public; or

(b) broadcasts or includes in a cable program service;

the whole or any substantial part of the performance by means of a recording which was, and which that person knows or has reason to believe was, made without the consent of the performer.

(3) Performer's right in relation to a performance is infringed by a person who, without the consent of the performer-

(a) imports into Zambia otherwise than for his private and domestic use; or

(b) in the course of business possesses, sells or lets for hire, offers or exposes for sale or hire, or distributes;

a recording of a qualifying performance which was, and which that person knows or has reason to believe was, made without the consent of the performer.

**49.** (1) Recording right in relation to a performance is infringed by a person who, without the consent of either the performer or the holder of the recording rights, makes, otherwise than for his private and domestic use, a recording of the whole or any substantial part of the performance.

Infringement of  
recording rights

(2) Recording right in relation to a performance is infringed by a person who-

(a) without the consent of the holder for the time being of the recording rights; and

(b) in the case of a qualifying performance, without the consent of the performer;

shows or plays in public, or broadcasts or includes in a cable program service, the whole or any substantial part of the performance by means of a recording which was, and which that person knows or has reason to believe was, made without the consent of one of those persons.

(3) Recording right in relation to a performance is infringed by a person who-

(a) without the consent of the holder for the time being of the recording rights; and

(b) in the case of a qualifying performance, without the consent of the performer;

imports into Zambia otherwise than for his private and domestic use, or in the course of business possesses, sells or lets for hire, offers or exposes for sale or hire, or distributes a recording of the performance which was, and which that person knows or has reason to believe was, made without the consent of one of those persons.

**50.** (1) Subject to sub-section (2), the following acts shall not constitute infringement of performer's right or recording right:

Acts which do not constitute infringements

(a) fair dealing with a performance or recording for private study or for the purposes of research done by an individual for his personal purposes, otherwise than for profit;

(b) fair dealing with a performance or recording for the purposes of criticism or review, whether of that performance or any other performance, provided there is a sufficient acknowledgement;

(c) fair dealing with a performance or recording for the purposes of reporting current events by broadcasting or by inclusion in a cable program service or by its use in an audiovisual work;

(d) the recording of a performance or reproduction of a recording for the purposes of judicial proceedings, or of any other proceedings before a tribunal established by law, or for the purposes of a report of judicial proceedings or any other such proceedings;

(e) the incidental inclusion of a recording in an audiovisual work, sound recording, broadcast or cable program;

(f) the publishing, broadcasting, inclusion in a cable program service, or the communication to the public by any other means of anything the making of which was, under paragraph (e), not an infringement of performer's right or recording right.

(2) An act which-

(a) conflicts with the normal commercial exploitation of a performance; or

(b) unreasonably prejudices the legitimate commercial interests of the performer or holder of a recording right in a work;  
shall not, for the purposes of sub-section (1), be treated as fair dealing.

(3) For the purposes of this section, "sufficient acknowledgement" means an acknowledgement identifying the performer.

**51.** (1) An infringement of performer's right shall be actionable in the court at the suit of the performer or his successor in title.

Infringement of performer's right is actionable

(2) An infringement of recording right shall be actionable in the court at the suit of the holder of the recording right.

(3) In an action under this section, all such relief by way of damages, injunctions, accounts or otherwise shall be available to the plaintiff as is available in respect of the infringement of any other property right.

**52.** A person who does an act which constitutes an infringement of performer's right or recording right in relation to a performance, knowing or having reason to believe that the act would constitute such an infringement shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Offence of infringing performer's or recording right

*(As amended by Act No. 13 of 1994)*

**53.** (1) A person who represents falsely that he is authorised by a person to give consent for the purposes of this Part in relation to a performance shall be guilty of an offence, and shall be punishable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

False representation of authority to give consent

(2) It shall be a defence to a charge under sub-section (1) if the defendant proves that he believed on reasonable grounds that he had the represented authority.

*(As amended by Act No. 13 of 1994)*

## **PART VI**

### **MISCELLANEOUS**

**54.** (1) There shall be a Registrar of Copyright, who shall be a public officer appointed under the Service Commissions Act.

Registrar of copyright  
Cap. 259

(2) The duties and functions of the Registrar shall be-

(a) to monitor the activities of collecting societies;

(b) to encourage and facilitate the development of collecting societies;

(c) at the request of copyright owners or collecting societies, to examine cases of alleged copyright infringement and, where appropriate, to advise the Director of Public Prosecutions;



(d) to provide information and advice on copyright matters to the Minister; and

(e) to perform such other duties or functions as are provided for under this or any other Act.

(3) The Registrar shall be assisted by a staff of persons appointed under the Service Commissions Act. Cap. 259

**55.** (1) The Registrar may, subject to Articles II, III and IV of the Appendix to the Convention (reproduction in the Schedule), grant licences under this section for persons to translate or reproduce certain works.

Registrar may authorise translation and reproduction of works in certain cases

(2) Where-

(a) a work in printed or analogous form; or

(b) an audiovisual work produced solely for the purposes of systematic instruction;

is the subject of, or contains material the subject of, copyright under this Act and, at a time more than three years after its first publication, no translation has been made into a language in general use in Zambia, the Registrar may, on the application of a Zambian citizen or company incorporated in Zambia, grant that person the right to translate the work and reproduce the translation.

(3) The Registrar may on the application of a Zambian citizen or a company incorporated in Zambia grant the person the right to translate for the purposes of broadcasting, and to broadcast-

(a) a literary work subject to copyright; or

(b) any material subject to copyright contained in an audiovisual work produced solely for the purposes of systematic instruction.

(4) Where copies of a work-

(a) in printed or analogous form; or

(b) in audiovisual form;

have not been made available to the public in Zambia for a period of-

(i) three years, in the case of works of the natural and physical sciences, mathematics or technology;

(ii) seven years, in the case of works of fiction, poetry, drama or music or art books; or

(iii) five years, in any other case;

the Registrar may, on the application of a Zambian citizen or a company incorporated in Zambia, grant the person the right to reproduce and distribute in Zambia copies of the work.

**56.** The regulations may extend the provisions of this Act, or specified provisions thereof, to works originating, or performances given, in another country provided that that country is a party to a relevant convention or treaty relating to copyright or other rights established by this Act to which Zambia is also a party. Application of Act to works, etc. originating in other countries

**57.** (1) The Minister may, by statutory instrument, make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations

(2) Without limiting the generality of sub-section (1), such regulations may be made on-

(a) the administration of moral rights;

(b) the administration of authorisations under section *fifty-five*;

(c) the form and content of any application or other document required for the purposes of this Act; and

(d) the payment of fees and charges in respect of any matter or anything done or supplied under this Act.

**58.** (1) No act done before the commencement of this Act shall constitute an infringement of copyright conferred by this Act or an offence against this Act.

Transitional provisions

(2) No act done before the commencement of this Act shall constitute an infringement of the rights conferred by section *twenty-four* (moral rights).

(3) Performer's right and recording right shall not subsist in any performance that took place before the commencement of this Act.

(4) Where before the commencement of this Act any person has incurred any expenditure or liability in connection with or in contemplation of, the doing of an act in relation to a protected work or a performance in respect of which rights are conferred by this Act, being an act which prior to that date would have been lawful, nothing in this Act shall diminish or prejudice any rights or interests of that person which, in relation to that work or performance, are subsisting and valuable on the commencement of this Act, unless the person who, under this Act, is the owner of the copyright or the person having rights in the performance, agrees to pay such compensation as, in default of agreement, may be fixed by the Registrar.

(5) Where an act done before the commencement of this Act was then an infringement of copyright, proceedings in respect of that act may be taken as if this Act had not been passed.

Cap. 701

**59.** The Copyright Act is hereby repealed.

Repeal of Cap. 701 old edition

**SCHEDULE**  
**(Section 54)**

**APPENDIX TO THE BERNE  
CONVENTION FOR THE PROTECTION  
OF LITERARY AND  
ARTISTIC WORKS**

(SPECIAL PROVISIONS REGARDING DEVELOPING COUNTRIES)

**ARTICLE I**

*(Faculties Open to Developing Countries: 1. Availability of certain faculties; declaration; 2. Duration of effect of declaration; 3. Cessation of developing country status; 4. Existing stocks of copies; 5. Declaration concerning certain territories; 6. Limits of reciprocity)*

(1) Any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to this Act, of which this Appendix forms an integral part, and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided for in this Act, may, by a notification deposited with the Director General at the time of depositing its instrument of ratification or accession or, subject to Article V (1) (c), at any time thereafter, declare that it will avail itself of the faculty provided for in Article II, or of the faculty provided for in Article III, or of both those faculties. It may, instead of availing itself of the faculty provided for in Article II, make a declaration according to Article V (1) (a).

(2)(a) Any declaration under paragraph (1) notified before the expiration of the period of ten years from the entry into force of Articles 1 to 21 and this Appendix according to Article 28 (2) shall be effective until the expiration of the said period. Any such declaration may be renewed in whole or in part for periods of ten years each by a notification deposited with the Director-General not more than fifteen months and not less than three months before the expiration of the ten years period then running.

(b) Any declaration under paragraph (1) notified after the expiration of the period of ten years from the entry into force of Articles 1 to 21 and this Appendix according to Article 28 (2) shall be effective until the expiration of the ten-year period then running. Any such declaration may be renewed as provided for in the second sentence of sub-paragraph (a).

(3) Any country of the Union which has ceased to be regarded as a developing country as referred to in paragraph (1) shall no longer be entitled to renew its declaration as provided in paragraph (2), and, whether or not it formally withdraws its declaration, such country shall be precluded from availing itself of the faculties referred to in paragraph (1) from

expiration of the ten-year period then running or from the expiration of a period of three years after it has ceased to be regarded as a developing country, whichever period expires later.

(4) Where, at the time when the declaration made under paragraph (1) or (2) ceases to be effective, there are copies in stock which were made under a licence granted by virtue of this Appendix, such copies may continue to be distributed until their stock is exhausted.

(5) Any country which is bound by the provisions of this Act and which has deposited a declaration or a notification in accordance with Article 31 (1) with respect to the application of this Act to a particular territory, the situation of which can be regarded as analogous to that of the countries referred to in paragraph (1), may, in respect of such territory, make the declaration referred to in paragraph (1) and the notification of renewal referred to in paragraph (2). As long as such declaration or notification remains in effect, the provisions of this Appendix shall be applicable to the territory in respect of which it was made.

(6)(a) The fact that a country avails itself of any of the faculties referred to in paragraph (1) does not permit another country to give less protection to works of which the country of origin is the former country than it is obliged to grant under Articles 1 to 20.

(b) The right to apply reciprocal treatment provided for in Article 30 (2) (b), second sentence, shall not, until the date on which the period applicable under Article I (3) expires, be exercised in respect of works the country of origin of which is a country which has made a declaration according to Article V (1) (a).

## ARTICLE II

*(Limitations on the Right of Translation: 1. Licences granted by competent authority; 2. to 4. Conditions allowing the grant of such licences; 5. Purposes for which licences may be granted; 6. Termination of licences; 7. Works composed mainly of illustrations; 8. Works withdrawn from circulation; 9. Licences for broadcasting organisations)*

(1) Any country which has declared that it will avail itself of the faculty provided for in this Article shall be entitled, so far as works published in printed or analogous forms of reproduction are concerned, to substitute for the exclusive right of translation provided for in Article 8 a system of non-exclusive and non-transferable licences, granted by the competent authority under the following conditions and subject to Article IV.

(2) (a) Subject to paragraph (3), if, after the expiration of a period of three years, or of any longer period determined by the national legislation of the said country, commencing on the date of the first publication of the work, a translation of such work has not been published in a language in general use in that country by the owner of the right of translation, or with his authorisation, any national of such country may obtain a licence to make a translation of the work in the said language and publish the translation in printed or analogous forms of reproduction.

(b) A licence under the conditions provided for in this Article may also be granted if all the editions of the translation published in the language concerned are out of print.

(3) (a) In the case of translation into a language which is not in general use in one or more developed countries which are members of the Union, a period of one year shall be substituted for the period of three years referred to in paragraph (2) (a).

(b) Any country referred to in paragraph (1) may, with the unanimous agreement of the developed countries which are members of the Union and in which the same language is in general use, substitute, in the case of translations into that language, for the period of three years referred to in paragraph (2) (a) a shorter period as determined by such agreement but not less than one year. However, the provisions of the foregoing sentence shall not apply where the language in question is English, French or Spanish. The Director General shall be notified of any such agreement by the Governments which have concluded it.

(4) (a) No licence obtainable after three years shall be granted under this Article until a further period of six months has elapsed, and no licence obtainable after one year shall be granted under this Article until a further period of nine months has elapsed-

(i) from the date on which the applicant complies with the requirements mentioned in Article IV (1), or

(ii) where the identity or the address of the owner of the right of translation is unknown, from the date on which the applicant sends, as provided for in Article IV (2), copies of his application submitted to the authority competent to grant the licence.

(b) If, during the said period of six or nine months, a translation in the language in respect of which the application was made is published by the owner of the right of translation or with his authorisation, no licence under this Article shall be granted.

(5) Any licence under this Article shall be granted only for the purpose of teaching, scholarship or research.

(6) If a translation of a work is published by the owner of the right of translation or with his authorisation at a price reasonably related to that normally charged in the country for comparable works, any licence granted under this Article shall terminate if such translation is in the same language and with substantially the same content as the translation published under the licence. Any copies already made before the licence terminates may continue to be distributed until their stock is exhausted.

(7) For works which are composed mainly of illustrations, a licence to make and publish a translation of the text and to reproduce and publish the illustrations may be granted only if the conditions of Article III are also fulfilled.

(8) No licence shall be granted under this Article when the author has withdrawn from circulation all copies of his work.

(9) (a) A licence to make a translation of a work which has been published in printed or analogous forms of reproduction may also be granted to any broadcasting organisation having its headquarters in a country referred to in paragraph (1), upon an application made to the competent authority of that country by the said organisation, provided that all of the following conditions are met:

(i) the translation is made from a copy made and acquired in accordance with the laws of the said country;

(ii) the translation is only for use in broadcasts intended exclusively for teaching or for the dissemination of the results of specialised technical or scientific research to experts in a particular profession;

(iii) the translation is used exclusively for the purposes referred to in condition (ii) through broadcasts made lawfully and intended for recipients on the territory of the said country, including broadcasts made through the medium of sound or visual recordings lawfully and exclusively made for the purpose of such broadcasts;

(iv) all uses made of the translation are without any commercial purpose.

(b) Sound or visual recordings of a translation which was made by broadcasting organisation under a licence granted by virtue of this paragraph may, for the purposes and subject to the conditions referred to in sub-paragraph (a) and with the agreement of that organisation, also be used by any other broadcasting organisation having its headquarters in the country whose competent authority granted the licence in question.

(c) Provided that all of the criteria and conditions set out in sub-paragraph (a) are met, a licence may also be granted to a broadcasting organisation to translate any text incorporated in an audio-visual fixation where such fixation was itself prepared and published for the sole purpose of being used in connection with systematic instructional activities.

(d) Subject to sub-paragraphs (a) to (c), the provisions of the preceding paragraphs shall apply to the grant and exercise of any licence granted under this paragraph.

## ARTICLE III

*(Limitation on the Right of Reproduction: 1. Licences grantable by competent authority; 2. to 5. Conditions allowing the grant of such licences; 6. Termination of Licences; 7. Works to which this Article applies)*

(1) Any country which has declared that it will avail itself of the faculty provided for in this Article shall be entitled to substitute for the exclusive right of reproduction provided for in Article 9 a system of non-exclusive and non-transferable licences, granted by the competent authority under the following conditions and subject to Article IV.

(2) (a) If, in relation to a work to which this Article applies by virtue of paragraph (7), after the expiration of-

(i) the relevant period specified in paragraph (3), commencing on the date of first publication of a particular edition of the work, or

(ii) any longer period determined by national legislation of the country referred to in paragraph (1), commencing on the same date,

copies of such edition have not been distributed in that country to the general public or in connection with systematic instructional activities, by the owner of the right of reproduction or with his authorisation, at a price reasonably related to that normally charged in the country for comparable works, any national of such country may obtain a licence to reproduce and publish such edition at that or a lower price for use in connection with systematic instructional activities.

(b) A licence to reproduce and publish an edition which has been distributed as described in sub-paragraph (a) may also be granted under the conditions provided for in this Article if, after the expiration of the applicable period, no authorised copies of that edition have been on sale for a period of six months in the country concerned to the general public or in connection with systematic instructional activities at a price reasonably related to that normally charged in the country for comparable works.

(3) The period referred to in paragraph (2) (a) (i) shall be five years, except that-

(i) for works of the natural and physical sciences, including mathematics, and of technology, the period shall be three years;

(ii) for works of fiction, poetry, drama and music, and for art books, the period shall be seven years.

(4) (a) No licence obtainable after three years shall be granted under this Article until a period of six months has elapsed-

(i) from the date on which the applicant complies with the requirements mentioned in Article IV (1), or

(ii) where the identity or the address of the owner of the right of reproduction is unknown, from the date on which the applicant sends, as provided for in article IV (2), copies of his application submitted to the authority competent to grant the licence.

(b) Where licences are obtainable after other periods and Article IV (2) is applicable, no licence shall be granted until a period of three months has elapsed from the date of the dispatch of the copies of the application.

(c) If, during the period of six or three months referred to in sub-paragraphs (a) and (b), a distribution as described in paragraph (2) (a) has taken place, no licence shall be granted under this Article.

(d) No licence shall be granted if the author has withdrawn from circulation all copies of the edition for the reproduction and publication of which the licence has been applied for.

(5) A licence to reproduce and publish a translation of a work shall not be granted under this Article in the following cases:

(i) where the translation was not published by the owner of the right of translation or with his authorisation, or

(ii) where the translation is not in a language in general use in the country in which the licence is applied for.

(6) If copies of an edition of a work are distributed in the country referred to in paragraph (1) to the general public or in connection with systematic instructional activities, by the owner of the right of reproduction or with his authorisation, at a price reasonably related to that normally charged in the country for comparable works, any licence granted under this



Article shall terminate if such edition is in the same language and with substantially the same content as the edition which was published under the said licence. Any copies already made before the licence terminates may continue to be distributed until their stock is exhausted.

(7) (a) Subject to sub-paragraph (b), the works to which this Article applies shall be limited to works published in printed or analogous forms of reproduction.

(b) This Article shall also apply to the reproduction in audio-visual form of lawfully made audio-visual fixations including any protected works incorporated therein and to the translation of any incorporated text into a language in general use in the country in which the licence is applied for, always provided that the audio-visual fixations in question were prepared and published for the sole purpose of being used in connection with systematic instructional activities.

## ARTICLE IV

*(Provisions Common to Licences Under Articles II and III: 1. and 2. Procedure; 3. Indication of author and title of work; 4. Exportation of copies; 5. Notice; 6. Compensation)*

(1) A licence under Article II or Article III may be granted only if the applicant, in accordance with the procedure of the country concerned, establishes either that he has requested, and has been denied, authorisation by the owner of the right to make and publish the translation or to reproduce and publish the edition, as the case may be, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as making the request, the applicant shall inform any national or international information centre referred to in paragraph (2).

(2) If the owner of the right cannot be found, the applicant for a licence shall send, by registered airmail, copies of his application, submitted to the authority competent to grant the licence, to the publisher whose name appears on the work and to any national or international information centre which may have been designated, in a notification to that effect deposited with the Director General, by the Government of the country in which the publisher is believed to have his principal place of business.

(3) The name of the author shall be indicated on all copies of the translation or reproduction published under a licence granted under Article II or Article III. The title of the work shall appear on all such copies. In the case of a translation, the original title of the work shall appear in any case on all the said copies.

(4) (a) No licence granted under Article II or Article III shall extend to the export of copies, and any such licence shall be valid only for publication of the translation or of the reproduction, as the case may be, in the territory of the country in which it has been applied for.

(b) For the purpose of sub-paragraph (a), the notion of export shall include the sending of copies from any territory to the country which, in respect of that territory, has made a declaration under Article I (5).

(c) Where a governmental or other public entity of a country which has granted a licence to make a translation under Article II into a language other than English, French or Spanish sends copies of a translation published under such licence to another country, such sending of copies shall not, for the purposes of sub-paragraph (a), be considered to constitute export if all of the following conditions are met:

- (i) the recipients are individuals who are nationals of the country whose competent authority has granted the licence, or organisations grouping such individuals;
- (ii) the copies are to be used only for the purpose of teaching, scholarship or research;
- (iii) the sending of the copies and their subsequent distribution to recipients is without any commercial purpose; and
- (iv) the country to which the copies have been sent has agreed with the country whose competent authority has granted the licence to allow the receipt, or distribution, or both, and the Director General has been notified of the agreement by the Government of the country in which the licence has been granted.

(5) All copies published under a licence granted by virtue of Article II or Article III shall bear a notice in the appropriate language stating that the copies are available for distribution only in the country or territory to which the said licence applies.

(6) (a) Due provision shall be made at the national level to ensure-

- (i) that the licence provides, in favour of the owner of the right of translation or of reproduction, as the case may be, for just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and
- (ii) payment and transmittal of the compensation; should national current regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(b) Due provision shall be made by national legislation to ensure a correct translation of the work, or an accurate reproduction of the particular edition, as the case may be.

## ARTICLE V

*(Alternative Possibility for Limitation of the Right of Translation: 1. Regime provided for under the 1886 and 1896 Acts; 2. No possibility of change to regime under Article II; 3. Time limit for choosing the alternative possibility)*

(1) (a) Any country entitled to make a declaration that it will avail itself of the faculty provided for in Article II may, instead, at the time of ratifying or acceding to this Act-

- (i) if it is country to which Article 30 (2) (a) applies, make a declaration under that provision as far as the right of translation is concerned;
- (ii) if it is a country to which Article 30 (2) (a) does not apply, and even if it is not a country outside the Union, make a declaration as provided for in Article 30 (2) (b), first

sentence.

(b) In the case of a country which ceases to be regarded as a developing country as referred to in Article I (1), a declaration made according to this paragraph shall be effective until the date on which the period applicable under Article I (3) expires.

(c) Any country which has made a declaration according to this paragraph may not subsequently avail itself of the faculty provided for in Article II even if it withdraws the said declaration.

(2) Subject to paragraph (3), any country which has availed itself of the faculty provided for in Article II may not subsequently make a declaration according to paragraph (1).

(3) Any country which has ceased to be regarded as a developing country as referred to in Article I (1) may, not later than two years prior to the expiration of the period applicable under Article I (3), make a declaration to the effect provided for in Article 30 (2) (b), first sentence, notwithstanding the fact that it is not a country outside the Union. Such declaration shall take effect at the date on which the period applicable under Article I (3) expires.

## ARTICLE VI

*(Possibilities of applying, or admitting the application of, certain provisions of the Appendix before becoming bound by it: 1. Declaration; 2. Depository and effective date of declaration)*

(1) Any country of the Union may declare, as from the date to this Act, and at any time before becoming bound by Articles 1 to 21 and this Appendix:

(i) if it is a country which, were it bound by Articles 1 to 21 and this Appendix, would be entitled to avail itself of the faculties referred to in Article 1 (1), that it will apply the provisions of Article II or of Article III or of both to works whose country of origin is a country which, pursuant to (ii) below, admits the application of those Articles to such works, or which is bound by Articles 1 to 21 and this Appendix; such declaration may, instead of referring to Article II, refer to Article V;

(ii) that it admits the application of this Appendix to works of which it is the country of origin by countries which have made a declaration under (i) above or a notification under Article I.

(2) Any declaration made under paragraph (1) shall be in writing and shall be deposited with the Director General. The declaration shall become effective from the date of its deposit.

### CHAPTER 407 THE COMMERCIAL TRAVELLERS (SPECIAL PROVISIONS) ACT

## ARRANGEMENT OF SECTIONS

### Section

1. Short title
2. Interpretation
3. Application of this Act
4. Cancellation of certain commercial traveller's licences under the Trades Licensing Act
5. Restriction on grant or renewal of commercial traveller's licences under the Trades Licensing Act
6. Issue of foreign commercial traveller's licence

### SCHEDULE-Foreign commercial traveller's licence

## CHAPTER 407

### COMMERCIAL TRAVELLERS (SPECIAL PROVISIONS)

31 of 1966  
13 of 1994

An Act to make special provision with respect to the licensing of commercial travellers.

[5th August, 1966]

1. This Act may be cited as the Commercial Travellers (Special Provisions) Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation  
  
"specified country" means a State or territory to which the provisions of this Act are applied under the provisions of section *three*.
3. The \*Minister may, by statutory order, apply the provisions of this Act to any State or territory specified in the order. Application of this Act

\* Applied to Southern Rhodesia by S.I. No. 396 of 1966.

4. (1) Whenever the Minister has reason to believe that the holder of a commercial traveller's licence is resident in a specified country, he shall cause notice to be given to the holder that he proposes to cancel the licence unless, within such period as may be specified in the notice, the holder shows to the satisfaction of the Minister that he is not resident in a specified country.

Cancellation of certain commercial traveller's licences under the Trades Licensing Act Cap. 393

(2) A notice under subsection (1) shall be deemed to have been properly given if-

(a) it is sent by registered post to the holder at the address shown on the commercial traveller's licence to which the notice relates; or

(b) a copy of the notice is published in the *Gazette*.

(3) If the holder of a commercial traveller's licence to whom a notice under subsection (1) has been given fails, within the period specified in the notice, to show to the satisfaction of the Minister that he is not resident in a specified country, the Minister shall, by Gazette notice, cancel his licence and such licence shall thereupon be null and void.

(4) The Minister shall cause to be paid to the holder of a commercial traveller's licence which has been cancelled under the provisions of this section, a sum calculated by multiplying the amount of the fee paid in respect of that licence by one-twelfth of the number of completed months for which that licence would have continued to be valid, had it not been cancelled.

\*Applied to Southern Rhodesia by S.I. No. 396 of 1966.

(5) For the purposes of this section, "commercial traveller's licence" means a commercial traveller's licence granted or renewed under the provisions of the Trades Licensing Act.

5. (1) No commercial traveller's licence shall be granted or renewed under the provisions of the Trades Licensing Act to any individual person, firm or company, if that person, firm or company is resident in a specified country.

Restriction on grant or renewal of commercial traveller's

(2) For the purpose of enforcing the provisions of this section, the Licensing Authority under the Trades Licensing Act shall, on application being made for the grant or renewal of a commercial traveller's licence, require the applicant to satisfy him, by the production of such evidence as he may require, that, if the licence is granted or renewed, the holder of the licence will not be an individual person, firm or company resident in a specified country.

**6.** (1) The Minister may, on application being made in such form as he may require, and on payment of the fee prescribed by subsection (5), grant a licence, to be styled a foreign commercial traveller's licence, to any individual person, firm or company resident in a specified country. Issue of foreign commercial traveller's licence

(2) The grant or refusal of a licence under this section shall be at the absolute discretion of the Minister, and the Minister may, on the grant of any such licence, attach such terms and conditions thereto as he thinks fit.

(3) In every licence granted under this section, there shall be specified-

(a) the name and address of the holder of the licence; and

(b) the period of the validity of the licence; and

(c) any terms and conditions attached to the licence;

and the licence shall be in the form prescribed in the Schedule.

(4) A licence granted under this section shall, subject to the provisions of the licence, authorise the carrying on of the business of a commercial traveller for the purposes of the Trades Licensing Act to the same extent as is authorised by a commercial traveller's licence granted under the provisions of that Act. Cap. 393

(5) There shall be payable, for the benefit of the general revenues of the

Republic, a fee of fifteen thousand fee units in respect of every licence granted under this section.

*(As amended by Act No. 13 of 1994)*

**SCHEDULE**

(Section 6)

THE COMMERCIAL TRAVELLERS (SPECIAL PROVISIONS) ACT

**FOREIGN COMMERCIAL TRAVELLER'S LICENCE**

No.....

A foreign commercial traveller's licence is hereby granted to  
of .....

This licence is valid for the period commencing on:  
.....and ending on:

and is granted subject to the terms and conditions attached hereto.

Fee paid: 15,000 fee units

Given under my hand at ..... this  
day of....., 19.....  
.....

*Minister of Trade and*

*Industry*

**TERMS AND CONDITIONS**

- 1. ....
- 2. ....
- etc.



**CHAPTER 408**  
**THE SELF-MANAGEMENT ENTERPRISES ACT**

**CHAPTER 408**

**SELF-MANAGEMENT ENTERPRISES**

*Act No.*  
*33 of 1988.*

An Act to empower the President to declare any State enterprise to be a self-management enterprise; to define the functions and the powers of self-management enterprises; to provide for the management and administration of self-management enterprises; to provide for the exemption of any State enterprise or self-management enterprise from the provisions of any written law; and to provide for matters connected with or incidental to the foregoing.

[30th December, 1988]

**PART I**

**PRELIMINARY**

**1.** This Act may be cited as the Self-Management Enterprises Act.\* Short title

\*This Act commenced on 01.3.1989. "Secretary" means the person appointed Secretary under section *twenty-four*;

**2.** In this Act, unless the context otherwise requires- Interpretation

"Advisory Council" means the Advisory Council of a self-management enterprise constituted under section *thirteen*;

"Board" means the Employees' Board of Directors of a self-management enterprise elected and approved under section *nine*;

"Committee" means the Management Committee established under section *eighteen*;

"Conference" means the Employees' Conference of a self-management enterprise established under section *five*.

"employee" means an employee of a self-management enterprise other than an employee specifically engaged on a temporary basis for work of an intermittent or seasonal nature and shall include staff of a sub-committee;

"local community representative" means any person in the Province who is not an employee of a self-management enterprise but is elected to sit on the Board on account of his business experience;

"Managing Director" means the person elected Managing Director under section *twenty-two*;

"self-management enterprise" means any State enterprise declared by the President to be a self-management enterprise under section *three*;

"Standing Committee" means a Standing Committee of the Conference established under section *eight*;

"State enterprise" means a company, corporation, parastatal body or statutory board, which is wholly-owned by the State or any Government department that engages in commercial activities.

## **PART II**

### **SELF-MANAGEMENT ENTERPRISES**

**3.** (1) Notwithstanding any law to the contrary, the President may, by statutory instrument, declare any State enterprise to be a self-management enterprise. Declaration of self-management enterprise

(2) A self-management enterprise shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

(3) The President may by statutory instrument exempt any State

enterprise, which has been declared a self-management enterprise under sub-section (1), from the provisions of any written law:

Provided that any instrument made under this subsection shall not affect any vested legal rights.

**4.** (1) The seal of a self-management enterprise shall be such a device as may be determined by the Conference and shall be kept by the Managing Director. Seal of self-management enterprise

(2) A self-management enterprise may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Managing Director and one other person authorised in that behalf by the Conference.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of a self-management enterprise by the Managing Director or any other person authorised in that behalf by the Conference.

(5) Any document purporting to be a document under the seal of a self-management enterprise or issued, as described under subsection (4), on behalf of a self-management enterprise shall be received in evidence and shall be deemed to be a document so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**5.** (1) There shall be an Employees' Conference for a self-management enterprise which shall be the overall policy-making body for that enterprise. Employees' Conference and composition

(2) The Conference shall consist of-

(a) where the self-management enterprise has employed more than 50 employees, not more than 50 employees elected by the employees of the enterprise;

(b) where the self-management enterprise employs not more than 50 employees, not more than one-third of the employees elected by the employees of the enterprise.

(3) There shall be a Chairman and a Vice-Chairman of the Conference who shall be elected by the Conference from among its members.

**6.** (1) The Conference shall meet at least once every twelve months for the discharge of its functions under this Act. Meetings of Conference

(2) Subject to the other provisions of this Act the Conference may regulate its own procedure at meetings.

**7.** (1) Except as otherwise provided under this Act the functions of the Conference shall be to exercise the corporate powers of a self-management enterprise. Functions of Conference

(2) Without prejudice to subsection (1), the Conference shall-

(a) formulate policies for the smooth operations of a self-management enterprise;

(b) consider and where appropriate, approve the development plans of a self-management enterprise;

(c) consider and approve the investment plans of a self-management enterprise;

(d) elect members of the Board; and

(e) give directives to and exercise control over the Board.

**8.** (1) There shall be a Standing Committee of the Conference which shall consist of at least five but not more than ten employees elected by the Conference from among its members. Standing Committee

(2) The Standing Committee shall-

(a) hear and determine any appeal from any decision made by or on behalf of the Board;

(b) confirm, vary or set aside any disciplinary decision made by the Board or make such other order as it considers necessary.

9. There shall be an Employees' Board of Directors for a self-management enterprise which shall be appointed by the Conference and approved by the President.

Employees'  
Board of  
Directors

10. (1) The Board shall consist of-

Composition of  
Board,  
qualification of  
members and  
tenure of office

(a) obsolete;

(b) one representative nominated by the trade union operating at a self-management enterprise;

(c) four employees of the self-management enterprise;

(d) one representative nominated by the local community;

(e) obsolete.

(2) There shall be a Chairman of the Board who shall be elected by the Board from among its members.

(3) No person shall qualify to be appointed as a member of the Board unless-

(a) he is literate and conversant with the official language of Zambia;

(b) he is a disciplined person without a record of dishonesty; and in the case of an ex-convict, a period of five years has elapsed after serving the last sentence;

(c) he has worked for a period of not less than two years in the same enterprise;

(d) he has not been declared to be of unsound mind under any law; and

(e) having been adjudged or otherwise declared bankrupt under any law has been discharged as a bankrupt.

(4) A member of the Board shall hold office for a period of two years but shall be eligible for re-appointment.

**11.** (1) The Board shall meet at least once every three months for the discharge of its functions under this Act. Meetings of Board

(2) Subject to the other provisions of this Act the Board may regulate its own procedure at meetings.

**12.** (1) Subject to the control, and any general or specific directions, of the Conference the function of the Board shall be to supervise the operation and management of a self-management enterprise. Functions of Board

(2) Without prejudice to the generality of subsection (1), the Board shall-

(a) supervise the Committee and the Managing Director in the performance of their functions;

(b) consider and approve where appropriate the annual budget of a self-management enterprise in accordance with the development plans of an enterprise as well as those of the national development plan of Zambia;

(c) be responsible for approving the raising of new capital;

- (d) approve where appropriate appropriation of surplus funds;
- (e) consider and approve where appropriate any alteration in the administrative organisation, structure and establishment of a self-management enterprise;
- (f) recruit, employ and provide for the training of, employees for a self-management enterprise; and
- (g) determine the terms and conditions and salaries of employees of the self-management enterprise.

(3) The Board may in writing, delegate to the Committee or to the Managing Director any of its functions under this Act.

**13.** (1) There shall be an Advisory Council for every self-management enterprise which shall consist of not less than three and not more than five persons who are not employees or members of the Board.

Advisory Council

(2) The President shall appoint the members of the Advisory Council.

(3) When appointing a person to be a member of the Advisory Council the President shall take into consideration the need to appoint a person with wide experience in business management.

**14.** (1) A members of the Advisory Council shall, unless his appointment is terminated earlier by the President, hold office for such period and upon such conditions as may be specified at the time of his appointment, and shall, on the expiry of that period, be eligible for re-appointment.

Tenure of office

(2) A member may, at any time in writing, resign as a member of the Advisory Council and he may, at any time, be removed as a member by the President.

**15.** A member of the Advisory Council shall be paid such remuneration or allowance as the President may determine.

Remuneration of member of

Advisory  
Council

**16.** (1) The Advisory Council shall monitor the performance of the self-management enterprise and give such advice as it considers necessary for the attainment of the objects of the enterprise.

Functions of  
Advisory  
Council

(2) The Advisory Council may delay, for at least one month, implementation of any decision made by any organ of a self-management enterprise if, in its judgement, that decision is not in the best interest of the enterprise; and within that period a self-management enterprise shall review its decision; but if the organ fails to do so it shall refer the matter to the President.

(3) The Advisory Council may be consulted by the President on any matter relating to the running of a self-management enterprise.

**17.** No action or other proceedings shall lie or be instituted against any member of the Advisory Council for or in respect of any act or thing done or omitted to be done in good faith in the exercise of or purported exercise of his duties under this Act

Immunity of  
member of  
Advisory  
Council

### **PART III**

#### **ADMINISTRATION**

**18.** There shall be a Management Committee which shall be the executive organ of a self-management enterprise and shall, subject to the control of the Board, be responsible for the administration of the affairs of the enterprise.

Management  
Committee

**19.** (1) The Committee shall consist of-

Composition of  
Committee and  
tenure of office

(a) the Managing Director who shall be the Chairman;

(b) the secretaries of all the sub-committees; and



(c) such number of employees as may be appointed by the Board.

(2) The employees referred to in paragraph (c) of subsection (1) shall hold office for a period of three years and shall be eligible for re-appointment.

**20.** (1) The Committee shall meet at least once every month to review, and decide on, the affairs of a self-management enterprise. Meetings of committee

(2) Subject to the other provisions of this Act, the Committee shall regulate its own procedure.

**21.** (1) The Committee shall establish sub-committees for the purpose of performing its functions under this Act and in particular shall establish a- Sub-committees

(a) Financial Sub-Committee;

(b) Legal and Administrative Sub-Committee;

(c) Social and Personnel Sub-Committee;

(d) Development and Planning Sub-Committee;

(e) Marketing Sub-Committee;

(f) Technical and Production Sub-Committee; and

(g) Security and Safety Sub-Committee.

(2) A sub-committee set up under subsection (1) shall be headed by a full time secretary and shall have such other administrative and operating staff as may be necessary for the performance of its functions.

(3) The Committee may delegate to any sub-committee such of its functions as it considers fit.

(4) Subject to any general or specific direction of the Committee, any sub-committee set up under subsection (1) may regulate its own procedure.

**22.** (1) There shall be a Managing Director for each self-management enterprise who shall be the Chief Executive Officer and shall be nominated by the Board and popularly elected by a majority of the votes cast at the Conference: Managing Director

Provided that the President, may on declaring a State enterprise to be a self-management enterprise or where a Conference fails to elect a Managing Director, appoint any person to be Managing Director.

(2) The Managing Director shall hold office on such terms and conditions as may be specified in his contract of employment.

(3) The Managing Director shall attend meetings of the Board and may address any such meetings but shall not vote on any matter;

Provided that the person presiding at any meeting of the Board may, for good cause, require the Managing Director to withdraw from the meeting.

**23.** (1) The Managing Director shall, subject to the control of the Board, be responsible for the administration of the affairs of a self-management enterprise. Duty of Managing Director

(2) The Managing Director shall exercise supervision and control over the acts and proceedings of all employees of a self-management enterprise and shall be responsible for initiating disciplinary action against any employee and shall where necessary, recommend to the Board the dismissal of any employee.

(3) The Managing Director shall co-ordinate the functions of the various sub-committees set up by the Committee.

**24.** (1) There shall be a Secretary to a self-management enterprise who Secretary

shall be appointed by the Board on such terms and conditions as the Board may determine.

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the enterprise under the general supervision of the Managing Director.

**25** (1) Any person who, immediately before a State enterprise was declared to be a self-management enterprise, was working for that State enterprise, may voluntarily transfer from the State enterprise to a self-management enterprise. Employees

(2) Any person who is eligible to transfer under subsection (1) shall be deemed to have transferred to a self-management enterprise unless within six months after the declaration setting up a self-management enterprise he gives notice in writing to the Board of his intention not to transfer from the service of the State enterprise.

(3) Any person to whom subsections (1) and (2) apply and who does not voluntarily transfer to the service of a self-management enterprise under subsection (2) shall be deemed to have voluntarily retired from the service of the State enterprise from the date of his notification to the Board of his intention not to transfer or the expiration of the six months period prescribed by subsection (2) whichever is the earlier.

(4) Any person who is deemed to have retired under subsection (3) shall be entitled to be paid all retirement benefits which he would have been paid if he had voluntarily retired in accordance with the relevant rules and conditions of the State enterprise.

(5) The terms and conditions of service of an employee transferred to the service of a self-management enterprise, in accordance with subsections (1) and (2), shall be no less favourable than those which were applicable to him immediately before the transfer; and for the purposes of determining any right to gratuity or any other superannuation benefit, the service of the employee with a self-management enterprise shall be regarded as continuous with the service immediately preceding the transfer.

**PART IV**  
**FINANCE**

**26.** (1) Where the President declares any State enterprise to be a self-management enterprise, he shall, by statutory instrument, provide for the transfer of the assets and liabilities of the State enterprise to a self-management enterprise is on such terms and conditions as may be specified in the statutory instrument.

Assets and liabilities

(2) The assets and liabilities specified in the statutory instrument made under subsection (1) shall, on the coming into force of the statutory instrument, vest in or as the case may be subsist against the self-management enterprise.

**27.** (1) The Government may, with the approval of the National Assembly, raise moneys within or outside the Republic of Zambia specifically for the purpose of any self-management enterprise and all money so raised shall be charged upon and issued out of the general revenues of the Republic and when transferred to a self-management enterprise, shall form part of the funds of the enterprise.

Funds from Government

(2) Where any moneys are transferred to a self-management enterprise as part of its funds in accordance with subsection (1), the President may require the enterprise to pay interest on those moneys to the Government at such times and at such rates as the President may determine.

(3) Any sums received by the Government from a self-management enterprise, in repayment of any loan made to it by the Government or in repayment of any moneys raised by the Government under subsection (1) of this subsection or in payment of any interest on any such moneys, shall be paid into the general revenues of the Republic.

**28.** The Government may guarantee in such manner and on such terms and conditions as it may consider fit, the repayment of the principal and interest and other charges on any borrowings of a self-management enterprise and any such guarantee shall be charged on, and issued out of, the general revenues of the Republic.

Guarantee

**29.** (1) Notwithstanding section *twenty-seven* the President may set up a Consolidated Fund for self-management enterprises into which moneys intended for the purposes of self-management enterprises may be paid. Consolidated Fund and trust

(2) Where the President sets up a Consolidated Fund he may set up a Trust for the purposes of maintaining the Consolidated Fund.

**30.** (1) A self-management enterprise shall cause to be kept proper accounts and other records relating to its accounts in a form approved by the Advisory Council. Accounts and Audit

(2) Subject to any other written law, the accounts of a self-management enterprise shall be audited by the Auditor-General or by such other person as the Advisory Council may appoint.

(3) At the end of every financial year the Board shall send a copy of the statement of accounts prepared under this section, together with any report made by the auditors, to the Minister and the Minister shall lay a copy of the statement of accounts and the auditors' report before the National Assembly.

## **PART V**

### **GENERAL**

**31.** Every self-management enterprise shall have as an integral part of its name the letters SME. Name

**32.** No self-management enterprise shall be liquidated or dissolved except by an Act of Parliament. Dissolution

**33.** (1) Subject to subsection (2) and any other provision of this Act, the Companies Act and the Industrial Relations Act and the provisions of any other written law, which the President shall consider to be in conflict with the spirit of this Act, shall not apply to a self-management enterprise. Exclusion of certain laws  
Cap. 321  
Cap. 225

(2) Notwithstanding subsection (1) the President may, by statutory instrument apply to a self-management enterprise any provisions of the Companies Act or of the Industrial Relations Act that are not inconsistent with the provisions of this Act and that application may be with such modifications as he may consider necessary.

Cap. 321  
Cap. 225

**34.** (1) The President may, by statutory instrument, make

Special Powers  
of the President

regulations for the better carrying out of the purposes of this Act.

(2) The President may, by statutory instrument, delegate all or any of his powers under this Act, other than his power under section *three* to the Minister.

(3) The President may, in writing, give to the Conference Board, Committee or the Managing Director directions as to the discharge of their functions.

#### SUBSIDIARY LEGISLATION

### **SECTION 3-THE SELF-MANAGEMENT ENTERPRISES (DECLARATION) ORDER. *Order by the President***

***Statutory  
Instrument.  
24 of 1989***

**1.** This Order may be cited as the Self-Management Enterprises (Declaration) Order.

Title

**2.** The State enterprises set out in the Schedule to this Order are declared to be self-management enterprises.

Declaration of  
Self-Management  
Enterprise

# **SCHEDULE**

*(Paragraph 2)*

1. Choma Milling Company Limited
2. Zambia Pork Products Limited

**CHAPTER 409**  
**THE SCRAP METAL DEALERS ACT**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title
2. Interpretation
3. Saving
4. Prohibition against dealing in scrap metal without a licence
5. Application for licence
6. Grant of licence
7. Register of transactions
8. Restrictions on acquisition of scrap metal, and employment of young persons, by scrap metal dealers
9. Restrictions on dealings with specified scrap metal
10. Duty to report certain matters to police
11. Scrap metal to be kept for seven days
12. Power of search
13. Cancellation of licences
14. Penalty
15. Rules

**CHAPTER 409**

**SCRAP METAL DEALERS**

*Acts No.*  
*58 of 1960*  
*69 of 1965*  
*28 of 1968*  
*18 of 1993*  
*13 of 1994*  
*Government*  
*Notice 497 of*  
*1964*



An Act to provide for the licensing of dealers in scrap metal; to regulate the business of such dealers; and to provide for matters connected therewith and incidental thereto.

[1st July, 1961]

1. This Act may be cited as the Scrap Metal Dealers Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"article" means anything consisting wholly or partly of metal and includes any part of such thing;

"certificate of clearance" means a certificate of clearance issued under section *nine*;

"contravene" in respect of any provision of this Act, includes a failure to comply with such provision;

"licence" means a licence granted under the provisions of section *six*;

"licensing authority" means-

(a) in the area of a city council, a municipal council or township council, such council;

(b) in any other area, the District Secretary for the District in which such area is situate;

"metal" means aluminum, cobalt, copper, iron, lead, manganese, vanadium, cadmium, tungsten, zinc, all other ferrous and non-ferrous metals and alloys of those metals, but does not include gold, silver or platinum except to the extent that one-tenth of one per centum or less of the weight of such an alloy as aforesaid is attributable to gold, silver or platinum;

"place" includes any land, whether consisting of enclosed premises or not;

"police officer" means a member of the Zambia Police Force of or above the rank of Sub-Inspector;

"scrap metal" includes-

(a) any old metal or broken metal;

(b) any broken, worn out or defaced or manufactured, or partly manufactured, processed or wrought articles which are not fit for the purpose for which they were manufactured, processed or wrought or which are no longer so required;

(c) metallic waste;

(d) any metal occurring as a mineral in a raw or natural state in quantities of less than one thousand pounds in weight excepting when utilised *bona fide* as raw metal geological specimens;

"scrap metal dealer" means any person who carries on a trade or business which consists wholly or partly of buying and selling scrap metal, whether the scrap metal sold is in the form in which it was bought or otherwise, and includes any person who, from a person other than a scrap metal dealer, buys or acquires scrap metal as a material for further processing or for the manufacture of other articles or for export, but does not include any person engaged in mining who in the course of his mining business buys or sells scrap metal from or to another such person;

"scrap metal store" means any place where scrap metal is received or kept in the course of the business of a scrap metal dealer or under the provisions of this Act;

"stolen" means stolen, extorted or otherwise unlawfully taken, obtained or disposed of.

(As amended by No. 69 of 1965 and No. 28 of 1968)

3. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Trades Licensing Act.

Saving  
Cap. 393

4. Any person who carries on business as a scrap metal dealer

Prohibition

otherwise than as the holder of a licence or otherwise than in accordance with the conditions of his licence shall be guilty of an offence.

(As amended by No. 28 of 1968)

against dealing  
in scrap metal  
without a  
licence

5. (1) Any person who proposes to carry on business as a scrap metal dealer shall make application, in such form and containing such particulars as may be prescribed, for a licence to the licensing authority in whose area is situate any place proposed to be occupied by him wholly or partly for the purposes of that business or proposed to be occupied by him as a scrap metal store.

Application for  
licence

(2) A licensing authority shall not consider an application for the grant of a licence unless it is satisfied that the applicant has given at least fourteen days' notice of his intention to apply for the licence as provided in subsection (3).

(3) A notice of intention to apply for a licence shall be in the prescribed form and shall be given by publication in the *Gazette* and in two issues of a newspaper circulating in each area where premises mentioned in the notice are situate, and the period of fourteen days mentioned in subsection (2) shall be reckoned from the date of the last publication of the notice.

(No. 28 of 1968)

6. (1) Upon receipt of an application for a licence, a licensing authority may, in its discretion-

Grant of licence

(a) refuse to grant such licence; or

(b) grant such licence either unconditionally or subject to such conditions as the authority may think fit to impose.

(2) An applicant for a licence who is refused such licence, or whose application is granted subject to conditions, shall be entitled to lodge an appeal against the decision of the licensing authority to the Minister.

(3) Notwithstanding the provisions of subsection (1), a licence shall not be granted unless the licensing authority is satisfied that the applicant is

a fit and proper person to hold a licence.

(4) There shall be paid to a licensing authority on the grant of a licence the sum of seven hundred and fifty fee units.

*(As amended by No. 28 of 1968 and Act No. 13 of 1994)*

7. (1) Subject to the provisions of this section, every scrap metal dealer shall, at each scrap metal store occupied by him, keep or cause to be kept a register consisting of a book in the prescribed form (hereinafter referred to as "the register"), of all transactions relative to his business as such a dealer and shall enter therein the number assigned by him to a transaction and the particulars required by this section with respect to all scrap metal received or kept at, processed at or despatched from that store but shall not at any one scrap metal store at any one time have in use, for the purposes of this Act, more than one register. Register of transactions

(2) The particulars required to be entered in the register are-

(a) in the case of scrap metal received or kept at a scrap metal store-

(i) a description of the type, physical characteristics and distinguishing features of the scrap metal sufficient to identify it accurately, the form in which it is received and its weight;

(ii) the date and time of the receipt of the scrap metal by the scrap metal dealer or his servant or agent;

(iii) where the scrap metal is received by a servant or agent, the name of the servant or agent;

(iv) the full name and address of the person from whom the scrap metal is received and of the person from whom it was purchased or otherwise acquired;

(v) the source of the scrap metal, that is to say, the full name and address of the person from whom the seller or donor acquired title to sell or otherwise dispose of the scrap metal to the scrap metal dealer;

(vi) the consideration given or to be given in respect of the scrap metal;

(vii) the date and place of issue of the certificate of clearance, if any, issued in respect of the scrap metal;

(viii) in the case of scrap metal delivered at a scrap metal store by means of a motor vehicle (whether the vehicle belongs to the scrap metal dealer or not), the

registration number of the vehicle;

(ix) such other particulars as may be prescribed;

(b) in the case of scrap metal despatched from, or processed at, a scrap metal store-

(i) a description of the type, physical characteristics and distinguishing features of the scrap metal sufficient to identify it accurately, the form in which it is despatched or processed and its weight;

(ii) the date of processing or, as the case may be, despatch of the scrap metal, and, if processed, the process applied;

(iii) the full name and address of the person to whom the scrap metal is despatched;

(iv) the full name and address of the person to whom the scrap metal is sold or otherwise disposed of;

(v) the consideration given or to be given on the sale or other disposal of the scrap metal;

(vi) such other particulars as may be prescribed.

(3) Any particulars required to be entered in the register by this section shall be so entered within twenty-four hours after the receipt of, processing at, or despatch from the scrap metal store concerned.

(4) Scrap metal shall not be described in the register by reference to any term used in the International Code to describe non-ferrous scrap metal unless that term is generally comprehensible.

(5) Every scrap metal dealer shall on demand allow any police officer to enter his place of business or any place occupied by him as a scrap metal store and to inspect the register required to be retained or to be kept at that place and any books of account and certificates of clearance relating to transactions in scrap metal kept by the scrap metal dealer.

(6) Every register kept by a person in pursuance of subsection (1) shall be a bound book kept exclusively for the purposes of this section and shall be retained by him and be available for inspection in the scrap metal store until the end of the period of three years beginning with the day on which the last entry was made in the register.

(7) Every entry in the register kept by a scrap metal dealer shall be deemed, unless the contrary is proved, to have been made by or under the authority of that dealer.

(8) Every scrap metal dealer shall keep displayed prominently in each place occupied by him as a scrap metal store a notice in the prescribed form specifying the penalties provided under this Act for giving false information to scrap metal dealers.

(9) Any person who-

(a) contravenes any provision of this section; or

(b) knowingly makes any false entry in the register; or

(c) gives to a scrap metal dealer or his servant or agent any false particulars concerning his name and address or concerning the source of the scrap metal in question;

shall be guilty of an offence.

(10) In this section, "processing", in relation to scrap metal, includes heating, burning, annealing, melting down and any other process whereby the material ceases to be scrap metal, but does not include dismantling or breaking up, and "processed" shall be construed accordingly.

(No. 28 of 1968)

**8.** (1) A scrap metal dealer shall not, by himself or by any other person, purchase or otherwise acquire or dispose of any scrap metal-

Restrictions on acquisition of scrap metal, and employment of young persons, by scrap metal dealers

(a) between the hours of nine o'clock in the evening and seven o'clock in the morning; or

(b) from any person apparently under the age of sixteen years.

(2) A scrap metal dealer shall not employ, whether as servant, apprentice or otherwise, any person under the apparent age of sixteen years.

(3) Any person who contravenes any provision of this section shall be guilty of an offence.

*(As amended by No. 28 of 1968)*

**9.** (1) A person shall not sell or otherwise dispose of any scrap metal consisting wholly or principally of cobalt, copper, brass, bronze, lead or zinc or any other metal that may be prescribed (in this section referred to as specified scrap metal) to a scrap metal dealer unless that person at the time of sale or other disposition produces and surrenders to the dealer or other person on behalf of the dealer a certificate of clearance in respect of the said specified scrap metal.

Restrictions on dealings with specified scrap metal

(2) A scrap metal dealer shall not by himself or any other person purchase, acquire or otherwise receive any specified scrap metal from any person unless that person at the time of sale or other acquisition produces and surrenders to the dealer or other person on behalf of the dealer a certificate of clearance in respect of the said scrap metal.

(3) On the surrender of a certificate of clearance under this section, the scrap metal dealer shall endorse or cause to be endorsed thereon the number assigned to the transaction relating to the specified scrap metal concerned and entered in the register kept under section *seven* and retain, as long as he retains the said register, the certificate of clearance available for inspection pursuant to section *seven* at the scrap metal store where the specified scrap metal is received or kept.

(4) A police officer in charge of a police station may issue to an applicant therefor a certificate of clearance in the prescribed form in respect of specified scrap metal if he is of opinion that the scrap metal has not been stolen or obtained unlawfully and that the applicant is not apparently under the age of sixteen years.

(5) The Minister may prescribe rules as to the weighing and description of specified scrap metal for the purposes of this section.

(6) Any person or scrap metal dealer who contravenes any provision of subsection (1), (2) or (3) shall be guilty of an offence.

*(No. 28 of 1968)*

**10.** (1) Any scrap metal dealer, or any person employed by such dealer in his business as such, who-

Duty to report certain matters to police

(a) has reason to believe that any scrap metal offered to him has been stolen; or

(b) having acquired any scrap metal, thereafter has reason to believe that such metal was, before such acquisition, stolen;

shall immediately inform a member of the Zambia Police Force accordingly and shall furnish such officer with any information in his possession relating to the person who offered such scrap metal or from whom such metal was acquired.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

*(As amended by No. 28 of 1968)*

**11.** (1) Every scrap metal dealer shall retain and keep all scrap metal purchased or received by him without heating, burning, annealing, curing or defacing the scrap metal or in any manner changing the appearance or form in which the scrap metal was purchased or received for a period of seven days after the scrap metal has been so purchased or received:

Scrap metal to be kept for seven days

Provided that in any particular case a police officer may, by authority in writing and subject to such conditions as he may think necessary, exempt a scrap metal dealer from all or any of the restrictions imposed by this subsection.

(2) Any scrap metal dealer who contravenes any provision of subsection (1) shall be guilty of an offence.

*(No. 28 of 1968)*



**12.** (1) A police officer, if he has reason to believe that any stolen scrap metal is kept in or about any premises by a scrap metal dealer, may, at any time and without warrant, enter and search such premises. Power of search

(2) A police officer carrying out a search under subsection (1) may seize and detain any scrap metal found in or about the premises concerned which he has reason to believe has been stolen.

(3) Any person who hinders or obstructs, or attempts to hinder or obstruct, a police officer in the exercise or attempted exercise of any power conferred by this section shall be guilty of an offence.

(4) Where any scrap metal which is subsequently proved to have been stolen by any person, known or unknown, or which may be reasonably suspected of having been stolen, is found on any premises belonging to or in the occupation of a scrap metal dealer, the scrap metal dealer shall, unless he gives to the satisfaction of the court an account of how he came by the same, be guilty of an offence.

*(As amended by No. 28 of 1968)*

**13.** (1) Where any scrap metal dealer is convicted of an offence against this Act, or of any offence under section *two hundred and eighty-seven* or *two hundred and eighty-nine* of the Penal Code, or under Chapter XXVI, XXIX, or XXXI of the said Code, the court shall cancel the licence held by such dealer and prohibit such dealer from holding any further licence for such period as the court shall deem fit. Cancellation of licences  
Cap. 87

(2) Where a licence is cancelled under the provisions of this section, the court shall forthwith notify the licensing authority by which such licence was granted accordingly.

(3) Any person who, during the period in respect of which he has been prohibited under the provisions of this section from holding a licence, applies to a licensing authority for, or obtains, a licence shall be guilty of an offence.

(4) Notwithstanding any other provision of this Act, a scrap metal

dealer whose licence has been cancelled under the provisions of this section may, for a period of one month from the date of such cancellation, sell the scrap metal in his possession at the date of the cancellation.

*(As amended by Act no. 18 of 1993)*

**14.** (1) Any person guilty of an offence under this Act shall, upon conviction, be liable to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both. Penalty

(2) Where a person is convicted of an offence under this Act the court which convicts him shall, in addition to any other penalty imposed under subsection (1), order the forfeiture of all the property which is the subject of that offence or which has been used for the commission of that offence:

Provided that a conveyance which has been used for the commission of the offence shall not be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of the conveyance for the commission of the offence was without the consent and knowledge of the owner or person in charge of the conveyance and was not due to any neglect, default or lack of reasonable care by the owner or the person in charge of the conveyance.

(3) Where it is proved to the satisfaction of the court that an offence has been committed under this Act, the court shall make an order for the forfeiture of all property which is the subject matter of that offence or which has been used for the commission of that offence, notwithstanding that no person may have been convicted of the offence:

Provided that the proviso to Sub-section (2) shall apply in relation to an order for forfeiture under this Sub-section.

*(As amended by Acts No. 18 of 1993 and No. 13 of 1994)*

**15.** The Minister may, by statutory instrument, make rules for the purpose of prescribing anything which, by any provision of this Act, is to be prescribed. Rules

SUBSIDIARY LEGISLATION

SCRAP METAL DEALERS

Cap. 409

**SECTION 5-PRESCRIBED FORMS**  
*Notice by the Minister*

***Government  
Notice  
81 of 1961***

The forms set out in the Schedule are hereby prescribed as the forms to be used as respectively applicable for the purposes of the Act.

**SCHEDULE**

# FORM 1

## THE SCRAP METAL DEALERS ACT

### APPLICATION FOR GRANT OF A SCRAP METAL DEALER'S LICENCE

Name of applicant .....

Postal address .....

.....

.....

Business name (if any) .....

.....

Premises on or from which business conducted:

Stand No. ....

Street No ....

Name of street.....

Town .....

Signature of applicant .....

Status .....

Date .....

**FORM 2**  
**THE SCRAP METAL DEALERS ACT**

SCRAP METAL DEALER'S LICENCE

No.....

A Scrap Metal Dealer's Licence is hereby granted to-

.....  
of (town) .....  
trading under the name of .....

.....  
to carry on the business of Scrap Metal Dealer at (premises):

Stand No. ....  
Street No .....  
Name of street.....  
Town .....

This licence is subject to the following conditions:

.....  
.....  
.....  
.....  
.....

.....

*Officer*

Fee: 750 fee units

Date.....

*Licensing*

**CHAPTER 410**  
**THE DISPOSAL OF UNCOLLECTED GOODS ACT**

**ARRANGEMENT OF SECTIONS**

Section

1. Short title
2. Interpretation
3. Right of bailees to sell goods held under bailment for repair or other treatment and not re-delivered
4. Notices
5. Procedure after sale
6. Supplemental provisions

**CHAPTER 410**

**DISPOSAL OF UNCOLLECTED GOODS**

*13 of 1967*

*13 of 1994*

An Act to authorise the disposal of goods held in the course of a business under a bailment for repair or other treatment but not re-delivered; and to provide for purposes connected therewith.

*[27th January, 1967]*

1. This Act may be cited as the Disposal of Uncollected Goods Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"notice" means a notice in writing.

3. (1) Where, in the course of a business, goods have been accepted and are held, by any person under a bailment for repair or other treatment on terms, express or implied, that the said goods will be re-delivered to the bailor or in accordance with his directions when the repair or other Right of bailees to sell goods held under bailment for

treatment has been carried out and on payment to the bailee of such charges as may be agreed between the parties or as may be reasonable, and where such goods are ready for re-delivery but the bailor fails both- repair or other treatment and not re-delivered

(a) to pay or tender to the bailee his charges in relation to the goods; and

(b) to take delivery of the goods or, if the terms of the bailment so provide, to give directions as to their delivery;

the bailee shall, subject to the provisions of any agreement between him and the bailor and to the following provisions of this Act, be entitled, while the failure continues, to sell the goods.

(2) The bailee shall not be entitled by virtue of subsection (1) to sell goods accepted by him under a bailment for repair or other treatment unless the following provisions are complied with:

(a) at all premises used or appropriated by the bailee for accepting for repair or other treatment goods of the class to which the goods accepted belong, there is, at the time of the acceptance (whether or not the goods are accepted at any such premises), conspicuously displayed in the part of the premises so used or appropriated a notice indicating that the acceptance by the bailee of goods of that class for repair or other treatment is subject to the provisions of this Act and that this Act confers on the bailee a right of sale exercisable in certain circumstances after an interval of not less than six months from the date on which the goods are ready for re-delivery:

Provided that this Act shall not apply-

(i) in the case of goods accepted under bailment for repair or other treatment prior to the passing of the Disposal of Uncollected Goods Act, 1952, of the United Kingdom, unless a notice pursuant to paragraph (a) of subsection (1) of section 5 of that Act was published in accordance with the provisions of that paragraph and a further notice pursuant to paragraph (b) of subsection (1) of section 5 of that Act was displayed in accordance with the provisions of that paragraph; or

(ii) in the case of goods accepted under bailment for repair or other treatment prior to the passing of this Act, unless a notice pursuant to paragraph (a) of subsection (3) of section 1 of the Disposal of Uncollected Goods Act, 1952, of the United Kingdom, was, at the time of the acceptance of the said goods by the bailee, displayed in accordance with the provisions of that paragraph;

and such notices or notice shall be deemed to be a notice under the provisions of this paragraph for the purposes of this Act;

(b) after the goods are ready for re-delivery or after the commencement of this Act, whichever is the later, the bailee gives to the bailor a notice that the goods are ready for re-delivery, being a notice complying with the requirements of subsection (6);

(c) after the expiration of the period of six months beginning with the date of the giving of the notice that the goods are ready for re-delivery and not less than fourteen days before the sale of the goods, the bailee gives to the bailor a notice of his intention to sell the goods, being a notice complying with the requirements of subsection (6), and causes to be published in the *Gazette* a notice which shall contain a description of the goods, the name of the bailor, and which shall declare his intention to sell the goods;

and the bailee shall not be so entitled to sell the goods in a lot in which goods not accepted by him from the bailor are included or to sell them otherwise than by public auction:

Provided that where notice of the bailee's intention to sell the goods states, in addition to the matters required to be contained therein by subsection (6), the lowest price he is prepared to accept on a sale of the goods by virtue of this section, he may sell the goods for not less than that price otherwise than by public auction.

(3) Where, at any time before the giving of the notice of the bailee's intention to sell the goods, a dispute arises between the bailor and the bailee by reason of the bailor's refusal to pay the sum which the bailee claims to be due to him by way of his charges in relation to the goods, or to take delivery thereof or give directions as to their delivery, on the ground that the charges are excessive or that the bailor is not satisfied that the repair or other treatment of the goods has been properly carried out, the bailee's right to sell the goods shall be suspended until the dispute is determined.

(4) Without prejudice to any other mode of determining a dispute, it shall be treated for the purposes of this Act as having been determined if the bailee, at any time after the dispute has arisen, gives to the bailor a notice (hereafter in this Act referred to as a "notice to treat the dispute as determined")-



(a) stating that unless, within the period of one month beginning with the day of the giving of the notice, the bailor objects thereto, the dispute will be treated for the purposes of this Act as having been determined; and

(b) in other respects complying with the requirements of subsection (6);

and within the said period of one month the bailor does not object to the notice; and where the dispute is so treated as having been determined, the date on which it shall be so treated as having been determined shall be the date of the giving of the notice.

(5) Where a dispute in relation to any goods is determined (whether by virtue of subsection (4) or otherwise), subsection (2) shall have effect in relation to those goods as if paragraph (b) thereof were omitted and as if for the reference in paragraph (c) thereof to the date of the giving of the notice that the goods are ready for re-delivery there were substituted a reference to the date on which the dispute is determined.

(6) A notice required or authorised by this section to be given by the bailee to the bailor must contain a sufficient description of the goods to which the notice relates and a statement of the sum which the bailee claims to be due to him by way of his charges in relation to the goods, together with-

(a) in the case of a notice that the goods are ready for re-delivery or a notice to treat the dispute as determined, a statement that if the bailor fails, within the period of six months beginning with the date of the giving of the notice, both to pay the said sum and to take delivery of the goods or give directions as to their delivery, they are liable to be sold in accordance with the provisions of this Act;

(b) in the case of a notice of the bailee's intention to sell the goods, a statement of the date of the giving of the notice that the goods are ready for re-delivery or, where there has been a dispute between the bailor and the bailee, the date on which the dispute was determined, and a statement that if the bailor fails, within the period of fourteen days beginning with the date of the giving of the notice of the bailee's intention to sell the goods, both to pay the said sum and to take delivery of the goods or give directions as to their delivery, they are liable to be sold in accordance with the provisions of this Act.

**4.** (1) A notice required or authorised by this Act to be given by a bailee to a bailor shall, where the bailor is a corporation, be duly given if it is given to the secretary or clerk of the corporation. Notices

(2) A notice required or authorised by this Act to be given by a bailee to a bailor of the bailee's intention to sell the goods shall be given by sending it by post in a registered letter.

(3) A notice required or authorised by this Act to be given by a bailee to a bailor, other than a notice of the bailee's intention to sell the goods, may be given either-

(a) by delivering it to the bailor; or

(b) by leaving it at his proper address; or

(c) by post.

(4) For the purposes of this section, the proper address of a person to whom a notice falling within the provisions of subsection (2) or (3) is required or authorised to be given shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and, in any other case, be the last known address of the person to whom the notice is to be given.

**5.** (1) Where goods are sold by virtue of the provisions of this Act, any amount by which the gross proceeds of the sale exceed the charges of the bailee in relation to the goods shall be recoverable by the bailor from the bailee, and any amount by which the said charges exceed the gross proceeds of the sale shall be recoverable by the bailee from the bailor. Procedure after sale

(2) Where goods are so sold, the bailee shall, before the expiration of the period of seven days beginning with the date of the sale of the goods, prepare a record in relation to the goods containing the following particulars:

(a) a sufficient description of the goods;

(b) the method, date and place of the sale;

(c) where the goods are sold by public auction, the name and principal place of business of the auctioneer, and where they are sold otherwise than by public auction and the gross proceeds of the sale thereof are not less than two kwacha, the name and address of the buyer;

(d) the amount of the gross proceeds of the sale; and

(e) a statement of each item of the charges of the bailee in relation to the goods and the transaction to which each item relates;

and shall, during the period of six years beginning with the date on which the record is prepared, keep the record together with a copy of the notice of the bailee's intention to sell the goods and the certificate of posting of the letter in which the notice was sent, and shall, at any reasonable time during the said period of six years, if so requested by or on behalf of the bailor, produce the record, copy and certificate, or any of them, for inspection by the bailor or a person nominated in that behalf by him.

(3) A person who fails to comply with the provisions of subsection (2), or who produces a document kept for the purposes thereof which is to his knowledge false in a material particular, shall be guilty of an offence and shall be liable to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three months or to both.

*(As amended by Act No. 13 of 1994)*

**6.** (1) References in this Act to goods accepted by a bailee in the course of a business for repair or other treatment shall, in relation to goods of any class, be construed as references to goods of that class accepted by him for repair or other treatment in the course of a business consisting or comprising the acceptance by him of goods of that class for repair or other treatment (whether or not the repair or other treatment is effected by him) wholly or mainly from persons who deliver to him, otherwise than in the course of a business, goods of that class for repair or other treatment.

Supplemental provisions

(2) References in this Act to the charges of the bailee in relation to any goods shall, subject to the provisions of any agreement between the bailor and the bailee, be construed as references to the amount agreed between them as the charge for the repair or other treatment of the goods

or, if no amount has been so agreed, a reasonable charge therefor and, in a case where the goods have been sold, the following additional amounts:

(a) a reasonable charge for storing the goods during the period beginning with the date of the giving of the notice that the goods are ready for re-delivery or, where there has been a dispute between the bailor and the bailee, the date on which the dispute was determined, and ending on the date of sale;

(b) any costs of or in connection with the sale; and

(c) the cost, if any, of insuring the goods.

(3) References in this Act to a bailor or bailee of goods shall, as respects a period during which his rights and obligations in relation to the goods are vested in any other person, be construed as references to that other person.

(4) The powers conferred on a bailee by this Act shall be in addition to and not in derogation of any powers exercisable by him independently of this Act.

## CHAPTER 412 THE BUILDING SOCIETIES ACT

### ARRANGEMENT OF SECTIONS

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title
2. Interpretation

#### **PART II**

#### **FORMATION AND REGISTRATION**

3. Establishment of building society

- 3A. Establishment of the Zambia National Building Society.
4. Bank of Zambia may suspend registration
- 4A. Repealed Act No. 22 of 2005
5. Conditions relating to deposit with Bank of Zambia
6. Registration of existing societies
7. Effect of registration
8. Prohibition of unregistered and terminating societies
9. Register of building societies
10. Name of building society
11. Contents of rules
12. Effect of rules

## **PART IIA LICENSING OF BUILDING SOCIETIES**

12A.

## **PART III MEMBERSHIP AND COMMENCEMENT OF BUSINESS**

13. Members who are not shareholders
14. Members under the age of twenty-one
15. Joint shareholders
16. Liability of members
17. Business not to be commenced before registration
18. Building society not to make advances outside Zambia
19. Minimum subscription by founding members

## **PART IV MANAGEMENT**

## Section

20. Books and records to be kept by building society
21. Building society to supply copies of rules

## Directors and Other Officers

22. Number of directors
  23. Repealed by Act No. 22 of 2005
  24. Election of directors
  25. Validity of acts of director
  26. Persons disqualified from being a director
  27. Repealed by Act No. 22 of 2005
  28. Notification of changes in holders of certain offices
  29. Officers not to accept commissions in connection with loans
  30. Officers to give security and to account
  31. Officers not to be exempted from liability
- ## Accounts and Audit
32. Keeping of books of account
  33. Annual accounts and balance sheet
  34. Contents and form of accounts
  35. Supplementary provisions as to offences under sections 32, 33 and 34
  36. Signing of balance sheet
  37. Account and auditors' report to be annexed to balance sheet
  38. Directors' report
  39. Right to receive copies of balance sheet and auditors' and directors' reports
  40. Appointment of auditors
  41. Disqualifications for appointment as auditor
  42. Auditor's report and right of access to books and documents and to attend and be heard Meetings and Returns
  43. Annual general meeting
  44. Other meetings
  45. Length and manner of notice
  46. Persons entitled to notice

47. Proxies
48. Right to demand a poll
49. Special resolutions
50. Notice of members' special resolutions
51. Annual return
52. Additional annual return of certain transactions
53. Auditors' report on annual return  
Determination of Disputes
54. General provisions as to disputes
55. Determination of disputes by arbitration
56. Determination of disputes by Registrar
57. Determination of disputes by court
58. Effect of determination
59. Statement of case for High Court

## **PART V**

### **ADVANCES**

60. Advances
61. Repealed by Act No. 22 of 2005
62. Repealed by Act No. 22 of 2005
63. Repealed by Act No. 22 of 2005
64. Repayment of advances
65. Amount of advances
66. Advances to full value in certain cases
67. Special advance to purchaser of mortgaged property
68. Further advances for certain purposes
69. Restrictions on second and contributory mortgages
70. Advance for single premium life policy
71. Valuation for purposes of advance
72. Record of advances
73. Security taken from third party
74. Offer of advance not to imply warranty

75. Prohibition against balloting for advances
76. Provisions as to sale of mortgaged properties
77. Disposal of surplus when mortgagor cannot be found
78. Discharge of mortgages

## **PART VI**

### **BORROWING POWERS**

79. Power to borrow
80. Limit of repayments to investors and lenders
81. Limit of deposits
82. Liability for borrowing in excess of powers
83. Minimum notice of withdrawal
84. Assistance by one building society to another
85. Depositor under the age of twenty-one
86. Members or depositors dying intestate
87. Trustee status for certain investments in building societies
88. Provisions of Act to be inserted in certain documents

## **PART VII**

### **INVESTMENT AND BANKING OF SURPLUS FUNDS**

89. Authorised investment
90. Repealed by Act No. 22 of 2005
91. Offences under Part VII
92. General reserve fund
93. Provisions as to liquidity
94. Restriction of payment of dividends

## **PART VIII**

### **CHANGE OF NAME, ETC.**

95. Change of name
96. Notification of change of address
97. Alteration of rules



## **PART IX**

### **UNIONS OF SOCIETIES AND TRANSFERS OF ENGAGEMENTS**

#### Section

- 98. Union of building societies
- 99. Transfer of engagements
- 100. Registrar may approve union or transfer
- 100A. Repealed by Act No. 22 of 2005
- 101. Registration of transfers, etc., to operate as a conveyance
- 102. Creditors not to be prejudiced by union or transfer

## **PART X**

### **NOMINATION, POWERS AND CONTROL OF REGISTRAR**

- 103. Repealed by Act No. 22 of 2005
- 104. Repealed by Act No. 22 of 2005
- 105. Repealed by Act No. 22 of 2005
- 106. Repealed by Act No. 22 of 2005
- 107. Power to call a meeting
- 108. Power to suspend borrowing and subscription for shares
- 109. Power to control advertising

## **PART XI**

### **WINDING-UP AND DISSOLUTION**

- 110. Dissolution in accordance with rules
- 111. Dissolution by consent
- 112. Dissolution on award of Registrar
- 113. Provisions applicable to dissolution under sections 110 and 111
- 114. Insolvent building society
- 115. Liability of members in winding-up or dissolution

116. Notice of winding-up or dissolution

## **PART XII**

### **MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS**

- 117. Powers in relation to land
- 118. Offences in relation to property of building societies
- 119. False statements in documents
- 120. Compulsory cancellation or suspension of registration
- 121. Cancellation of registration at request of building society
- 122. Effect of cancellation or suspension of registration
- 123. *Obsolete*
- 124. Repealed by Act No. 22 of 2005
- 125. Provisions as to evidence
- 126. Form in which records may be kept
- 127. Regulations
- 128. Registrar to consider representations by building societies
- 129. Rules of court
- 130. Financial year of building societies
- 131. Non-compliance not to invalidate advance
- 132. Lost or destroyed share certificate, etc.
- 133. Inspection of documents by public
- 134. General penalty
- 134A Buildings societies exempt from certain provisions of Banking and Financial Services Act
- 135. Repeals
- 136. Transitional provisions

FIRST SCHEDULE-Permitted classes of additional security

SECOND SCHEDULE-Form of receipt to be endorsed on mortgage

## **CHAPTER 412**

## BUILDING SOCIETIES

46 of 1968  
67 of 1970  
6 of 1991  
13 of 1994  
22 of 2005

An Act to provide for the formation, registration, powers and duties, winding-up and dissolution of building societies; to provide for membership of building societies; to provide for the conducting of the business and management of building societies; to make provisions relating to advances, borrowing and investment by and in building societies; to provide for the union of building societies and the transfer of engagements by one building society to another; to provide for the powers of the Registrar of Building Societies; and to provide for matters connected with or incidental to the foregoing.

[2nd December, 1968]

### **PART I**

#### **PRELIMINARY**

1. This Act may be cited as the Building Societies Act.

Short title

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"additional security", in relation to an advance made by a building society, means any security for the advance other than a mortgage of freehold or leasehold estate, whether effected by the person to whom the advance is made or by any other person;

Cap. 194  
Cap. 392

"advance" means a sum of money advanced by a building society under Part V;

"advertisement", in relation to a building society, means an advertisement in any medium making known the activities of the society or inviting business for the society;

"alteration", in relation to the rules of a building society, includes any addition to the rules, and also includes the rescission of all or any of the rules, with or without the substitution of one or more new rules for any

rules rescinded;

"annual return" has the meaning assigned to it by section *fifty-one*;

"authorised investment" means an investment prescribed by the Bank of Zambia in accordance with the Banking and Financial Services Act;

"Bank of Zambia" means the Bank of Zambia established under the Bank of Zambia Act;

"board of directors", in relation to a building society, means the managing body of the society by whatever name called;

Cap. 387

"borrower" means a person to whom an advance has been made by a building society under Part V;

Act No. 43 of 1996

"building society" means a society formed for the purpose of raising a stock or fund from which to make advances upon security either by way of mortgage of freehold or leasehold estate or in such manner as is permitted by this Act;

"collective advance" has the meaning assigned to it by section *sixty-three*;

"director", in relation to a building society, includes a member of the managing body of the society and any other person occupying the position of director by whatever name called;

"existing society" means any building society which, immediately prior to the commencement of this Act, is registered under the Building Societies Act, 1874, of the United Kingdom;

"financial year" has the meaning assigned to it by section *one hundred and thirty*;

"general reserve fund" means a fund established in accordance with the provisions of section *ninety-two*;

"leasehold" shall include the title obtained from a District Council under the Housing (Statutory Improvement Areas) Act;

"licence" means a licence to conduct a financial service business issued under the Banking and Financial Services Act;

"liquid funds", in relation to a building society, means the amount by which the aggregate of-

- (a) its cash at the bank and in hand;
- (b) the total book value or the total market value of its investments, whichever is the lesser; and
- (c) interest accrued on its investments;  
exceeds the aggregate of-
- (i) the amount of its liabilities in respect of loans from, and

Cap. 387

overdrafts with, its bankers; and

(ii) the total amount shown as "other liabilities" in its balance sheet;

"local authority" means a municipal council, township council or rural council;

"member", in relation to a building society, includes any person who for the time being holds a share (whether advanced or not) in the society;

Cap. 387

"minimum subscription" has the meaning assigned to it by section *nineteen*;

"officer", in relation to a building society, includes a director, manager or secretary of a society and, in so far as Part IV so provides, also includes an auditor of the society;

"ordinary advance" has the meaning assigned to it by section *sixty-one*;

"policy of life assurance" means a policy of life assurance issued by an insurance company to which the Insurance Act applies or by a friendly society which is a registered society for the purposes of the Friendly Societies Act, 1896, of the United Kingdom;

"Registrar" means the Registrar of Banks and Financial Institutions appointed under section *twenty* of the Banking and Financial Services Act;

"secretary", in relation to a building society, means any executive officer of the society acting in the capacity of secretary;

"share" includes stock;

"special advance" has the meaning assigned to it by section *sixty-two*;

"special resolution" has the meaning assigned to it by section *forty-nine*;

"terminating society" means a society or association which, by its rules, is to terminate at a fixed date or when a result specified in its rules is attained, or the rules of which provide for the organisation of its members in sections, for the separate administration of the affairs of each section, or the general administration of the affairs of all sections, and for the termination of each section at a fixed date or when a result specified in the rules is attained.

(2) For the purposes of any provision in this Act to the effect that an officer of a building society who is in default shall be liable to a fine or penalty, "officer who is in default" means any officer of the society who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the Act.

(3) For the purposes of this Act, the value of the assets of a building

society shall be the value at which the assets are taken into account in the latest balance sheet and not any alternative values shown in that balance sheet.

(4) For the purposes of any reference in this Act to a person holding shares in a building society up to a specified value-

(a) any shares which are fully paid up shall be taken at their nominal value;

(b) any shares which are partly paid up shall be taken at the amount which has been paid on them respectively;

(c) any share held by a person to whom, as the holder of the share, the society has made an advance shall be disregarded.

(5) Any reference in this Act to contravention of any provision of this Act, or of any regulations or directions thereunder, shall include a reference to failure to comply with that provision.

(6) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

(7) References in this Act to the Governor of the Bank of Zambia shall be construed as including the Deputy Governor while he is acting in place of the Governor.

*(As amended by Act No. 6 of 1991 and Act No. 22 of 2005)*

## **PART II**

### **FORMATION AND REGISTRATION**

**3.** (1) Any number of persons, not being less than five, may establish a building society under this Act by-

Establishment of building society

(a) agreeing upon rules for the government of the society, being

rules which comply with the requirements of section *eleven*; and

(b) sending to the Registrar two copies of the rules, signed by all of those persons and by the intended secretary or other officer, together with an application for registration in the prescribed form; and

(c) each of those persons subscribing the minimum subscription referred to in section *nineteen*; and

(d) satisfying the Registrar that the total sum subscribed by way of shares or deposits or negotiated loans, or any combination of these, but excluding the deposit mentioned in paragraph (e), is not less than an amount to be prescribed by the Bank of Zambia, by statutory order, and that the subscriptions comprised in such total sum are to remain as fixed term investments with the society for a period of not less than five years; Provided that every building society shall maintain such capital as the Bank of Zambia may, by statutory order, prescribe; and

(e) depositing with the Bank of Zambia cash or securities acceptable to the Bank of Zambia, or a combination of such cash and securities, to a total value of such amount as the Bank of Zambia may, by *Gazette* notice prescribe and such deposit shall be subject to the conditions set out in section *five*; and

(f) obtaining a licence to conduct a financial service business under the Banking and Financial Services Act

(2) Application for registration under the provisions of subsection (1) shall be accompanied by such fee as may be prescribed.

(3) If the Registrar is satisfied that the application and rules comply, with the requirements of this Act and that the provisions of subsection (1) relating to minimum subscription, total subscription and deposit have also been complied with and if the Registrar determines to grant the applications a licence in accordance with the Banking and Financial Services Act, he shall-

(a) enter in the register referred to in section *nine* the prescribed particulars relating to the application and the licence; and

(b) retain and register one copy of the rules and return the other copy

to the secretary or other officer of the society, together with a certificate of registration.

(4) A building society which is registered under this Act shall be deemed to be a financial institution for purposes of the Banking and Financial Services Act and shall be subject to the supervisory and regulatory of the Bank of Zambia.

*(Amendment by Act No. 22 of 2005)*

**3A.** (1) As from the date of the commencement of the Building Societies (Amendment) Act, 1970, there is hereby established a building society under the name of the Zambia National Building Society (hereinafter in this section referred to as "the Society") which shall be deemed to be a building society registered under this Act and the Registrar shall issue a certificate of registration dated the same day as that on which the Building Societies (Amendment) Act, 1970, came into force, and from that day it shall, subject to subsection (6), be subject to the provisions of this Act.

Establishment of  
the Zambia  
National Building  
Society.  
Act No.  
67 of 1970  
Act No.  
67 of 1970

(2) The Minister shall appoint-

(a) not less than seven persons to constitute the board of directors of the Society and shall designate one of them as chairman; and

(b) the secretary or other officer of the Society.

(3) The board of directors shall, prior to the 31st day of January, 1971, make rules for the government of the Society, being rules which comply with the requirements of section *eleven*, and submit such rules to the Minister for approval:

Provided that such rules may subsequently be altered in the same manner as the rules of any other building society are capable of being altered under the provisions of this Act.

(4) The secretary or other officer of the Society shall forthwith after the approval of such rules, with or without modification by the Minister, lodge two copies thereof with the Registrar together with particulars of the directors and secretary or other officer.



(5) On receipt of such rules and particulars the Registrar shall-

(a) enter in the register referred to in section *nine* the particulars of the directors and secretary or other officer and such other particulars as may be prescribed;

(b) retain and register one copy of the rules and return the other copy to the secretary or other officer.

(6) Save as aforesaid, the provisions of section *three* shall not apply to the Society.

(As amended by Act No. 67 of 1970)

**4.** Notwithstanding the provisions of section *three*, the Bank of Zambia may, if it determines that it is in the public interest so to do-

Bank of Zambia  
may suspend  
registration

(a) by statutory instrument, suspend the registration of new building societies either indefinitely or for the period stated in the statutory instrument and during the period of suspension the Registrar shall not register any new society; or

(b) in any particular case direct the Registrar that registration of a proposed new society shall be refused.

(As amended by Act No. 22 of 2005)

#### **4A.**

(As amended by Act No. 67 of 1970 and Repealed by Act No. 22 of 2005)

**5.** The following conditions shall apply to any deposit made with the Bank of Zambia under the provisions of paragraph (e) of subsection (1) of section *three*, that is to say:

Conditions relating  
to deposit with  
Bank of Zambia

(a) if any cash is deposited the Bank of Zambia may invest such cash in securities in the name of the building society making the deposit and such securities shall be deemed to be securities deposited by that society;

(b) income from a deposit shall be paid to the building society which made the deposit;

(c) a building society may, with the approval of the Bank of Zambia, substitute for any security deposited with the Bank another security of

equivalent value;

(d) a building society shall, be entitled to obtain annually from the Bank a certificate of the deposit standing in its name;

(e) the deposit shall be returned to the building society which made it if the Bank of Zambia is satisfied that the sum standing at the credit of the society's general reserve fund satisfies the minimum requirements set out in subsection (5) of section *ninety-two*;

(f) in the event of a society being wound up or dissolved, the deposit, on the authority of a certificate by the Registrar, shall be paid over to the liquidator, trustee or other person conducting the winding-up or dissolution.

(As amended by Act No. 22 of 2005)

**6.** (1) The provisions of section *three* shall not apply to an existing society.

Registration of existing societies

(2) An existing society, without application, shall be given a certificate of registration dated the same day as that on which this Act commences; and from that day it shall be subject to all the other provisions of this Act.

(3) If the rules of an existing society do not comply with section *eleven*, the society shall take the necessary steps to amend the rules and shall register the amended rules with the Registrar within a period of twelve months from the date of the society's registration under this Act.

**7.** From the date of its registration under this Act a building society shall be a body corporate by its registered name, having perpetual succession and a common seal.

Effect of registration

**8.** (1) No terminating society shall carry on business in Zambia.

Prohibition of unregistered and terminating societies

(2) Notwithstanding any other provisions of this Act, a person shall not carry on business in Zambia as a building society unless registered under this Act and licensed in accordance with the provisions of the Banking and Financial Services Act and the name or style "building society" shall not be used except by a building society so registered and licensed.

(3) Any society which, or person who, contravenes the provisions of subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units and one thousand five hundred penalty units for each day during which such contravention continues.

(As amended by Act No. 13 of 1994 and No. 22 of 2005)

**9.** (1) The Registrar shall, in accordance with section *nineteen* of the Banking and Financial Services Act, maintain a register of all building societies which are registered under this Act and licensed according to that Act.

Registrar of  
building societies

(2) The register of building societies maintained by the Registrar under this Act prior the commencement of this Act shall be transferred to the Registrar of Banks and Financial Institutions on the date of the commencement of this Act.

(Repealed and Replaced by Act No. 22 of 2005)

**10.** (1) No building society shall be registered under this Act by a name which is identical with that of any other society previously registered, or which so nearly resembles the name of such other society as to be likely to deceive, unless such other society is in course of being dissolved and consents to such registration.

Name of  
building society

(2) The Registrar may refuse to register a building society by a name which, in his opinion, is undesirable.

(3) The name of every building society shall end with the words "building society".

(4) The common seal of a building society shall bear the registered name of the society.

(5) A building society shall not use any name other than that in which it is registered.

(6) If a building society contravenes subsection (5), the society, and every director of the society who is a party to the contravention, shall be

liable to a fine not exceeding seven hundred and fifty penalty units for every week or part of a week during which the offence continues.

*(As amended by Act No. 13 of 1994)*

**11.** The rules of every building society shall set out-

Contents of  
rules

(a) the name of the society and the address of its chief office or place of meeting;

(b) the manner in which the stock or funds of the society is or are to be raised;

(c) the manner in which a person may become a member of the society and the manner in which he may cease to be a member;

(d) the purposes to which the funds of the society are to be applied;

(e) provision that the society shall not, except with the approval of the Minister, make advances on the security of freehold or leasehold estate or in respect of any development, lands or buildings, situated outside the territorial limits of Zambia;

(f) the classes of shares to be issued and the preferential and other rights and conditions attached to each class of shares;

(g) the terms and conditions on which deposits are to be accepted and repaid;

(h) provision that the society reserves the right to make all repayments, whether of shares, deposits, loans or otherwise, in Zambian currency;

(i) the manner in which advances are to be made and repaid and the conditions on which a borrower can redeem the amount due from him before the end of the period for which the advance was made;

(j) the manner in which losses are to be ascertained and provided for;

(k) whether the society intends to borrow money, and if so, within what limits, not exceeding those prescribed by this Act;

(l) the manner of appointing, remunerating and removing the board of directors and other officers, their powers and duties, and the manner of remunerating auditors;

(m) the manner of calling and holding meetings, the giving of notice thereof, form of notice, quorum, voting rights, right to requisition meetings, procedure to be observed at meetings, the right to demand a poll, and the manner in which a poll is to be taken;

(n) the manner of settling disputes, subject to the provisions of this Act;

- (o) provision for an annual or more frequent audit and the inspection by the auditors of the titles, mortgage deeds and other securities held by the society;
- (p) provision for the custody of the titles, mortgage deeds and other securities belonging to or held by the society;
- (q) provision for the device, custody and use of the society's common seal;
- (r) the fines and forfeitures, if any, to be imposed on members of the society;
- (s) the manner in which the society may be dissolved.

**12.** The rules of a building society are binding upon each of the members and officers of the society, and on all persons claiming on account of a member or under the rules; and all such members, officers and persons shall be deemed to have full notice of the rules.

Effect of rules

## **PART IIA LICENSING OF BUILDING SOCIETIES**

**12A.** (1) A building society which is registered under this Act shall apply for a licence to conduct a financial service business in accordance with the provisions of the Banking and Financial Services Act:

Provided that an existing building society shall apply for a licence within twelve months of the commencement of this Act.

(2) An application for a licence made by a building society shall include a copy of the current rules of the building society and such other information as the Registrar may require to determine the application.

(As amended by Act No. 22 of 2005)

## **PART III**

### **MEMBERSHIP AND COMMENCEMENT OF BUSINESS**

**13.** (1) The rules of a building society may allow a person to become a member without holding a share in the society.

Members who are not shareholders

(2) Such of the rules as concern the making of advances to members need not be expressed in terms which treat a member to whom an advance is made as being, by reason of the making of the advance, the holder of a share in the society.

**14.** A person under the age of twenty-one years, if the rules do not otherwise provide, may be admitted as a member of a building society, and can give all necessary receipts, but, while he is under that age, he cannot vote or hold any office in the society.

Members under the age of twenty-one

**15.** Two or more persons may jointly own shares in a building society and in respect of such shares the following provisions shall have effect, that is to say:

Joint shareholders

(a) except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint holders by being given or sent to that one of the joint holders who is named first in the books of the society (hereinafter in this section called "the first named holder");

(b) for the purposes of voting rights, shares which are jointly owned shall be treated as held by the first named holder alone;

(c) for the purposes of any sections of this Act which refer to the consent of the members, or of a proportion of the members, of a society, shares which are jointly owned shall be treated as held by the first named holder alone and the other joint holders shall not be regarded as members of the society for such purposes;

(d) any references in this Act to total membership of a building society shall be construed as if the first named holder (but none of the other joint holders) is a member of the society;

(e) the entry in the register of members to be kept under section *twenty* of the name and address of a person who is one of the joint holders (other than the first named holder) of shares shall indicate that he is a joint holder who is not the first named holder;

(f) the joint holders of shares shall be entitled to choose the order in which they are named in the books of the society.

**16.** (1) The liability of a member of a building society in respect of a share on which no advance has been made shall be limited to the amount actually paid, or in arrear, on the share.

Liability of members

(2) The liability of a member of a building society in respect of a share on which an advance has been made shall be limited to the amount payable thereon under any mortgage or other security or under the rules of the society.

(3) The liability of a member of a building society to whom an advance is made under rules made in pursuance of section *thirteen* shall be no greater than it would be if the rules treated him as being, by reason of the making of the advance, the holder of a share in the society.

**17.** (1) Except in the case of existing societies no building society, and no persons representing themselves to be a building society, shall commence business without having first obtained a certificate of registration under this Act and a licence under the Banking and Financial Services Act.

Business not to be commenced before registration  
Cap. 387

(2) All persons who commence business in contravention of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding seven hundred and fifty penalty units for every day on which business is carried on without a certificate of registration having been obtained.

*(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)*

**18.** Except with the prior approval of the Minister, a building society shall not make advances on the security of freehold or leasehold estate, or in respect of any development, lands or buildings, situated outside the territorial limits of Zambia.

Building society not to make advances outside Zambia

**19.** (1) The minimum subscription referred to in paragraph (c) of subsection (1) of section *three* is a holding of shares in the building society to the value of such amount as the Bank of Zambia may, by statutory instrument prescribe for which a sum of ten thousand kwacha has been paid by the holder in cash; and the shares shall have the following conditions attached to their issue, that is to say:

Minimum subscription by founding members

(a) the terms regarding rate of interest, participation in profits, contributions to losses, or rights on a termination or dissolution shall not be more favourable than for any other shares in the society;

(b) the shares shall not be capable of being transferred from the person to whom they were issued (except by operation of law) until a period of five years has elapsed from the date of the society's registration;

(c) the society shall not repay the sum subscribed for the shares, or any part thereof, until a period of five years has elapsed from the date of the society's registration, unless the society is dissolved before the end of that period.

(2) If a building society contravenes any of the conditions requiring to be attached to shares issued by the society in accordance with the provisions of subsection (1), the society shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units; and, in addition, every officer of the society who is in default shall also be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(3) The Registrar may petition the High Court for the winding-up of a building society which has been convicted of an offence under the provisions of subsection (2).

*(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)*

## **PART IV**

### **MANAGEMENT**

**20.** Every building society shall keep the following books:

Books and records  
to be kept by  
building society

(a) a register of members;

(b) minute books for recording proceedings of general meetings and directors' meetings;

(c) a record of advances made by the society; and

(d) such books of account as may be necessary to enable the society to comply with the provisions of section *thirty-two*.

**21.** A building society shall supply to any person who requires it a

Building society to  
supply copies of



complete copy of its rules with a copy of the society's certificate of registration annexed to it and shall be entitled to charge a sum not exceeding four fee units for each such copy of its rules; and if a building society fails to comply with this section the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

rules

*(As amended by Act No. 13 of 1994)*

## Directors and Other Officers

**22.** (1) A building society shall have a board of directors consisting of not less than five and not more than ten persons.

Number of directors

(2) If an existing society on the commencement of this Act has a board of directors exceeding ten in number, the society shall be permitted to retain all its directors, but if any director retires (other than by rotation), or dies, or resigns, or is removed from the board, another director shall not be appointed in his place if the number of directors remaining on the board exceeds ten in number.

*(As amended by Act No. 22 of 2005)*

**23.** Repealed by Act No. 22 of 2005

**24.** (1) The directors of a building society shall be elected in such manner and, subject to subsection (2), shall hold office for such period as may be prescribed by the society's rules.

Election of directors

(2) A building society's rules shall make provision for at least two of the society's directors to retire annually and they shall be eligible for re-election without nomination.

(3) Whenever a casual vacancy occurs a person may be appointed by the remaining directors to fill the vacancy until the next annual general meeting.

(4) Vacancies in the board of directors shall be filled in such manner as may be prescribed by the society's rules.

(5) No person shall become a director of a building society until after he has given his consent in writing to his being elected or appointed as such.

(As amended by Act No. 22 of 2005)

**25.** The acts of a director of a building society shall be valid notwithstanding any defect that may afterwards be discovered in his election or appointment or qualification; but any acts which occur after the date of discovery of such defect shall not be valid.

Validity of acts of director

**26.** (1) and the substitution therefore of the following new subsections:

Persons disqualified from being a director

(a) is not a fit and proper person to hold the relevant office in relation to integrity and professional expertise;

(b) is a member who does not hold the minimum share qualification, if any, prescribed in the society's rules as a qualification for holding office as a director;

(c) is a body corporate;

(d) is not above the age of twenty-one years;

(e) is an undischarged bankrupt;

(f) has been convicted of an offence involving dishonesty;

(g) has been declared to be physically or mentally incapable to manage affairs; or

(h) if the person is under suspension or has been removed from office by order of the Bank of Zambia under the Banking and Financial Services Act.

Cap. 387

(2) For the purposes of this section, a person shall not be treated as a resident in Zambia who is in Zambia for some temporary purpose only and not with any view or intent of establishing his residence therein.

(As amended by Act No. 13 of 1994 and No. 22 of 2005)

**27.** Repealed by Act No. 22 of 2005

**28.** (1) Whenever a person ceases to be a director, manager or secretary of a building society, the society shall within one month of its having notice of the event give notice to the Bank of Zambia, stating the full name and address of that person, particulars of the office which the person has relinquished and the date of the person's relinquishment of office.

Notification of changes in holders of certain offices

(2) If a building society fails to comply with this section, the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units

*(As amended by Act No. 13 of 1994)*

**29.** (1) No director, secretary, or other officer of a building society, or surveyor or solicitor who is an officer of a building society, shall, in addition to the remuneration prescribed or authorised by the rules of the society, accept from any other person any commission for or in connection with any loan made by the society.

Officers not to accept commissions in connection with loans

(2) If an officer of a building society accepts a commission in contravention of subsection (1)-

(a) both he and the person who paid the commission shall each be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding six months, or to both; and

(b) the court which convicts the officer in question of an offence under paragraph (a) shall by order direct the convicted officer to pay over to the society of which he is an officer the amount or value of the commission accepted by him for or in connection with the loan made by the society; and

(c) if, having been convicted of an offence under paragraph (a), the convicted officer fails to pay over to the society the amount or value of the commission as and when directed to do so by the court which convicted him, he shall be guilty of an offence under this paragraph and liable on conviction to imprisonment for a term not exceeding six

months.

(3) Where a charge upon a policy of life assurance is given as additional security for an advance made by a building society, or a building society makes an additional advance to enable payment to be made of a premium on a policy of insurance, or any policy of insurance is taken out in order to comply with the terms on which an advance is made by a building society, and the policy is effected through the building society or the society nominates a person by whom the policy is to be issued, it shall be unlawful for a director or other officer of the society, in connection with the effecting of the policy, to receive any commission from the person by or through whom the policy is issued unless such director or other officer receives such commission as nominee for and on behalf of the society and forthwith pays it to the society.

(4) A person who pays and a person who accepts commission in contravention of the provisions of subsection (3) shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

(5) In this section, "commission" includes any gift, bonus or benefit in cash or in kind.

*(As amended by Act No. 13 of 1994)*

**30.** (1) Every officer of a building society who has the receipt or charge of any money belonging to the society shall, before entering upon the execution of his office, give security in such sum and in such manner as the directors of the society may require, conditioned for rendering a just and true account of all moneys received and paid by him on account of the society and for payment of all sums of money due from him to the society, at such times as the society's rules appoint or as the society may require.

Officers to give security and to account

(2) Every such officer of a building society as is mentioned in subsection (1) shall, on demand, or if required to do so by notice in writing given or left at his last or usual address, render an account as may be required by the directors of the society, to be examined and allowed or disallowed by them, and, on like demand, he shall pay over all the moneys remaining in his hands and deliver all securities and effects, books, papers and property of the society in his hands or custody

to such person as the society may appoint.

(3) The duty imposed by subsection (2) on an officer of a building society shall, after his death, be taken to be imposed on his personal representatives.

(4) In the case of any neglect or refusal to comply with the preceding provisions of this section, the building society may apply to the High Court to make such order as appears to it to be just and such order shall be final and conclusive.

**31.** Any provision, whether contained in the rules of a building society or in any contract with a building society, or otherwise, for exempting any director or other officer of a building society, or any person employed by a building society as auditor, from, or indemnifying him against, any liability which, by virtue of any rule of law, would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society, shall be void.

Officers not to be exempted from liability

#### Accounts and Audit

**32.** (1) Every building society shall cause to be kept-

Keeping of books of account

(a) such proper books of account with respect to its transactions and its assets and liabilities as are necessary to give a true and fair view of the affairs of the building society and to explain its transactions; and

(b) such other records as are required to be prepared and maintained by or under this Act or the Banking and Financial Services Act, or by order of the Bank of Zambia; and

(1A) The books of account referred to in paragraph (a) of subsection (1) shall be kept in such a way as to enable the Bank of Zambia to determine whether the building society has complied with the provisions of this Act and the Banking and Financial Services Act.

(2) Every building society shall establish and maintain a system to ensure the safe custody of all documents of title belonging to the building society, and of the deeds relating to the property mortgaged to the society; and such system shall require that, on each occasion on which any document of title or deed is released from the custody of the

officers of the society, the consent is obtained of the board of directors of the society, or of a person authorised by the board of directors of the society to give such consent.

(3) Subject to the following provisions of this Part, any director of a building society who fails to take all reasonable steps to secure compliance by the society with the requirements of subsection (1) or (2), or who by his own wilful act is the cause of any default by the society thereunder, shall in respect of each offence be liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)*

**33.** (1) The directors of every building society shall lay before the society at the annual general meeting an income and expenditure account and a revenue appropriation account for the last financial year ending before the date of the annual general meeting and a balance sheet as at the end of that financial year.

Annual accounts  
and balance sheet

(2) Subject to the following provisions of this Part, if a director of a building society fails to take all reasonable steps to comply with subsection (1), he shall, in respect of each offence, be liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994)*

**34.** (1) Every balance sheet of a building society shall give a true and fair view of the state of affairs of the society as at the end of its financial year and every income and expenditure account and revenue appropriation account of a building society shall give a true and fair view of the income and expenditure of the society for the financial year.

Contents and form  
of accounts

(1A) Every balance sheet, income and expenditure account and revenue appropriation account of a building society shall be prepared in accordance with internationally accepted accounting principles;

(2) The Bank of Zambia shall have power, to make regulations as to the form of a building society's balance sheet and income and expenditure account and revenue appropriation account and the particulars to be included therein; and such regulations may require the inclusion in the balance sheet and income and expenditure account and revenue appropriation account of corresponding particulars for a preceding

financial year of the society.

(3) The requirements of regulations under subsection (2) shall be without prejudice to the general requirements of subsection (1) or of any other requirements of this Act.

(4) Subject to section *thirty-five*, if, in relation to a balance sheet or income and expenditure account and revenue appropriation account laid before a building society at its annual general meeting, a director of the society fails to take all reasonable steps to secure compliance with the provisions of this section and of any regulations made thereunder, he shall, in respect of each offence, be liable on conviction to a fine not exceeding seven thousand five hundred penalty units

(5) The power to make regulations under this section shall be exercisable by statutory instrument.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**35.** (1) In any proceedings against a person in respect of-

Supplementary provisions as to offences under sections 32, 33 and 34

(a) an offence under section *thirty-two* consisting of a failure to take reasonable steps to secure compliance by a building society with the requirements of that section; or

(b) an offence under section *thirty-three* or *thirty-four*;

it shall be a defence to prove that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant requirements or provisions were complied with and was in a position to discharge that duty.

(2) A person shall not be sentenced to imprisonment for any such offence as is mentioned in paragraph (a) or (b) of subsection (1) unless, in the opinion of the court dealing with the case, the offence was committed wilfully.

(3) In this section, "the relevant requirements or provisions"-

(a) in relation to section *thirty-two*, means the requirements of that section;

(b) in relation to section *thirty-three*, means the provisions of that section; and

(c) in relation to section *thirty-four*, means the provisions of that section and any regulations made thereunder.

**36.** Every balance sheet of a building society shall be signed on behalf of the board of directors of the society by two of the directors and by the manager or secretary of the society and, if a balance sheet has not been signed in the manner prescribed by this section and a copy of it is issued, circulated or published, the building society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

Signing of balance sheet

*(As amended by Act No. 13 of 1994)*

**37.** (1) The income and expenditure account and revenue appropriation account shall be approved by the board of directors of a building society before the balance sheet is signed on their behalf.

Account and auditors' report to be annexed to balance sheet

(2) The income and expenditure account and revenue appropriation account shall be annexed to the balance sheet and the auditors' report shall be attached to it.

(3) If any copy of a balance sheet is issued, circulated or published without having annexed to it a copy of the income and expenditure account and revenue appropriation account or without having attached to it a copy of the auditors' report, the building society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994)*

**38.** (1) The directors of a building society shall prepare and submit at the annual general meeting a report on the state of affairs of the society

Directors' report



and such report shall include a statement setting out for the financial year last ending before the annual general meeting at which the report is submitted-

- (a) the total amount advanced by the society during the financial year;
- (b) the number and total amount of ordinary advances made by the society during the financial year;
- (c) the number and total amount of special advances made by the society during the financial year;
- (d) the number and total amount of collective advances made by the society during the financial year;
- (e) the total amount of money received during the financial year by way of investments in and loans to the society from members, depositors and others;
- (f) the total amount of money paid out during the financial year by the society by way of repayment of shares or repayment of sums lent to the society by depositors and others.

(2) The directors' report shall be attached to the balance sheet and, if any copy of a balance sheet is issued, circulated or published without having attached to it a copy of the directors' report, the building society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994)*

**39.** (1) A copy of every balance sheet, including every document required by law to be annexed to it, which is to be laid before a building society at the annual general meeting, together with a copy of the auditors' report and the directors' report, shall, not later than twenty-one days after the date of the meeting, be sent to the Bank of Zambia

Right to receive copies of balance sheet and auditors' and directors' reports

(1A) A summary financial statement, in such form as the Bank of Zambia may prescribe, shall be sent to the members of a building society not later than twenty-one days before the date of the meeting..

(2) Any member of, or investor with, a building society shall be entitled, on demand and without charge, to be furnished with a copy of the last balance sheet of the society, including every document required by law to be annexed to it, together with a copy of the auditors' report and of the directors' report.

(3) If default is made in complying with subsection (1), or if, when any person makes a demand for any documents with which he is by virtue of subsection (2) entitled to be furnished, default is made in complying with the demand within twenty-one days after the demand is made, the building society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)*

**40.** (1) Every building society shall at each annual general meeting appoint an independent auditor, approved by the Bank of Zambia, who shall be a member in good standing of a professional association of accountants recognized by the Bank of Zambia.

Appointment of auditors

(2) The directors of the building society may fill any casual vacancy in the office of an auditor but while any such vacancy continues the surviving or continuity auditor, if any, may act.

*(As repealed and replaced by Act No. 22 of 2005)*

**41.** (1) None of the following persons shall be appointed as auditor of a building society:

Disqualifications for appointment as auditor

(a) an officer or servant of the society;

(b) a person who is a partner of or who is in the employment of or who employs an officer or servant of the society;

(c) a body corporate;

(d) a person who is an officer or servant of a body corporate which is an officer of the society;

(e) a person who is qualified under section sixty-three of the Banking and Financial Services Act.

(2) References in subsection (1) to an officer or servant shall be construed as not including an auditor.

(3) Subsection (1) shall have effect notwithstanding anything in the rules of any building society.

(4) Any person who, or any body corporate which, acts as auditor of a building society in contravention of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**42.** (1) The auditors of a building society shall make a report to the members on the accounts examined by them, and on every balance sheet and every income and expenditure account and revenue appropriation account laid before the society at the annual general meeting during their tenure of office, and the report shall be read at the annual general meeting and shall be open to inspection by any member.

Auditors' report  
and right of access  
to books and  
documents and to  
attend and be heard

(2) The report shall state whether the balance sheet and income and expenditure account and revenue appropriation account are properly drawn up in accordance with the requirements of this Act and any regulations which may be made thereunder and whether, in the opinion of the auditors, they give a fair and true view of the state of the building society's affairs as at the end of its financial year and of the income and expenditure of the society during that year.

(3) The auditors of a building society shall have a right of access at all times to the books, accounts, records and vouchers of the society and to all other documents relating to its affairs, including the deeds relating to property mortgaged to the society, and shall be entitled to require from the directors, chief executive officer, chief financial officer, managers and agents of the society such information and explanations as they may think necessary for the proper performance of the duties of the auditors.

(4) If the auditors of a building society fail to obtain from the society and its officers all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit,

they shall state that fact in their report.

(5) The auditors of a building society shall be entitled to receive notice of and to attend all general meeting of the society, and to be heard at any such meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(As amended by Act No. 22 of 2005)

## Meetings and Returns

**43.** (1) Every building society shall in the first four months of each financial year hold a meeting as its annual general meeting in addition to any other meetings held in that year and the annual general meeting shall be described as such in the notice calling it. Annual general meeting

(2) If in any financial year a building society defaults in holding an annual general meeting, the Bank of Zambia may call, or direct the calling of, an annual general meeting in that financial year and give such ancillary or consequential directions as the Bank thinks expedient, including directions modifying or supplementing the operation of the rules of the society in relation to the calling, holding and conducting of the meeting.

(3) If default is made in holding an annual general meeting of a building society in accordance with the provisions of subsection (1), or in complying with any directions of the Bank of Zambia given under the provisions of subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

(As amended by Act No. 13 of 1994 and No. 22 of 2005)

**44.** The board of directors of a building society shall call such other general meetings as may be required by the rules of the society, or as they may consider desirable, and shall notwithstanding anything contained in the rules of the society, call a general meeting on the application in writing of not less than one-tenth of the total number of members of the society or of not less than one hundred members in the case of a society having more than one thousand members. Other meetings

**45.** (1) Any provision contained in the rules of a building society shall be void in so far as it provides for the calling of a meeting of the society (other than an adjourned meeting) by a shorter period of notice than fourteen days.

Length and manner  
of notice

(2) Except in so far as the rules of a building society make other provision in that behalf (not being a provision rendered void by the provisions of subsection (1)) a meeting of a building society (other than an adjourned meeting) may be called by fourteen days' notice.

(3) Where notice of a meeting is given in accordance with the provisions of subsection (2), the notice shall be taken for the purposes of this Act or any other Act to have been duly given according to the rules of the building society.

(4) Notice of a meeting of a building society shall not be given to members of the society more than fifty-six days before the date of the meeting.

(5) Notice of a meeting shall be given by a building society either-

(a) by sending it by post to the registered address of each member entitled to notice and by exhibiting a copy of the notice in a conspicuous position at the chief office of the society and also at all its branch offices; or

(b) by advertising the notice of the meeting twice in such national newspaper or newspapers circulating in the district in which the society's chief office is situated, as may be selected by the board of directors of the society, and by exhibiting a copy of the notice in a conspicuous position at the chief office of the society and at all its branch offices.

(6) If notice of a meeting is given by advertisement in the manner described in paragraph (b) of subsection (5), the notice shall be deemed to have been served on the day on which the last advertisement appears. If notice is given by post, it shall be deemed to have been served on the day on which the notice would be delivered in the ordinary course of the post.

**46.** (1) Notwithstanding the provisions of section *forty-five*, written notice of any meeting of a building society which specifies the intention to propose a resolution as a special resolution at the meeting shall be sent by post to the registered address of every member qualified to vote on a special resolution at the meeting.

Persons entitled to notice

(2) Subject to the provisions of section *forty-five* and of subsection (1), notice of any meeting of a building society shall be given to all members of the society who were members at the end of the last financial year before the date of the meeting and who at the end of such financial year held, and at the date of service of the notice continued to hold, paid-up shares in the society to the value of three thousand penalty units or more.

(3) The accidental omission to give notice of a meeting to, or non-receipt of notice by, any person entitled to receive notice of the meeting shall not invalidate the proceedings at the meeting.

*(As amended by Act No. 13 of 1994)*

**47.** (1) Any member of a building society who is entitled to attend and vote at a meeting of the society shall be entitled to attend and vote at a meeting of the society shall be entitled to appoint another person (whether a member or not) as his proxy to attend and (subject to the provisions of subsection (2)) to vote instead of him.

Proxies

(2) Unless the rules of the building society otherwise provide, a proxy is not entitled to vote except on a poll.

(3) In every notice calling a meeting of a building society there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him, and that a proxy need not also be a member.

(4) If default is made in complying with the provisions of subsection (3) in respect of any meeting, every officer of the building society who is in default shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

(5) Any provision in the rules of a building society shall be void in so

far as it would have the effect of requiring the instrument appointing a proxy to be received by the society or any other person more than forty-eight hours before a meeting or adjourned meeting in order that the appointment may be effective at the meeting or adjourned meeting.

*(As amended by Act No. 13 of 1994)*

**48.** (1) Any provision contained in the rules of a building society shall be void in so far as it would have the effect either- Right to demand a poll

(a) of excluding the right to demand a poll at a meeting of the society of any question other than the election of a chairman of the meeting or the adjournment of the meeting; or

(b) of making ineffective a demand for a poll on any such question which is made by not less than ten members having the right to vote at the meeting.

(2) The instrument appointing a proxy to vote at a meeting of a building society shall be taken also to confer authority to demand or join in demanding a poll; and, for the purposes of subsection (1), a demand by a person as proxy of a member shall be the same as a demand by the member.

**49.** (1) A resolution of a building society shall be a special resolution when it has been passed by not less than two-thirds of the number of votes lawfully cast, in person or by proxy, on a poll on the resolution, at a meeting of the society of which notice specifying the intention to move the resolution as a special resolution has been duly given. Special resolutions

(2) For the purposes of this section-

(a) notice of a meeting shall be taken to be duly given if the notice is given in the manner provided by this Act and by the rules of the building society;

(b) a meeting of a building society shall be taken to be duly held if it is held in the manner provided by the rules of the society.

(3) Notwithstanding anything in the rules of a building society, the

business which may be dealt with at the annual general meeting, or at any other meeting, shall include any resolution to be passed as a special resolution.

**50.** (1) If at least five members of a building society apply in writing to the society and give notice of their intention to move a special resolution at a meeting of the society, it shall be the duty of the society to include in the notice of the next meeting of the society to be held more than fifty-six days after receipt of the application a notice specifying the intention to move that resolution as a special resolution at the meeting.

Notice of members'  
special resolutions

(2) If a building society fails to comply with an application made under subsection (1), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

(3) In this section "special resolution" means a resolution which will not be effective unless it is passed as a special resolution.

*(As amended by Act No. 13 of 1994)*

**51.** (1) Every building society in each financial year shall make to the Bank of Zambia a return (in this Act referred to as "the annual return") relating to the affairs of the society for the previous financial year not later than twenty-eight days after the date on which it holds or ought to hold its annual general meeting in accordance with the provisions of subsection (1) of section *forty-three*.

Annual return

(2) The annual return shall be signed by two of the directors and by the manager or secretary of the building society.

(3) The annual return shall be in such form and shall contain such information as the Bank of Zambia may, by statutory instrument prescribe.

(4) If a building society fails to comply with any of the provisions of this section, or of regulations made thereunder, the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.



(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)

**52.** (1) For each financial year for which an annual return is made by a building society, the society shall cause to be prepared, and sent to the Bank of Zambia together with the annual return, a return with respect to-

Additional annual return of certain transactions

(a) every property which, during that financial year, has been sold by the society in the exercise of its powers as mortgagee; and

(b) every mortgage which has been transferred by the society during that financial year.

(2) If a building society fails to comply with the provisions of subsection (1), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)

**53.** The auditors of a building society shall make a report on the annual return, stating whether the annual return is in agreement with the books of account and records of the society, and whether, in their opinion, it gives a true and fair view of the matters contained in it; and the auditors' report shall be annexed to the annual return which is sent to the Registrar.

Auditors' report on annual return

#### Determination of Disputes

**54.** (1) The provisions of sections *fifty-five* to *fifty-nine* shall have effect with respect to any dispute between a building society and a member of the society in his capacity as a member thereof, or a representative of such a member in his capacity as a member of the society, in respect of any matter except the construction or effect of a mortgage deed, loan agreement or of any other contract contained in any document other than the rules of the society but (except in so far as the rules of a building society otherwise expressly provide) shall not have effect with respect to any other dispute.

General provisions as to disputes

(2) Any reference in the rules of a building society to disputes (except in so far as the rules otherwise expressly provide) shall be construed as referring only to the disputes mentioned in subsection (1).

(3) Nothing in sections *fifty-five* to *fifty-nine* shall prevent a building society, or any member of, or person claiming through or under a member of, a building society, from obtaining in the ordinary course of law any remedy in respect of any mortgage deed, loan agreement, or other contract, other than the rules of the society, to which he or the society would otherwise be entitled by law.

**55.** (1) The provisions of this section shall apply where the rules of a building society direct that disputes are to be referred to arbitration.

Determination of  
disputes by  
arbitration

(2) Arbitrators shall be appointed in the manner provided by the rules, or, if the rules make no such provision, at the first general meeting of the building society.

(3) In the case of a dispute, such number of the arbitrators (not being less than three) as may be prescribed by the rules of the society shall be chosen by ballot to determine it.

(4) The names of the arbitrators shall be duly entered in the minute book of the society.

(5) If an arbitrator dies, or refuses or neglects to act, the society at a general meeting shall appoint another to act in his place.

(6) The award made by the arbitrators, or by the majority of them, shall determine the dispute.

(7) If either party to a dispute refuses or neglects to comply with the award of the arbitrators within such time as may be limited by the award, a subordinate court presided over by a senior resident magistrate, on the application of any person concerned, shall enforce compliance with the award on proof of its having been made and of that party's refusal or neglect to comply with it.

**56.** Where the parties to a dispute agree to refer it to the Registrar, or where the rules of a building society direct disputes to be so referred, the

Determination of  
disputes by  
Registrar

dispute shall be referred accordingly, and the reference shall be deemed to be a reference to arbitration, the award of the Registrar having the same effect as that of arbitrators under section *fifty-five*.

**57.** A subordinate court presided over by a senior resident magistrate may hear and determine a dispute-

Determination of disputes by court

(a) where the rules of a building society direct disputes to be referred to a court; or

(b) if it appears to the court, upon the petition of any person concerned, that application has been made by either party to the dispute to the other party for the purpose of having the dispute settled by arbitration under the rules of the building society, and that either such application has not been complied with within forty days or the arbitrators have refused or neglected for a period of twenty-one days to make an award.

**58.** Subject to the provisions of section *fifty-nine*, every determination of a dispute by arbitration, or by the Registrar, or by the subordinate court shall be final and conclusive and binding on all parties, and shall not be subject to appeal; and no proceedings on, or determination of, any such dispute shall be removed into, or restrained by injunction granted by, any court, or any other court, as the case may be.

Effect of determination

**59.** The arbitrators, or the Registrar, or the subordinate court, as the case may be, to whom a dispute is referred under section *fifty-five*, *fifty-six* or *fifty-seven* may, at the request of either party, state a case for the opinion of the High Court on any question of law.

Statement of case for High Court

## **PART V**

### **ADVANCES**

**60.** A building society may make advances out of its funds and such advances shall be secured by mortgage of real estate or such other security as the rules of such building society may prescribe.  
(As repealed and replaced by Act No. 22 of 2005)

Advances

**61.** Repealed by Act No. 22 of 2005

**62.** Repealed by Act No. 22 of 2005

**63.** Repealed by Act No. 22 of 2005

**64.** The terms of every advance made by a building society, except where the repayment of the advance and the interest thereon is guaranteed by the Government, shall provide for the repayment of the total capital amount within a period of not more than thirty years; but a society's board of directors shall have power to extend the repayment period in any case where it considers such an extension to be desirable or expedient.

Repayment of  
advances

*(As amended by Act No. 37 of 1973)*

**65.** (1) Subject to the provisions of sections *sixty-six* and *sixty-seven*, an ordinary or special advance made by a building society, where no additional security is taken by the society, shall not exceed, in the case of an ordinary advance, a sum equal to eighty per centum of the value of the lands and buildings included in the mortgage and, in the case of a special advance, seventy-five per centum of such value:

Amount of  
advances

Provided that where a building society exercises its right of foreclosure or its power of sale in respect of lands or buildings mortgaged to it, the society may make an advance to the purchaser of such lands or buildings in an amount not exceeding the amount owing to the society at the date of exercising its right, or eighty per centum of the value of the lands or buildings, whichever is the greater.

(2) A building society, in conjunction with an ordinary or special advance, may make an additional advance against additional security of the type specified in the First Schedule, and such additional advance shall not exceed fifteen per centum of the value of the lands and buildings included in the mortgage or one hundred per centum of the value of the additional security, whichever is the less.

(3) Where a charge upon a policy of life assurance is taken as additional security for an advance, the value of the policy shall be assessed at an amount not exceeding the surrender value thereof at the time when the advance is made.

**66.** (1) A building society may make a collective advance up to one hundred per centum of the value of the development, or of the lands and buildings referred to in the loan agreement evidencing the advance.

Advances to full value in certain cases

(2) A building society may make an ordinary or special advance up to one hundred per centum of the value of the lands and buildings included in the mortgage securing the advance if either-

(a) the repayment of the advance, or of the excess advance, and the interest thereon, is guaranteed by the Government; or

(b) the repayment of the advance, or of the excess advance, and the interest thereon, is undertaken or guaranteed by a company or commercial bank whose guarantee is acceptable to the board of directors of the society.

(3) In this section, "excess advance" means the amount by which the sum advanced exceeds the maximum advance permitted by section *sixty-five*.

**67.** (1) If a building society, in the exercise of its powers as mortgagee, proposes to sell any freehold or leasehold estate mortgaged to the society, and to make to the purchaser an advance upon the security of that estate which will constitute a special advance, then provided that the society, on an application to the Registrar, satisfies him-

Special advance to purchaser of mortgaged property

(a) that the person or body corporate entitled to redeem the mortgage is indebted to the society (taking into account the advance secured by the mortgage and all other debt, of any description whether immediately repayable or not) in an amount exceeding fifty thousand kwacha or such other sum as may be prescribed under section *sixty-two*; and

(b) that the amount of the mortgage debt which, at the time of the application, has not been repaid to the society, together with any arrears of interest in respect of the advance secured by the mortgage, exceeds the amount of the advance which the society proposes to make to the purchaser of the freehold or leasehold estate;

the Registrar may, if he thinks fit, grant to the society permission in writing to make the special advance to which the application relates.

(2) Any special advance for which permission is granted under this section shall be left out of account for the purposes of subsection (3) of section *sixty-two*.

**68.** Notwithstanding the provisions of section *sixty-five*, a building society, for the purpose of protecting or maintaining the security held by it for the repayment of an advance, may make further advances in respect of-

Further advances for certain purposes

(a) premiums on insurance policies designed to provide further security for the repayment of an advance;

(b) rates, taxes, general insurances and outgoings on the lands and buildings;

(c) the maintenance and repair of the lands and buildings;

and such further advances shall be a charge on the lands and buildings and shall form part of the moneys secured by the mortgage.

**69.** (1) A building society shall not advance money on the security of a mortgage of any freehold or leasehold estate which is subject to a prior mortgage unless the prior mortgage is in favour of the society; nor shall a building society advance money on the security of a contributory mortgage.

Restrictions on second and contributory mortgages

(2) The reference in subsection (1) to a prior mortgage shall be construed as not referring to any charge over land acquired by a local authority under a written law or under any instrument made under a written law, being a charge which takes effect by virtue of the written law or instrument.

(3) If a building society makes an advance in contravention of this section, the directors of the society who authorised the advance, knowing it to be an improper advance, shall be jointly and severally liable for any loss incurred by the society in respect of the advance.

**70.** (1) For the purpose of facilitating the repayment to a building society of an ordinary or special advance, the society shall have power to make to the borrower, by way of addition to the advance, a further advance of the whole or part of such sum as may be necessary to enable payment to be made of a single premium payable in respect of an

Advance for single premium life policy

appropriate policy of life assurance.

(2) A policy of life assurance, for the purposes of subsection (1), is an appropriate policy if-

(a) it is a policy of life assurance on the life of the borrower or the spouse or son or daughter of the borrower; and

(b) it provides, in the event of the death, before the advance has been repaid, of the person on whose life the policy is effected, for payment of a sum not exceeding the amount sufficient to defray the sums which are, at and after the time of the death, payable to the society in respect of the advance, as increased by the additional advance made by the society under the power conferred by this section.

(3) A sum added to an advance in pursuance of the power conferred by this section shall be treated as not forming part of the advance for the purpose of determining whether the advance is beyond the powers of the society on the grounds that the amount of the advance is excessive.

**71.** (1) The directors of every building society shall have the duty of satisfying themselves that the arrangements made for assessing the adequacy of the security to be taken in respect of advances to be made by the society are such as may reasonably be expected to ensure that-

Valuation for  
purposes of  
advance

(a) the adequacy of any security to be so taken will be assessed either by the directors of the society or by a director or other officer of the society who is competent to make the assessment; and

(b) there will be made available to every person who has to assess the adequacy of any security to be so taken an appropriate report as to the value of any freehold or leasehold estate or development comprised in the security and as to any matter likely to affect the value thereof.

(2) The reference in paragraph (b) of subsection (1) to an appropriate report is a reference to a written report prepared and signed by a competent and prudent person who is experienced in the matters relevant to the determination of the value of the estate or development and, for the purposes of that paragraph, is not disqualified by virtue of the following provisions of this section for reporting on that estate or development.

(3) Any person who has a direct pecuniary interest (other than the payment of his salary or fees for professional services) in the granting of an advance and any director, manager, secretary or other officer of a building society, except a valuer employed by the society for the express purpose of making valuations in accordance with the requirements of this section, shall, for the purposes of paragraph (b) of subsection (1), be disqualified for reporting on any freehold or leasehold estate or development comprised in security to be taken by the society in respect of any advance.

(4) No person who is disqualified by virtue of the provisions of subsection (3) for making a valuation shall make such valuation and any society which employs such a person, and the person so employed, shall each be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units.

(5) Every valuer shall make a personal inspection of the estate or development which is offered as security for an advance, and, in the case of uncompleted buildings, shall also examine the plans and specifications.

(6) The valuer shall record his valuation and the date of his inspection on the prescribed form and shall sign it.

(7) If a building society makes an offer of advance on the security of a building or development to be completed, and such advance is to be paid by instalments during the progress of construction of the building or development, the valuer shall make a personal inspection of the building or development prior to the payment of each instalment and the amount of such instalment shall be related to the appropriate percentage of his valuation at such inspection.

(8) A building society shall, on payment to it of a reasonable fee, supply a copy of the report referred to in paragraph (b) of subsection (1) to the person to whom the advance is intended to be made but such copy shall not disclose the name of the valuer who prepared the report.

*(As amended by Act No. 13 of 1994)*



**72.** (1) Every building society shall, in the record of advances to be kept under section *twenty*, cause entries to be made showing, with respect to every advance made by the society from the date of its registration under this Act-

Record of  
advances

(a) the value placed upon the estate or development in the report thereon made under the provisions of paragraph (b) of subsection (1) of section *seventy-one* and the name of the person by whom the report was made; and

(b) particulars of any additional security taken by the society.

(2) If any building society fails to comply with the provisions of subsection (1), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

(As amended by Act No. 13 of 1994)

**73.** If a building society makes an ordinary advance, a special advance or an additional advance and takes any security for such advance from a third party, then, before any contract requiring the borrower to repay the advance is entered into, the society shall give a notice to the borrower in the prescribed form:

Security taken  
from third party

Provided that this section shall not apply to such an advance made to an individual where the only security taken for the advance from a third party is a guarantee given by an individual, not being a guarantee secured by a charge on any property.

**74.** Notwithstanding the duty imposed on directors of a building society by section *seventy-one*, no advance or offer of advance made by a society shall be construed as warranting to the borrower or, in the case of an offer of advance, to the person to whom the offer is made that the purchase price of the estate or development taken in security, or proposed to be taken in security, is reasonable.

Offer of advance  
not to imply  
warranty

**75.** A building society shall not cause or permit applicants for advances to ballot for precedence, or in any way make the granting of an advance depend upon any chance or lot.

Prohibition against  
balloting for  
advances

**76.** (1) If a building society becomes absolutely entitled by foreclosure or by release or other extinguishment of a right of redemption to any freehold or leasehold estate mortgaged to it, such estate shall, as soon as may be conveniently practicable, be sold and converted into money:

Provisions as to sale of mortgaged properties

(2) In exercising its power of sale of any estate mortgaged to it, a building society shall take reasonable care to ensure that the price at which the estate is sold is the best price which can reasonably be obtained, and any agreement which relieves or attempts to relieve the society of the obligations imposed by this subsection shall be of no effect.

(3) Within twenty-eight days from the completion of a sale, the building society shall send by registered post to the mortgagor at his last known address a notice containing such particulars relating to the sale as may be prescribed.

(4) Nothing in subsection (3) shall affect the operation of any rule of law relating to the duty of a mortgagee to account to a mortgagor.

(5) If a building society contravenes the provisions of subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units.

(6) A person who purchases an estate from a building society for full value and in good faith shall not be concerned as to whether or not the society has complied with the provisions of this section, and any contract of sale entered into between the society and such purchaser shall not be affected by any failure on the part of the society to comply with such provisions.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**77.** (1) Where a building society has sold a freehold or leasehold estate as mortgagee and, after paying all expenses of the sale and the sum due to the society under its mortgage, there is a balance payable to the mortgagor and the mortgagor cannot be found, the society shall place

Disposal of surplus when mortgagor cannot be found

such balance on deposit with the society in the name of the mortgagor.

(2) If, after a period of three years has elapsed from the date of the sale, the mortgagor has not claimed the sum deposited in accordance with the provisions of subsection (1), the society may insert an advertisement in a newspaper circulating in the district in which the estate which was sold is situated calling on the mortgagor to claim the sum deposited within three months from the date of the advertisement and stating that failing his so doing it will be forfeited to the society.

(3) If, after the expiry of three months from the date of the advertisement referred to in subsection (2), the mortgagor has not claimed the sum deposited, such sum shall become part of the general funds of the society and, notwithstanding the provisions of any law or practice to the contrary, no action shall be brought by the mortgagor to recover such sum and the mortgagor shall cease to have any right thereto.

**78.** (1) When all moneys intended to be secured by a mortgage given to a building society have been fully paid or discharged, the society may endorse on or annex to the mortgage one or other of the following, that is to say:

Discharge of mortgages

(a) a receipt under the society's seal in the form set out in the Second Schedule and countersigned by at least two persons acting under the authority of the society's board of directors and in accordance with the rules of the society;

(b) a reconveyance of the mortgaged property to the mortgagor;

(c) a reconveyance of the mortgaged property to such person of full age, and on such trusts, if any, as the mortgagor may direct.

(2) Where in pursuance of subsection (1) such a receipt as is therein mentioned is endorsed on or annexed to a mortgage, the receipt shall operate and be a discharge within the meaning and for all the purposes of section *sixty-seven* of the Lands and Deeds Registry Act.

Cap. 185

## **PART VI**

## BORROWING POWERS

**79.** Subject to the provisions of this Act, a building society may borrow money and accordingly may receive deposits or loans, at interest, to be applied for the business of the society.

Power to borrow

**80.** (1) The maximum amount which a building society may repay to any single investor or lender in any one month of moneys invested with or borrowed by the society, whether such moneys are in the form of shares, deposits or loans, other than bank overdrafts, or in a combination of these, shall be up to a per centum of its total assets or such amounts as the Bank of Zambia Minister may prescribe.

Limit of repayments to investors and lenders

(2) In this section, "total assets" means the total of the monetary values placed against the items appearing as assets in the society's balance sheet at the close of the last preceding financial year.

*(As amended by Act No. 6 of 1991)*

**81.** (1) The total amount which a building society may receive in deposits, loans and bank overdrafts, shall not, at any time, exceed the total sum due by the society to shareholders, after deduction therefrom of the total amount of all other liabilities, provisions and reserves of the society.

Limit of deposits

(2) In this section, the terms "other liabilities", "provisions" and "reserves" have the same meanings as those which are normally attributed to them when used in the balance sheet of a building society.

**82.** If a building society borrows money in excess of the limits prescribed by this Act, the directors of the society receiving such moneys on its behalf shall be personally liable, jointly and severally, for the amount of the excess.

Liability for borrowing in excess of powers

**83.** (1) A building society shall not accept a deposit or loan except on terms enabling the society to require notice (not being less than one month's notice) before repayment or withdrawal.

Minimum notice of withdrawal

(2) If a building society contravenes the provisions of subsection (1), the society, and every director of the society who is a party to the contravention, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994)*

**84.** Where it appears to the Bank of Zambia that a building society is in financial difficulties, he may authorise any building society to lend money to the first mentioned society and the building society shall have power to do so accordingly.

*(As amended by Act No. 22 of 2005)*

Assistance by one building society to another

**85.** Any person under the age of twenty-one years may deposit money in a building society and shall be capable of giving a full acquittance to the society in respect of the payment to him of any sum due in respect of the principal of, or interest on, sums lent by him to the society.

Depositor under the age of twenty-one

**86.** (1) Where any member of, or depositor with, a building society dies intestate having a sum of money in the funds of the society and letters of administration to his estate have not been exhibited to the society within a period of three years from the date of death, the society may hand over such sum of money to the Administrator-General who shall hold it upon the trusts upon which an administrator of the estate would have held it and whose acknowledgment shall be a sufficient discharge to the society for the money so paid; and the society shall not be concerned with the ultimate disposal of such money by the Administrator-General.

Members or depositors dying intestate

(2) For the purposes of this section, letters of administration shall include an order appointing an administrator made under the Local Courts Act.

Cap. 29

**87.** (1) Notwithstanding the provisions of any other law, a trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in deposits with and loans to a building society designated for that purpose by the Bank of Zambia by statutory instrument, but the Bank of Zambia shall not designate a society under this section unless and until it satisfies the following conditions, that is to say:

Trustee status for certain investments in building societies

(a) the total assets of the society are not less than four million kwacha; and

(b) the society (or, in the case of a reconstituted society, or where there has been a union of societies or a transfer of engagements, its predecessor or constituents) shall have paid interest and dividends at not less than the rates at which they have advertised for funds for a period of at least five years prior to the date of designation; and

(c) the liquid funds of the society are not less than ten per centum, or such higher percentage, as may by statutory instrument be prescribed from time to time by the Bank of Zambia for the purposes of this section, of the total amount of the assets of the society, reduced by any amount by which the total book value of the society's investments exceeds their total market value; and

(d) the sum standing at the credit of the general reserve fund of the society shall satisfy the minimum requirements set out in subsection (5) of section *ninety-two*.

(2) A building society which has been designated under the provisions of this section and which subsequently ceases to satisfy the conditions set out in subsection (1) shall not cease to be a designated society unless and until its designation under this section is revoked by the Bank of Zambia by statutory instrument.

(As amended by Act No. 22 of 2005)

**88.** (1) In or upon every deposit book or acknowledgment or security of any kind which is given by a building society for a deposit or loan, the whole of the following provisions of this Act shall be set out in writing, that is to say, subsections (1) and (2) of section *sixteen*, sections *seventy-nine*, *eighty-one* and this subsection; and there shall also be set out in writing a reference to section *eighty*.

Provisions of Act  
to be inserted in  
certain documents

(2) If a building society makes default in complying with the provisions of subsection (1), the person by whom the default is made shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred penalty units.

(As amended by Act No. 13 of 1994)

## **PART VII**

### **INVESTMENT AND BANKING OF SURPLUS FUNDS**

**89.** (1) Subject to the provisions of the Banking and Financial Services Act, a building society may invest any of its surplus funds in- Authorised investment

(a) establishing and managing unit trust schemes;

(b) establishing and managing pension schemes;

(c) establishing subsidiary companies; and

(d) such other investments as the Bank of Zambia may, by statutory order, prescribe.

(2) A building society shall not invest any part of the surplus funds in projects other than those set out in sub-section (1).

*(As Repealed and Replaced by Act No. 22 of 2005)*

**90.** Repealed by Act No. 22 of 2005

**91.** If a building society contravenes any of the provisions of sections *eighty-nine*, the society shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units and every officer of the society who is in default shall also be guilty of an offence and liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding two years, or to both. Offences under Part VII

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**92.** (1) Every building society shall establish a fund to be known as the general reserve fund, appropriations to which shall be made only out of the realised surpluses of the society. General reserve fund

(2) No dividend, bonus or donation shall be paid out of the general reserve fund.

(3) Moneys standing to the credit of the general reserve fund shall be invested in authorised investments or in advances.

(4) A society may charge against the general reserve fund any net loss

remaining to the society in any year after applying to such loss any undistributed surpluses brought forward from previous years.

(5) Within a period of five years in the case of an existing society, and ten years in the case of any other building society, in each case from the date of the society's registration under this Act, the sum at credit of a building society's general reserve fund, when added to any provision against depreciation of or losses on investments and reduced by the aggregate of-

(a) any amount by which the total book value of the society's investments exceeds their total market value; and

(b) any amount recommended by the society's directors for distribution as interest, dividend or bonus, and not provided for in the society's annual accounts;

shall not be less than two and one-half per centum of the total amount of the society's assets or such other amount as the Bank of Zambia may prescribe reduced by the aggregate of-

(i) any amount by which the total book value of the society's investments exceeds their total market value; and

(ii) the total amount of any reserves set aside by the society for a particular purpose, other than any reserve against depreciation of or losses on investments.

(6) In the event of a building society failing to comply with the provisions of subsection (5) within the period prescribed therein, the Registrar shall have the power to cancel or suspend the society's registration, or give such other directions to the society as he may think fit.

(7) The general reserve fund to be established by a building society under this section shall be in addition to the liquid funds referred to in section *ninety-three*.

(As amended by Act No. 22 of 2005)

**93.** (1) Subject to the provisions of subsection (8), the Bank of Zambia shall by statutory instrument direct, from time to time, the minimum amount of liquid funds to be maintained by building societies and every

Provisions as to liquidity



building society shall be bound by such direction, which shall be expressed in terms of a percentage of the total amount of a society's assets reduced by any amount by which the total book value of the society's investments exceeds their total market value.

(2) Every building society shall make a monthly return in the prescribed form to the Bank of Zambia to enable him to give directions in accordance with the provisions of subsection (1).

(3) A direction given under this section shall specify the date from which it is to take effect which shall not be earlier than three months from the date of publication of the *Gazette* in which it appears.

(4) A direction given under this section may be varied or revoked by a subsequent direction given in like manner.

(5) A direction given under this section shall not increase by more than such per centum, as the Bank of Zambia may prescribe of the percentage of liquid funds to be maintained by building societies prevailing at the date of publication of the direction.

(6) Liquid funds shall be held by building societies in any or all of the following:

(a) notes and coin which are legal tender in Zambia;

(b) balances and money at call with registered discount houses, registered acceptance houses, or registered commercial banks;

(c) treasury bills issued by the Government;

(d) local registered securities issued or guaranteed by the Government of which not more than fifty per centum may be in securities of a final maturity date of more than six years;

(e) such other assets as the Bank of Zambia may, by *Gazette* notice prescribe;

(7) If a building society fails to make the return provided for in subsection (2), or wilfully and without a valid reason acceptable to the Bank of Zambia fails to comply with a direction given under this section, or wilfully and without a valid reason acceptable to the Bank of Zambia fails to hold its liquid funds as provided in subsection (6), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units.

(8) (a) Subject to subsection (5), the Minister may, after consultation with the Governor of the Bank of Zambia, give directions to the Governor as to the exercise of the power conferred upon him by subsection (1) and the Governor shall comply with any such direction.

(b) Any direction given by the Minister under paragraph (a) shall be in writing.

*(As amended by Act No. 13 of 1994 and Act No. 22 of 2005)*

**94.** No building society shall pay any dividend or interest on any of its shares otherwise than out of surpluses earned by the society during the financial year to which the dividend or interest relates, and undistributed surpluses.

Restriction of  
payment of  
dividends

## **PART VIII**

### **CHANGE OF NAME, ETC.**

**95.** (1) A building society may change its name by special resolution.

Change of name

(2) Notice of any such change shall be sent to the Registrar within fourteen days from the passing of the special resolution and shall be registered by him, and he shall give a certificate of registration:

Provided that a building society shall not be registered under this section in a name which, in the opinion of the Registrar, is undesirable or does not comply with section *one hundred and eighteen* of the Banking and Financial Services Act.

(3) A change of name by a building society in accordance with the provisions of this section shall not affect the rights and obligations of the society or of any of its members or of any other person concerned.

(4) If a building society fails to send to the Registrar a notice which it is required to send under subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**96.** A building society which changes the situation of its registered office or its postal address shall, within fourteen days after such change, send to the Registrar notice thereof and the Registrar shall register such change. Notification of  
change of address

**97.** (1) A building society may alter its rules by special resolution. Alteration of rules

(2) Where a building society by special resolution alters its rules, it shall, within fourteen days from the passing of the special resolution, send to the Registrar two copies of the alteration (or, in the case of the rescission of a rule, two copies of the resolution) signed by three members and the secretary, and a statutory declaration by an officer of the society that the resolution has been passed as a special resolution.

(3) Where copies are sent to the Registrar in accordance with subsection (2), and the Registrar finds that the alteration is in conformity with this Act, he shall return one of the copies to the secretary or other officer of the society with a certificate of registration and shall retain and register the other copy.

(3A) If the Registrar finds that the alteration is not in conformity with the Act and any applicable regulations the Registrar shall not register the alteration and shall notify the building society of the decision.

(3B) Any alteration of rules by building society shall only become affective upon registration.

(4) Any provision in the rules of a building society that the rules may be altered without passing a special resolution shall be void.

(5) If a building society fails to comply with the provisions of subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

## **PART IX**

### **UNIONS OF SOCIETIES AND TRANSFERS OF ENGAGEMENTS**

**98.** (1) Two or more building societies may unite, with the consent of the Bank of Zambia and become one society, with or without a dissolution or division of the funds of any one or more of those societies, if-

Union of building societies

(a) the terms of the union are approved by a special resolution of each of the societies; and

(b) the union obtains the consent in writing of the holders of not less than two-thirds of the whole number of shares in each society, whether they are present at the meeting or not.

(2) Notice of any proposed union of building societies shall be sent to the Bank of Zambia, and if the Bank of Zambia consents to the union, the Registrar shall, upon completion of the union, register the new society.

(2A) Where a new society is registered under subsection (2), the societies unified shall be deemed to be dissolved and their registrations cancelled;

(3) If a building society fails to send to the Bank of Zambia the notice referred to in subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to

a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**99.** (1) A building society may by special resolution transfer its engagements to another building society which undertakes to fulfil those engagements; and a building society may, with the consent of the Bank of Zambia-

Transfer of engagements

(a) by special resolution; or

(b) by resolution of a general meeting or of its board of directors; undertake to fulfil the engagements of another building society.

(2) Notice of any proposed transfer shall be sent to the Bank of Zambia by the building society transferring its engagements and if the Bank of Zambia consents to the transfer, the Registrar shall register the notice of the transfer;

(3) A transfer of engagements between building societies under this section shall not have effect unless-

(a) the holders of not less than two-thirds of the whole number of shares in each of the societies have consented in writing to the transfer; and

(b) notice of the transfer has been registered.

(4) If a building society fails to send to the Bank of Zambia the notice referred to in subsection (2), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**100.** (1) A building society desiring to unite with another society, or to transfer its engagements to another society, or to undertake to fulfil the engagements of another society, and which has not obtained the consent in writing of the holders of two-thirds of the whole number of the society's shares may make an application to the Bank of Zambia to

Registrar may approve union or transfer

confirm the union or transfer.

(2) Where such an application is made the society shall cause notice of the application to be published as directed by the Bank of Zambia, and, after hearing the society making the application and any other persons whom the Bank of Zambia considers entitled to be heard, the Bank of Zambia, notwithstanding the provisions of sections *ninety-eight* and *ninety-nine*, may confirm the union or transfer of engagements accordingly.

(As amended by Act No. 22 of 2005)

**100A.** Repealed by Act No. 22 of 2005

**101.** The registration by the Registrar in accordance with the provisions of the previous sections of this Part of notice of the union or transfer of engagements of a building society shall operate, by virtue of this section and without further assurance, as an effectual conveyance, transfer and assignment, as at the date of the registration, of the funds, property and assets of the uniting societies to the united society, or of the funds, property and assets of the transferring society to the society undertaking its engagements, as may be provided by the instrument of union or transfer of engagements, as the case may be.

Registration of transfers, etc., to operate as a conveyance

**102.** A union of building societies or a transfer of engagements from one society to another shall not affect the rights of any creditor of any building society concerned in the union or transfer.

Creditors not to be prejudiced by union or transfer

## **PART X**

### **NOMINATION, POWERS AND CONTROL OF REGISTRAR**

**103.** Repealed by Act No. 22 of 2005

**104.** Repealed by Act No. 22 of 2005

**105.** Repealed by Act No. 22 of 2005

**106.** Repealed by Act No. 22 of 2005

**107.** (1) The Registrar, on his own initiative, may call a meeting of a building society if he thinks that such a meeting is desirable in the interests of the members of, or depositors in, the society, and he may direct at what time and place the meeting is to be held and what matters are to be discussed and determined at the meeting.

Power to call a meeting

(2) A meeting called under subsection (1) shall have all the powers of a meeting called under the rules of the society, and shall have power to appoint its own chairman notwithstanding any rule to the contrary, and no provision in the rules of the society for a quorum shall apply to such a meeting.

**108.** (1) If the Bank of Zambia, considers it expedient in the interests of investors and depositors to suspend borrowing by, or subscription for shares in, a building society, he may, by order, prohibit the society-

Power to suspend borrowing and subscription for shares

(a) from accepting the deposit of, or otherwise borrowing, any money; or

(b) from accepting any payment representing the whole or any part of the amount due by way of subscription for a share in the society, other than a payment which fell due before the making of the order.

(2) Notwithstanding that an order may have been made under this section, a building society may borrow money from a bank or a finance company or from a director or other officer of the society provided that the consent of the Bank of Zambia has first been obtained.

(3) At least twenty-one days before an order is made under this section, the Bank of Zambia shall give the building society concerned, and each of its directors, written notice that it proposes to make such an order and the notice shall set out the considerations which have led to the conclusion that it is expedient to do so:

Provided that before issuing an order the Bank of Zambia

shall consider any representations which may be made by the building society within a period of fourteen days after the service of the notice and, if the society so requests, shall afford it an opportunity to be heard within that period;

(4) Any order made by the Bank of Zambia under this section may be revoked by a subsequent order.

(5) If a building society contravenes the provisions of any order made under this section, it shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units, and every officer of the society who is in default shall also be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(6) The power to make orders under this section shall be exercisable by statutory instrument.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**109.** (1) If the Bank of Zambia considers it expedient to do so in the interests of persons who may invest in, or deposit money with, a building society, he may serve on the society a written direction requiring the society-

Power to control advertising

(a) to prohibit the issue by the society of advertisements of all descriptions; or

(b) to prohibit the issue by the society of advertisements of any description specified in the direction; or

(c) to prohibit the issue by the society of any advertisements which are, or are substantially repetitions of, an advertisement which has been issued and which is specified in the direction; or

(d) require the society to take all practicable steps to withdraw any advertisement, or any description of advertisement, specified in the direction which is on display in any place;

or the direction may contain two or more such prohibitions or



requirements as are mentioned in this subsection.

(2) Before serving a direction under this section, the Bank of Zambia shall give the building society concerned, and each of its directors, written notice that the Bank proposes to make the direction, and such notice shall set out the considerations which have led to the conclusion that it is expedient to do so, and the Bank shall consider any representations which may be made by the society within seven days from the date of service of the notice; and if the society so requests, the Bank shall afford it an opportunity to be heard within that period.

(3) Any direction under this section may be varied or revoked at any time by a subsequent direction thereunder.

(4) If a building society contravenes a direction under this section, it shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units, and every officer of the society who is in default shall also be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

## **PART XI**

### **WINDING-UP AND DISSOLUTION**

**110.** A building society may with the approval of the Bank of Zambia be dissolved in the manner prescribed by its rules.

Dissolution in accordance with rules

*(As amended by Act No. 22 of 2005)*

**111.** (1) A building society may be dissolved by an instrument of dissolution with the consent (testified by their signature of that instrument) of the members holding not less than two-thirds of the number of shares in the society.

Dissolution by consent

(2) An instrument of dissolution under this section shall set out-

(a) the liabilities and assets of the society in detail;

(b) the number of members and the amount standing to their credit in the books of the society;

(c) the claims of depositors and other creditors and the provision to be made for their payment;

(d) the intended appropriation or division of the funds and property of the society;

(e) the names of one or more persons to be appointed as trustees for the purposes of the dissolution, and their remuneration.

(3) An instrument of dissolution made with consent given and testified as mentioned in subsection (1) may be altered with like consent, testified in the like manner.

(4) Every instrument of dissolution under this section, and every alteration of such an instrument, shall be registered in the manner provided by section *three* for the registration of the rules of a building society; and every such instrument or alteration shall be binding upon all members of the building society.

**112.** (1) On the application in writing of at least one hundred members of a building society having a total membership of more than one thousand, or, in the case of any other building society, of one-tenth of the whole number of members of the society, stating that the society is unable to meet the claims of its members and that it would be for their benefit that it should be dissolved, and requesting an investigation into the affairs of the society with a view to its being dissolved, the Bank of Zambia may investigate the affairs of the society.

Dissolution on  
award of Registrar

(2) Before commencing an investigation under this section, the Bank of Zambia shall give not less than one month's written notice to the building society at its registered chief office or place of meeting.

(3) If on such investigation it appears that the building society is unable to meet the claims of its members and that it would be for their benefit that it should be dissolved, the Bank of Zambia-

(a) if the Bank considers it expedient to do so, may, by statutory order, direct that the society be dissolved, and shall in that case direct in what manner the affairs of the society are to be wound up; or

(b) may suspend such order for such period as the Bank of Zambia thinks fit to enable the society to make such alterations of its rules as, in the judgment of the Bank of Zambia, will make such an order unnecessary.

(4) Where an order for dissolution is made under this section, the Bank of Zambia, within twenty-one days of the making thereof, shall cause notice of the order to be advertised in one or more newspapers circulating in the place in which the registered office or place of meeting of the building society is situated.

(As amended by Act No. 22 of 2005)

**113.** (1) When a building society is being dissolved in accordance with the provisions of section *one hundred and ten* or *one hundred and eleven*, the provisions of this Act shall continue to apply in relation to the society as if the liquidators or other persons conducting the dissolution of the society, or the trustees appointed under the instrument of dissolution, as the case may be, were the board of directors of the society.

Provisions  
applicable to  
dissolution under  
sections 110 and  
111

(2) Within twenty-eight days from the date of termination of the dissolution the liquidators, trustees or other persons having the conduct of the dissolution shall send to the Registrar an account and balance sheet signed and certified by them as correct and showing the assets and liabilities of the society at the commencement of the dissolution, and the way in which those assets and liabilities have been applied and discharged; and if they fail to do so they shall each be guilty of an offence and liable on conviction to a fine not exceeding three hundred penalty units for every day during which the default continues.

(3) Except with the consent of the Bank of Zambia, no resolution, instrument or dissolution or other proceeding for the dissolution of a building society under section *one hundred and ten* or *one hundred and eleven*, and no alteration of an instrument of dissolution under section *one hundred and eleven*, shall be of any effect if the purpose of the proposed dissolution or alteration is to effect or facilitate the transfer of the society's engagements to any other society.

(4) Any provision in a resolution or document that members of a building society proposed to be dissolved shall accept investments in another society (whether in shares, deposits or any other form) in or towards satisfaction of their rights in the dissolution shall be conclusive evidence of such a purpose as is mentioned in subsection (3).

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**114.** (1) In the event of a building society becoming insolvent the Bank of Zambia may, in accordance with Chapter VII of the Banking and Financial Services Act, dissolve and liquidate the building society.

Insolvent building society

(2) In subsection (1) insolvency has the meaning assigned to it by section *eighty-six* of the Banking and Financial Services Act.

Cap. 387

**115.** Where a building society is being wound up or dissolved, a member to whom an advance has been made under a mortgage or other security, or under the rules of the society, shall not be liable to pay the amount payable thereunder except at the time or times and subject to the conditions set out in the mortgage or other security, or in the rules, as the case may be.

Liability of members on winding-up or dissolution

**116.** (1) Notice of the commencement and of the termination of the winding-up or dissolution of a building society shall be sent to the Registrar and registered by him.

Notice of winding-up or dissolution

(2) If a building society fails to send to the Registrar a notice which it is required to send to him under subsection (1), the society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

*(As amended by Act No. 13 of 1994)*

## **PART XII**

### **MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS**

**117.** (1) A building society, so far as is necessary for the purpose for which it is established, shall have power to hold land.

Powers in relation to land

(2) Subject to the provisions of subsection (6), a building society may purchase, build, hire or take on lease a building for conducting its business and may adapt and furnish it.

(3) Subject to the provisions of subsection (6), a building society may purchase or hold on lease any land for the purpose only of erecting on it a building for conducting the business of the society.

(4) A building society may sell, exchange or let the whole or part of any such building or land as is mentioned in subsection (2) or (3).

(5) For the purposes of subsections (2) and (3), the business of a building society, where its rules permit, shall include the provision of housing accommodation for officers of the society and members of its staff.

(6) In exercising the powers conferred by subsections (2) and (3), a building society shall not, except with the approval of the Bank of Zambia, incur an expenditure exceeding one hundred thousand kwacha or such other amounts as the Bank of Zambia may prescribe in respect of any single transaction.

(7) A building society may from time to time purchase freehold or leasehold land, develop such land, construct houses thereon and sell such houses:

Provided that-

(i) no land shall be purchased for the purpose of constructing houses thereon, or development thereof undertaken, by or on behalf of a building society, unless estimates of costs and comprehensive details of the proposed development have been submitted by the building society to the Bank of Zambia, and the Bank of Zambia has signified its approval thereto in writing;

(ii) the expenditure incurred by a building society on the purchase and development of such land shall at no time be in excess of one-third of the aggregate amount in the building society's general reserve fund and the unappropriated surplus earned during the year immediately preceding the financial year in which such land is purchased or such other amount as the Bank Zambia may prescribe.

*(As amended by Act no 31 of 1973, Act No. 13 of 1994 and No. 22 of 2005)*

**118.** (1) Any person who by false representation or imposition obtains possession of any moneys, securities, books, papers or other effects of a building society or who, having the same in his possession, withholds or misapplies them, or wilfully applies any part of them to purposes other than authorised purposes, shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences in relation to property of building societies

(2) The court by or before which a person is convicted of an offence under this section may order him to deliver up or repay to the building society any moneys, securities, books, papers or other effects in respect of which he is convicted of that offence.

(3) Proceedings in respect of an offence under this section may be instituted by the building society, or by the Bank of Zambia, or by any person authorised by the society or its board of directors or by the Bank of Zambia.

(4) In this section, "authorised purposes", in relation to a building society, means purposes authorised by this Act or by the rules of the society.

*(As amended by Act No. 13 of 1994 and No. 22 of 2005)*

**119.** (1) Any person who wilfully makes, or orders or allows to be made, any false statement in a document to which this section applies, or by erasure, omission, alteration, addition or otherwise, wilfully falsifies any such document, shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

False statements in documents

(2) This section applies to any document sent to the Registrar or the Bank of Zambia under or in pursuance of this Act.

(As amended by Act No. 13 of 1994 and No. 22 of 2005)

**120.** (1) Where the Registrar is satisfied with respect to a building society-

Compulsory  
cancellation or  
suspension of  
registration

(a) that a certificate of registration has been obtained for the society by fraud or mistake; or

(b) that the society exists for an illegal purpose; or

(c) that the society has wilfully, and after notice from the Registrar, violated any of the provisions of this Act; or

(d) that the society has ceased to conduct business as a building society; or

(e) that the society has made advances on securities situated outside the territorial limits of Zambia in contravention of the provisions of section *eighteen*; or

(f) that the society has ceased to exist;

the Registrar, may cancel or suspend the registration of the society.

(2) Any cancellation or suspension of registration under this section shall be effected in writing and signed by the Registrar.

(3) Where the registration of a building society is suspended under this section, the period of suspension shall in the first instance be a period not exceeding three months, but may, be extended from time to time by not more than three months at a time.

(4) Before cancelling or suspending the registration of a building society under this section, the Registrar shall give to the society not less than one month's previous notice in writing, specifying briefly the grounds of the proposed cancellation or suspension.

(5) As soon as practicable after the cancellation or suspension of the registration of a building society under this section takes effect, the Registrar shall cause notice thereof to be published in the *Gazette*, and in at least one newspaper circulating in the district in which the registered chief office or place of meeting of the building society is situated.

(6) Where the registration of a building society is cancelled under this section or is suspended under this section for a period exceeding six months, the society may appeal to the High Court and, on any such appeal, the High Court, if it thinks it just to do so, may set aside the cancellation or suspension.

(As amended by Act No. 22 of 2005)

**121.** Without prejudice to section *one hundred and twenty*, the Registrar, if he thinks fit, may cancel the registration of a building society at the society's request, evidenced in such manner as the Registrar may direct.

Cancellation of registration at request of building society

**122.** (1) Where the registration of a building society is cancelled or suspended under section *one hundred and twenty* or *one hundred and twenty-one*, the society from the time of the cancellation or suspension (but in the case of a suspension, only so long as the suspension continues) shall cease to enjoy the privileges of a building society.

Effect of cancellation or suspension of registration

(2) Subsection (1) shall have effect subject to the right of appeal under subsection (6) of section *one hundred and twenty*.

(3) Subsection (1) shall have effect in relation to a building society without prejudice to any liability actually incurred by the society; and any such liability may be enforced against the society as if the cancellation or suspension had not taken place.

**123.** *Obsolete.*

**124.** Repealed by Act No. 22 of 2005

**125.** (1) Any document purporting to have been signed by the Registrar and to be a certificate of registration or other document relating to a

Provisions as to evidence



building society shall be received in evidence and, in the absence of any evidence to the contrary, shall be deemed to have been signed by the Registrar.

(2) Any printed document purporting to be a copy of the rules of a building society, and certified by the secretary or other officer of the society to be a true copy of its rules as registered, shall be received in evidence and, in the absence of any evidence to the contrary, shall be deemed to be a true copy of its rules.

**126.** (1) Any register, record or book of account to be kept by a building society may be kept either by making entries in bound books or by recording the matters in question in any other manner.

Form in which records may be kept

(2) Where any such register, record or book of account is not kept by making entries in a bound book but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery; and where default is made in complying with this subsection, the building society, and every officer of the society who is in default, shall be guilty of an offence and liable on conviction to a fine not exceeding seven thousand five hundred penalty units

*(As amended by Act No. 13 of 1994)*

**127.** The Minister may, on recommendation of the Bank of Zambia, by statutory instrument, make regulations prescribing anything requiring to be prescribed under this Act, other than a matter required or permitted to be prescribed by the Bank of Zambia, and for the better carrying into effect of the provisions of this Act.  
*(As amended by Act No. 22 of 2005)*

Regulations

**128.** Before prescribing the form of any return which building societies are required to make under this Act, the Bank of Zambia shall first circulate to all building societies registered under this Act a draft of the form which the Bank intends to prescribe and shall give due consideration to any representations which may be made to the Bank by individual building societies or by their association within one month of the date of such circulation.  
*(As amended by No. 22 of 2005)*

Registrar to consider representations by building societies

**129.** Rules of court may be made under this Act for regulating proceedings before any court, and applications and appeals thereto, under the provisions of this Act and for the fees to be paid in respect

Rules of court

thereof.

**130.** (1) Subject to the provisions of subsection (2), in this Act, "financial year" means a period of twelve months ending with the 31st March.

Financial year of building societies

(2) A building society whose financial year does not end with the 31st March shall alter its financial year by making up its accounts for one period of more than six months and not more than eighteen months ending with the 31st March, and, in relation to a building society exercising the power conferred by this subsection, references in this Act to a financial year of the society shall include references to that period.

(3) Where a mortgage deed in favour of a building society provides for the calculation of interest annually on the outstanding balance owing to the society at the commencement of each year, the society, notwithstanding anything to the contrary contained in the mortgage deed, may alter the calculation of interest to coincide with the financial year of the society.

*(As amended by Act No. 37 of 1973)*

**131.** No advance made by a building society and no security for an advance made by a building society shall be invalidated by reason only of the fact that the society, or any officer of the society, has, in connection with such advance, contravened or failed to comply with any provision of this Act.

Non-compliance not to invalidate advance

**132.** (1) If any share certificate, deposit book, receipt, or any statement, or other record of payment issued by a building society is lost or destroyed, the society, upon such evidence and subject to such terms and conditions as the directors think fit, may issue a certified copy of such certificate, pass book, receipt, statement or record.

Lost or destroyed share certificate, etc.

(2) Such certified copy shall thereafter for all purposes take the place of the certificate, pass book, receipt, statement or record so lost or destroyed and be the sole evidence thereof.

**133.** On payment of the prescribed fees, any person may inspect at the office of the Registrar the documents relating to any building society

Inspection of documents by public

which are required to be lodged with the Registrar in terms of this Act or may obtain from the Registrar a copy or extract of any such document, or part of any such document.

**134.** If a building society contravenes or fails to comply with the provisions of any section of this Act, it shall be guilty of an offence and, where no specific penalty is provided by the section, the society, and every officer of the society who is in default, shall be liable on conviction to a fine not exceeding seven thousand five hundred penalty units.

General penalty

(As amended by Act No. 13 of 1994)

**134 A.** Notwithstanding subsection (4) of section *three*, section *fifty-one*, subsections (1) and (2) of section *sixty-one*, subsection (1) of section *sixty-two*, section *sixty-four*, section *seventy* and subsection (7) of section *seventy-three* of the Banking and Financial Services Act shall not apply to a building society.

Buildings societies exempt from certain provisions of Banking and Financial Services Act 387

(As amended by Act No. 22 of 2005)

**135.** (1) The following Acts of the Parliament of the United Kingdom shall cease to have effect in the Republic:

Repeals

- (a) The Building Societies Act, 1874;
- (b) The Building Societies Act, 1875;
- (c) The Building Societies Act, 1877;
- (d) The Building Societies Act, 1884;
- (e) The Building Societies Act, 1894.

(2) Paragraph (b) of subsection (1) of section 2 and paragraph (b) of subsection (1) of section 4 of the Friendly Societies Act, 1896, of the Parliament of the United Kingdom shall cease to have effect in the Republic.

(3) The Building Societies (Disengagement Provisions) Act, Chapter 213 of the 1964 Edition of the Laws, and the Building Societies (Special

Provisions) Act, Chapter 215 of the 1962 Edition of the Laws, are repealed.

**136.** (1) All deposits with and loans to an existing society and all advances made or agreed to be made by an existing society prior to the commencement of this Act, provided they are valid under any enactment repealed by this Act, shall not be invalidated because they do not comply with the provisions of this Act, but the society shall use its best endeavours to bring all such transactions within the provisions of this Act in so far as it is practicable to do so at the earliest opportunity.

Transitional provisions

(2) Until the forms which the Registrar is to prescribe have been so prescribed and dates fixed for their being brought into use, a building society may use the forms which are in use immediately prior to the commencement of this Act.

(3) In so far as any order, regulation, rule, application, decision, reference, appeal or payment made, consent, approval or direction given, certificate issued, notice or copy served, register kept, resolution passed, requirement imposed or other thing done under an enactment repealed by this Act could have been made, given, issued, served, kept, passed, imposed or done under a corresponding provision of this Act, it shall not be invalidated by the repeal effected by section *one hundred and thirty-five* but shall have effect as if made, given, issued, served, kept, passed, imposed or done under that corresponding provision.

(4) Any reference in an enactment or document (whether expressed or implied) to an enactment repealed by this Act shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provisions of this Act.

(5) Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when the period began to run.

(6) Without prejudice to subsection (3), any references in this Act (whether expressed or implied) to a thing done, or falling to be done, or omitted to be done, or to an event which has occurred, under or for the purpose of or by reference to, a provision of this Act, shall, except where

the context otherwise requires, be construed as including a reference to the corresponding thing done, or falling to be done, or omitted to be done, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to, the corresponding provision of the enactments repealed by this Act.

(7) Where an offence for the continuance of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

## **FIRST SCHEDULE**

*(Section 65)*

# **PERMITTED CLASSES OF ADDITIONAL SECURITY**

- (1) A charge upon a policy of life assurance.
- (2) A charge upon any stocks, shares or securities for the time being authorised by law in Zambia for the investment of trust moneys.
- (3) A charge upon money deposited with the building society or any bank registered under the Banking Act.
- (4) A guarantee given by the Government or by a public authority, bank or commercial company whose guarantee is acceptable to the board of directors of the society.
- (5) A guarantee accepted by the building society, with the written consent of the borrower, and supported by a charge upon money deposited with the society or upon any such investments as are mentioned in paragraph (2).
- (6) A guarantee given by an insurance company to which the Insurance Act applies.

## SECOND SCHEDULE

(Section 78)

# FORM OF RECEIPT TO BE ENDORSED ON MORTGAGE

.....Building Society hereby acknowledges  
to have received all moneys intended to be secured by the within written deed.

In witness whereof the seal of the Society is hereto affixed this .....  
day of ..... by order of the Board of Directors in the  
presence of:

(Signed) A.B.

(Designation)

SEAL

(Signed) C.D.

(Designation)

## SUBSIDIARY LEGISLATION

### BUILDING SOCIETIES

#### **SECTION 87-THE BUILDING SOCIETIES ACT (DESIGNATION OF TRUSTEE STATUS) ORDER *Order by the Minister***

***Statutory  
Instrument  
149 of  
1969***

1. This Order may be cited as the Building Societies Act (Designation of Trustee Status) Order. Title
2. The registered building societies named in the Schedule have been designated with effect from the dates shown in the Schedule, as building societies with whom a trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in deposits with and loans to a building society designated for that purpose by the Minister. Designation of trustee status

## **SCHEDULE**

*(Paragraph 2)*

### **BUILDING SOCIETIES DESIGNATED WITH TRUSTEE STATUS**

<i>Name of Building Society</i>	<i>Registered Address</i>	<i>Effective date of Designation</i>
First Permanent (1962) Building Society.	Permanent House Cairo Road, P.O. Box 420, Lusaka.	2nd December, 1968.
Security Building Society.	Century House, Edinburgh Square, P.O. Box 147, Lusaka.	2nd December, 1968.
Zambia Mutual Building Society.	Mutual House, St. David's Road, P.O. Box 901, Ndola.	12th December, 1968.



**SECTION 90-THE BUILDING SOCIETIES ACT  
(AUTHORISED BANKS) ORDER**  
*Order by the Minister*

*Statutory  
Instrument  
2 of 1969  
141 of 1971  
122 of 1982  
144 of 1982*

1. This Order may be cited as the Building Societies Act (Authorised Banks) Order. Title

2. The Minister has designated the banks shown in the First and Second Schedules as the banks with which building societies are authorised to keep money. Designation of authorised banks

## **SCHEDULE**

*(Paragraph 2)*

### **REGISTERED ACCEPTING HOUSE**

1. Merchant Bank (Zambia) Limited
2. Barclays Bank of Zambia Limited
3. Standard Chartered Bank Zambia Limited
4. Zambia National Commercial Bank Limited
5. Grindlays Bank International (Zambia) Limited

### **SECTION 89-THE BUILDING SOCIETIES (AUTHORISED INVESTMENTS) ORDER *Order by the Minister***

*Statutory  
Instrument  
33 of 1988*

1. This Order may be cited as the Building Societies (Authorised Investments) Order. Title
2. The Minister has authorised Zambia National Building Society to invest any part of its surplus funds in Zambia Housing Development Fund Limited. Authorised investments

### **SECTION 93-THE BUILDING SOCIETIES (HOLDING OF LIQUID FUNDS) (ASSETS PRESCRIPTION) ORDER *Order by the Governor of the Bank of Zambia***

*Statutory  
Instrument  
211 of  
1973*

1. This Order may be cited as the Building Societies (Holding of Liquid Funds) (Assets Prescription) Order. Title
2. It is hereby prescribed, with the consent of the Minister, that liquid funds may be held by the Zambia National Building Society in the capital stock of the Development Bank of Zambia. Prescription of assets in which liquid funds

may be held

**SECTION 80-THE BUILDING SOCIETIES (LIMIT OF REPAYMENTS TO INVESTORS AND LENDERS) ORDER**  
*Order by the Minister*

***Statutory Instrument 134 of 1972 58 of 1979***

1. This Order may be cited as the Building Societies (Limit of Repayments to Investors and Lenders) Order.

Title

2. The maximum amount which the building society named in the first column of the Schedule hereto with the address specified in the second column thereof may repay to any single investor or lender in any one month of moneys invested with or borrowed by the said society whether such moneys are in the form of shares, deposits or loans (but not bank overdrafts), or in a combination of these, shall not exceed the amount specified in the third column of the said Schedule.

Limit of repayments

## **SCHEDULE**

<i>Name of Building Society</i>	<i>Registered Address</i>	<i>Limit of Repayments</i>
Zambia National Building Society	Permanent House Cairo Road P.O. Box 420 Lusaka	K300,000

*(As amended by Statutory Instrument No. 58 of 1979)*

**SECTION 93-THE BUILDING SOCIETIES (HOLDING OF LIQUID FUNDS) (ASSETS PRESCRIPTION) ORDER**

*Statutory Instrument  
44 of 1974*

*Order by the Governor of the Bank of Zambia.*

1. This Order may be cited as the Building Societies (Holding of Liquid Funds) (Assets Prescription) Order.

Title

2. It is hereby prescribed, with the consent of the Minister, that liquid funds may be held by the Zambia National Building Society in the capital stock or shares of the Development Bank of Zambia.

Prescription of assets in which liquid funds may be held

**SECTION 89-THE BUILDING SOCIETIES (INVESTMENT OF SURPLUS FUNDS) (AUTHORISATION) ORDER**

*Statutory Instrument  
144 of 1974  
60 of 1975  
161 of 1975  
107 of 1979  
167 of 1979*

1. This Order may be cited as the Building Societies (Investment of Surplus Funds) (Authorisation) Order.

Title

2. The Zambia National Building Society is hereby authorised to invest any part of its surplus funds in acquiring the real property specified in the Schedule hereto.

Authorised investments

## SCHEDULE

(Paragraph 2)

1. Plots Nos 3 and 3A, Cairo Road, Lusaka; Plots Nos 20, 21, 22 and R/E of Plot No. 23, Cha Cha Cha Road, Lusaka.

2. Construction of houses in:

Chipata

Kasama

Mansa

Mongu

Solwezi

### **SECTION 127-THE BUILDING SOCIETIES REGULATIONS** *Regulations by the Minister*

*Statutory  
Instrument  
331 of 1969*

1. These Regulations may be cited as the Building Societies Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"directors' expenses", where it occurs in the income and expenditure and appropriation account, includes any sums paid to or for a director in respect of expenses and the amount or estimated money value, as the case may be, of any other benefits received by the director and the contributions paid in respect of him, as a director, under any pension scheme;

"provision" means any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability the amount of which cannot be determined with substantial accuracy;

"reserve" does not include any provision, but includes any amount written off or retained as a provision which, in the opinion of the directors, is in excess of that which is reasonably necessary for the purpose;

"Zambian citizen" means-

- (a) in relation to an individual, an individual who is a citizen of Zambia;
- (b) in relation to an unincorporated association of persons, an association which is composed exclusively of persons who are citizens of Zambia;
- (c) in relation to a body corporate, a body corporate which is incorporated under the laws of Zambia and-
  - (i) is certified under the hand of the Minister to be controlled by the State; or
  - (ii) whose membership is composed exclusively of persons who are citizens of Zambia, and all of whose directors are citizens of Zambia, and which is not controlled, by any means, directly or indirectly, outside Zambia or by persons who are not citizens of Zambia or who are associated in the capital structure thereof with persons who are not citizens of Zambia;

"Zambian controlled", in relation to any association of persons whether or not incorporated, means an association in which Zambian citizens are associated with other persons therein, if the Zambian citizens can override such other persons;

"non-Zambian" means not a Zambian citizen and not Zambian controlled.

**3.** The notice required to be sent by a building society to a mortgagor under subsection (3) of section *seventy-six* of the Act shall set out the following particulars: Notice of sale of mortgaged property

- (a) the date of the mortgage;
- (b) the address or description of the property sold;
- (c) the name and address of the purchaser;
- (d) the sum for which the property was sold;
- (e) whether the sale was by public auction or private treaty;
- (f) the date of completion of the sale.

**4.** Except as provided in these Regulations, every certificate issued under the Act and every application, notice and other document made or sent to the Registrar in pursuance of the Act such as is referred to in the headings of the forms contained in the First Schedule shall contain the particulars set out in, and be in the form of, the appropriate form contained in the said Schedule, which form may be varied as the circumstances require.

Prescribed forms

**5.** In the annual return (Form BS.4), in the annexure to the annual return (Form BS.4/A) and in every statement or report annexed thereto-

Annual return and annexure to annual return

(a) every form, schedule and other statement shall be typewritten or printed on paper of foolscap size (approximately 33 centimetres by 20 centimetres);

(b) where appropriate, the word "Nil" shall be inserted against any heading or against the whole of any section;

(c) the auditors shall not be required to deal with the matters-

(i) on page No. 1 of the annual return;

(ii) on schedules No. 4 (b) to 7 inclusive of the annual return.

**6.** (1) For the purposes of subsection (2) of section *thirty-four* of the Act, the income and expenditure and appropriation account and balance sheet of a building society shall contain the particulars and be in the form set out in the Second Schedule, except that any heading contained therein may be omitted if the entries in respect of such heading would be "Nil" and provided that the said account and balance sheet may contain such other particulars as the building society thinks fit.

Annual accounts

(2) There shall be included against every heading-

(a) in the income and expenditure and appropriation account, the corresponding amount for the immediately preceding financial year;

(b) in the balance sheet, the corresponding amount at the end of the immediately preceding financial year.



**7.** (1) There shall, if not otherwise shown, be stated by way of notes to the income and expenditure and appropriation account, both in the annual accounts and in the annual return, every material respect in which any items shown therein are affected- Notes to annual accounts and return

(a) by transactions of an exceptional or non-recurrent nature; or

(b) by any change in the basis of accounting.

(2) There shall, if not otherwise shown, be stated by way of notes to the balance sheet, both in the annual accounts and in the annual return, details-

(a) of the market value of each class of investment;

(b) of any charges on the building society's assets and of any moneys owing by the society in respect of deposits, loans and overdrafts which are wholly or partially secured;

(c) of any contingent liability not provided for, if material;

(d) of any contracts for capital expenditure not provided for, if material;

(e) of any increases or decreases in the reserves or provisions, giving the sources from which the increases have been derived and how the amounts of any decreases have been applied;

(f) of commitments for advances not yet made.

**8.** The fees set out in the Third Schedule shall be payable in advance to the Registrar. Prescribed fees

**9.** The Registrar may dispense with the fee for inspection and copies of documents in cases where he may consider it in the public interest so to do and may, if he thinks fit, reduce or dispense with the fee for an award in a dispute. Power to dispense with certain fees

**10.** The Registrar may, on the application of any building society, grant to the society an extension of time for compliance by it with these Regulations or with any specified provisions thereof, if he is satisfied that it would be a hardship to the society to comply therewith. Extension of time for compliance

# FIRST SCHEDULE

(Regulation 4)

## PRESCRIBED FORMS

<i>Form Section</i>		<i>Building Societies Act Title</i>
BS.1	Application for a certificate of registration on the establishment of a building society .....	3
BS.2	Certificate of registration of a building society .....	3 and 6
BS.3	Notice of change of directors, manager or secretary .....	28
BS.4	Annual return .....	51
BS.4/A 52	Annexure to annual return (properties sold, mortgages transferred)	
BS.5	Submission of a dispute .....	56
BS.6	Application for approval of a special advance .....	62
BS.7	Certificate of valuation .....	71
BS.8	Notice to prospective borrower where security is to be taken from third party .....	73
BS.9	Monthly return to Bank of Zambia .....	93
BS.10	Notice of change of name .....	95
BS.11	Certificate of registration of change of name .....	95
BS.12	Notice of change of address.....	96
BS.13	Certificate of registration of change of address.....	96
BS.14	Application to register an alteration of rules (being a substitution of an entire set of rules).....	97
BS.14/A	Application to register an alteration of rules (not being a substitution of an entire set of rules).....	97
BS.14/B	Statutory declaration to accompany application to register an alteration of rules.....	97
BS.15	Certificate of registration of alteration of rules .....	97
BS.16	Notice of union of societies .....	98

BS.17	Notice of transfer of engagements.....	99
BS.18	Application for confirmation of union or transfer of engagements 100	
BS.19	Notice of application for confirmation of union or transfer of engagements 100	
BS.20	Instrument of dissolution.....	111
BS.21	Certificate of registration of instrument of dissolution.....	111
BS.22	Application for approval to incur expenditure on real assets exceeding K100,000 in respect of any single transaction .....	117
BS.23	Application for inspection of a building society's documents .....	133

**FORM BS.1**  
**THE BUILDING SOCIETIES ACT**

(Section 3)

APPLICATION FOR A CERTIFICATE OF REGISTRATION ON THE  
 ESTABLISHMENT OF A BUILDING SOCIETY

To: THE REGISTRAR OF BUILDING SOCIETIES

1. We, the undersigned, whose names, addresses and subscription shares are:

<i>Name</i>	<i>Address</i>	<i>Subscription Shares</i>
		K
1.		
2.		
3.		
4.		
5.		

Intended  
 Secretary

hereby apply for a Certificate of Registration to be granted in respect of a society intended to be established under the Building Societies Act to be called. ....

Building Society.

2. Pursuant to sections 3 (1) (a) and 3 (1) (b) of the said Act, we herewith transmit two printed copies of the rules agreed upon by us for the government of the society, each copy of which is signed by us and by the intended secretary.

The matters required to be provided for in the rules of a building society by section 11 of the said Act are provided for in the rules transmitted herewith as follows:

Matters required to be provided for <i>in the Rules</i>	<i>Number of Rule</i>
(a) the name of the society and the address of its chief office or place of meeting;	
(b) the manner in which the stock or funds of the society is or are to be raised;	

- |  |  |
|--|--|
| <p>(c) the manner in which a person may become a member of the society and the manner in which he may cease to be a member;</p> <p>(d) the purposes to which the funds of the society are to be applied;</p> <p>(e) provision that the society shall not, except with the approval of the Minister, make advances on the security of freehold or leasehold estate or in respect of any development, lands or buildings, situated outside the territorial limits of Zambia;</p> <p>(f) the classes of shares to be issued and the preferential and other rights and conditions attached to each class of shares;</p> <p>(g) the terms and conditions on which deposits are to be accepted and repaid;</p> <p>(h) provision that the society reserves the right to make all repayments, whether of shares, deposits, loans or otherwise, in Zambian currency;</p> <p>(i) the manner in which advances are to be made and repaid and the conditions on which a borrower can redeem the amount due from him before the end of the period for which the advance was made;</p> <p>(j) the manner in which losses are to be ascertained and provided for;</p> <p>(k) whether the society intends to borrow money and if so, within what limits, not exceeding those prescribed by the Building Societies Act;</p> <p>(l) the manner of appointing, remunerating and removing the board of directors and other officers, their powers and duties, and the manner of remunerating auditors;</p> <p>(m) the manner of calling and holding meetings, the giving of notice thereof, form of notice, quorum, voting rights, right to requisition meetings, procedure to be observed at meetings, the right to demand a poll, and the manner in which a poll is to be taken;</p> <p>(n) the manner of settling disputes, subject to the provisions of the Building Societies Act;</p> <p>(o) provision for an annual or more frequent audit and the inspection by the auditors of the titles, mortgage deeds and other securities held by the society;</p> <p>(p) provision for the custody of the titles, mortgage deeds and other securities belonging to or held by the society;</p> <p>(q) provision for the device, custody and use of the society's common seal;</p> <p>(r) the fines and forfeitures, if any, to be imposed on members of the society;</p> <p>(s) the manner in which the society may be dissolved.</p> |  |
|--|--|

3. Pursuant to section 3 (1) (c) of the said Act, we hereby declare that we have subscribed for the shares enumerated in paragraph 1 above in the amounts severally shown, and that we have paid fully in cash the said sums into an account in the name of.....

Building Society

(in formation) with the .....Bank. On receipt of the Certificate of Registration, the said shares will be allotted to us and the conditions, as stated in section 19 (1) of the said Act, shall attach to the issue of those shares.

4. Pursuant to section 3 (1) (d) of the said Act, we hereby declare that the total sum subscribed as fixed-term investments with the Society for a period of not less than five years by way of

(a) Shares (including the amounts shown in paragraph 1) (K )

(b) Deposits (K )

(c) Negotiated loans (K )

amounts to K..... ( kwacha),

and that these amounts, which are in addition to the deposit required to be made to the Bank of Zambia, have been paid fully in cash into an account in the name of

.....Building Society

(in formation) with the .....Bank.

On receipt of the Certificate of Registration, the said shares, deposits and negotiated loans will be allotted in full. In support we enclose a certificate from the

.....Bank

for the amount standing to the credit of .....

Building Society (in formation) as well as other documentary evidence justifying the difference.

5. Pursuant to section 3 (1) (e) of the said Act, we enclose a certificate from the Governor of the Bank of Zambia stating that we have deposited with the Bank of Zambia cash and securities acceptable to him to a total value of K100,000 and that such deposit shall on registration of the Society be subject to the conditions set out in section 5 of the said Act.

6. Pursuant to section 3 (2) of the said Act, we enclose cash/cheque amounting to K.....in respect of the prescribed fee.

Signatures:

- 1.
- 2.
- 3.
- 4.
- 5.

Intended  
Secretary

Address for reply .....

Date



**FORM BS.2**  
**THE BUILDING SOCIETIES ACT**

*(Sections 3 and 6)*

CERTIFICATE OF REGISTRATION OF A BUILDING SOCIETY

Registration No.:.....

This is to certify that .....

Building Society, whose Chief Office is situated at .....

.....

has this .....day of.....,19..... been  
registered under the Building Societies Act.

.....

*Registrar of Building Societies*

**FORM BS.3**  
**THE BUILDING SOCIETIES ACT**

(Section 28)

NOTICE OF CHANGE OF DIRECTORS, MANAGER OR SECRETARY

.....Building Society

Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

Notice is hereby given of:

(a) the appointment to office of the undermentioned persons:

<i>Name</i> <i>(in full)</i>	<i>Address</i>	<i>Office to</i> <i>which appointed</i>	<i>Date of</i> <i>appointment</i>
---------------------------------	----------------	--	--------------------------------------

(b) the relinquishment of office of the undermentioned persons:

<i>Name</i> <i>(in full)</i>	<i>Address</i>	<i>Office</i> <i>relinquished</i>	<i>Date of</i> <i>relinquishment</i>
---------------------------------	----------------	--------------------------------------	---

.....  
Date.....

*Secretary*

**FORM BS.4  
THE BUILDING SOCIETIES ACT**

(Section 51)

ANNUAL RETURN FOR THE YEAR ENDED.....

(To be submitted to the Registrar in duplicate within 28 days of the Annual General Meeting)

Name of Society: .....

Registered Office: .....

Date of Incorporation:.....

Date on which the Annual General Meeting was held: .....

Number of branch offices staffed by employees of the Society: .....

**DIRECTORS, MANAGER AND SECRETARY**

		Name	Address	Nationality
Directors	}			
Manager				
Secretary				

SHARES ACCOUNT No. 1

	K	K
Due to shareholders at beginning of year		
<i>Add :</i>		
Subscriptions		
Interest, dividend and bonus		
Other credits -		
-		
-		
<i>Deduct:.</i>		
Withdrawals (including interest, dividend and bonus paid out)		
Other debits -		
-		
-		

Due to shareholders at end of year (*Schedule 1*)

--

BS.4 (*continued*)

DEPOSITS AND LOANS ACCOUNT No. 2

(a) OTHER THAN BANKS

Due to creditors for deposits and loans at beginning of year

*Add :*

- Receipts from depositors
- Interest to depositors
- Other credits -
- 
- 

*Deduct:*

- Withdrawals (including interest paid out)
- Other debits -
- 
- 

	K	K

Due to creditors for deposits and loans at end of year (*Schedule 2*)

(b) BANKS

Due to Banks on loans and overdrafts at beginning of year

*Add :*

- Additions during the year
- Interest
- Other credits -
- 
- 

*Deduct:*

- Repayments (including interest paid out)
- Other debits -
- 
- 

	K	K

Due to Banks on loans and overdrafts at end of year

BS.4 (*continued*)

INVESTMENTS ACCOUNT No.3

Book value and accrued interest at beginning of year

*Add :*

- Cost of investment made:
- Government securities
- Local Authority securities
- Other quoted securities
- Short-term money market deposits
- Bank deposits or loans deposits
- Other investments

Sub-Total

	K	K

Surplus on realisation of investments		
Interest and dividends receivable		
Other debits -		
-		
-		
<i>Deduct:</i>		
Proceeds from investments realised:		
Government securities		
Local Authority securities		
Other quoted securities		
Short-term money market deposits		
Bank deposits or loans		
Other investments		
	Sub-Total	
Loss on realisation of investments		
Interest and dividends received		
Other credits -		
-		
-		
Book value and accrued interest at end of year		
Less: Provision for loss on realisation		
Net value of investments ( <i>Schedule 3</i> )		

BS.4 (*continued*)

ADVANCES ACCOUNT No. 4

	K	K
Due on advances at beginning of year		
<i>Add:</i>		
Advances made on mortgages ( <i>Schedule 5</i> )		
Collective advances made		
Interest charged		
Insurance premiums charged		
Other debits -		
-		
-		
-		
-		
<i>Deduct:</i>		
Repayments of advances and interest received		
Insurance premiums received		
Loss on realisation of mortgages		
Other credits -		
-		
-		
-		
-		
Due on advances at end of year		
Less: Provision for anticipated loss		
Net value of advances ( <i>Schedule 4</i> )		

BS.4 (*continued*)

INCOME AND EXPENDITURE AND APPROPRIATION ACCOUNT No. 5

Last Year K	<i>INCOME</i>	K
	Interest/Dividends	
	on advances on mortgages	
	on collective advances	
	on Government securities	
	on other quoted securities	
	on short-term money market deposits	
	on bank deposits or loans	
	on other investments	
	Valuation fees and expenses	
	Other fees, commissions and fines	
	Rents and other income from letting property owned by the Society	
	Surplus on realisation of mortgages	
	Surplus on realisation of investments	
	Surplus on realisation of assets	
	Other income -	
	-	
	-	
	TOTAL INCOME	

Last Year K	<i>EXPENDITURE</i>	K
	Management expenses-	
	Directors' fees	
	Directors' expenses	
	Staff costs and expenses	
	Auditors' fees and expenses	
	Office accommodation and expenses	
	Advertising	
	Commission and agency fees	
	Other management expenses-	
	-	
	-	
	SUB-TOTAL <i>carried forward</i>	

BS.4 (continued)

INCOME AND EXPENDITURE AND APPROPRIATION ACCOUNT No. 5  
(continued)

Last Year K	SUB-TOTAL <i>brought forward</i>	K
	Valuation fees and expenses	
	Interest--	
	on deposits and loans other than Banks	
	on loans or overdrafts from Banks	
	Depreciation on land and buildings owned by the Society	
	Depreciation on other fixed assets	
	Loss on realisation of mortgages	
	Loss on realisation of investments	
	Loss on realisation of assets	
	Other expenditure -	
	-	
	-	
	TOTAL EXPENDITURE	

Last Year	K
-----------	---

<i>APPROPRIATION</i>		
	Surplus for the year-excess of income over expenditure	
	<i>Add:</i>	
	Unappropriated revenue brought forward	
	Transfers from Reserves -	
	<i>Deduct:</i>	
	Transfers to Reserves -	
	<i>Deduct:</i>	
	Interest, dividends and bonuses to shareholders for the period ended	
	UNAPPROPRIATED REVENUE CARRIED FORWARD	

BS.4 (continued)

BALANCE SHEET		K	K
Last Year K	<i>ASSETS</i>		
	Advances outstanding:		
	Ordinary (up to K50,000)		
	Special (over K50,000)		
	Collective		
(     )	Less provision for anticipated losses		
	Investments at cost:		
	Zambia Government securities		
	Local Authority securities		
	Short-term money market deposits		
	Other investments		
(     )	Add interest accrued		
	Less provision for anticipated losses		
	Cash at Bank and in hand		
	Sundry Debtors and payments in advance		
	Land and Buildings:		
	Balance as at .....		
	Additions		
(     )	Disposals		
(     )	Depreciation		
	Other fixed assets:		
	Balance as at .....		
	Additions		
(     )	Disposals		
(     )	Depreciation		
	Other assets		
	TOTAL ASSETS		

BS.4 (continued)

Last Year K	BALANCE SHEET (continued)	K	K

<i>LIABILITIES</i>	
	(a) Shareholders' Funds
	Shares (by classification)
	Interest, dividends and bonuses accrued
	General Reserve
	Other Reserves
	Unappropriated revenue
	TOTAL SHAREHOLDER'S FUNDS
	(b) Other Credit Balances
	Deposits and Loans (including interest accrued)-
	Other than Banks
	Banks
	Sundry Creditors and accrued expenses
	Other provisions
	TOTAL LIABILITIES

BS.4 (continued)

SCHEDULE No. 1: SHARES ON ISSUE AT END OF YEAR

Classes of Shares	Shares on Issue K	No. of members holding such shares	Normal rates of Interest/Dividend	
			At end of year	Changes during year
<i>Add:</i> Interest, dividends and bonuses accrued		-	-	-
TOTAL ACCOUNT No. 1				

Total number of members:

Number of shareholding members:

Number of borrowing members:

BS.4 (continued)



**SCHEDULE No. 2: DEPOSITS AND LOANS HELD AT END OF YEAR  
(OTHER THAN BANKS)**

Interest Rate	Initial Terms or Periods of Notice						Total Amount Owing
	Under 3 months	3 months up to 6 months	6 months up to 1 year	1 year up to 2 years	2 years up to 3 years	3 years and over	
%	K	K	K	K	K	K	K
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
%							
<b>TOTALS</b>							
	Interest accrued at end of year						
	<b>TOTAL ACCOUNT NO. 2 (a)</b>						

Number of creditors for deposits and loans, other than Banks .....

Details of changes in interest rates made during year:

<i>Terms</i>	From %	To %	Operative Date
.....			.....
.....			.....

BS.4 (continued)

**SCHEDULE No. 3: INVESTMENTS HELD AT END OF YEAR**

	Nominal Value	Market Value	Book Value	
			This year	Last year
	K	K	K	K
(a) Government Securities- From end of year to final maturity: Up to 6 years Over 6 to 15 years Over 15 years				
TOTAL (a)				
(b) Local Authority Securities- From end of year to final maturity: Up to 6 years Over 6 to 15 years Over 15 years				
TOTAL (b)				
(c) Other quoted securities-				
TOTAL (c)				
(d) Short-term money market deposits-				

Treasury Bills (G.R.Z.)		
Others		
TOTAL (d)		
(e) Bank deposits and loans-		
At call		
Others		
TOTAL (e)		
(f) Other investments-		
TOTAL (f)		
Total investments (a) to (f)		
Add total Interest accrued		
Deduct Provision for deficit on realisation		
TOTAL ACCOUNT NO. 3		

BS.4 (continued)

SCHEDULE No. 4: BALANCES OUTSTANDING ON ADVANCES  
AT END OF YEAR

(a) Classification by amounts outstanding:

	Number of		Outstanding per Balance Sheet	
	Advances	Borrowers	Total	Originally covered by a Government Guarantee
			K	K
Ordinary advances-				
Up to K5,000				
K5,001 to K10,000				
K10,001 to K15,000				
K15,001 to K25,000				
K25,001 to K50,000				
Special advances-over K50,000				
Collective advances				
SUB-TOTAL				
<i>Deduct:</i> Double countings	-		-	-
<i>Deduct:</i> Provision for anticipated losses				
TOTAL ACCOUNT NO. 4				

(b) Classification by initial terms:

	This Year K	Last Year K
Advances with initial terms of:		
Up to 6 years		
Over 6 to 15 years		
Over 15 to 20 years		
Over 20 years		

(c) The balance at end of year includes mortgages on property:

	Number	K
(i) of which the Society has been 12 months or more in possession		
(ii) of which the Society has not been 12 months in possession, where the payments are 12 months or more in arrear		
(iii) for which Receivers or Managers have acted for 12 months or more		

(iv) situated outside the territorial limits of Zambia (give details)

---





## SCHEDULE No. 6: RATES OF INTEREST ON ADVANCES

Type of Security	Normal Rates at end of year	Particulars of Changes	Rates during year	
			Highest	Lowest
Owner-occupied houses				
Staff housing				
Speculative housing				
Flats				
Commercial buildings				
Industrial buildings				
Collective Advances				

SCHEDULE No. 7: COLLECTIVE ADVANCES MADE DURING YEAR

	Number	K
Government of Zambia		
Quasi-governmental bodies		
Local Authorities		
Statutory Boards		
Statutory Corporations		
Corporate bodies		
TOTAL		

SCHEDULE No. 8: SPECIAL ADVANCES

Roll No. 1	Type of Properties 2	Total No. of Properties 3	Original Valuation of Properties 4	Total Amount Advanced 5	Present Debt 6	Advanced during year (included in 5) 7	Notes 8
TOTALS							



Amount outstanding on Special Advances (Column 6) as a percentage of amount outstanding on all Advances (Account No. 4) = %.

BS.4 (*continued*)

SIGNATURE OF ANNUAL EVENTS

Signature:

Date:

Director

Director

Manager or Secretary

---

AUDITORS REPORT

In accordance with section 53 of the Building Societies Act, the Auditor's Report may be annexed here.



**FORM BS.5**  
**THE BUILDING SOCIETIES ACT**

(Section 56)

SUBMISSION OF A DISPUTE

Dispute between ..... and

the ..... Building Society.

Registration No. ....

[The above-named parties agree to submit the dispute between them to the Registrar of Building Societies.

Signature of Claimant.....

(Seal of the Society)]\*

The said ..... submits as follows:

(1) That he is a member of the said society (or claims by or through a member or under the rules, as the case may be).

(2) That (give particulars of the claim or contention in this paragraph)

.....

.....

.....

(3) That his case is proposed to be supported by the evidence of the following witnesses and by the production of the following documents:

(give list of witnesses and documents) .....

.....

.....

.....

Signature .....

Address .....

.....

Date .....

The said society submit as follows:

(1) That they dispute the claim (or contention) of the said .....

.....on the following grounds: (state grounds of dispute)

.....

.....

.....

(2) That their case is proposed to be supported by the evidence of the following witnesses and the production of the following documents:

(give list of witnesses and documents) .....

.....

.....

Date.....

(Seal of the Society)

\* The part within brackets is not necessary where the rules direct disputes to be referred to the Registrar.

**FORM BS.6**  
**THE BUILDING SOCIETIES ACT**

(Section 62)

APPLICATION FOR APPROVAL OF A SPECIAL ADVANCE

..... Building Society

Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

The Society proposes to make a special advance of K .....

to .....

of .....

(being an advance additional to the balance of K .....of previous advances owing to the Society).\* Such advance is desired for the purchase of the property situated at .....

costing K ..... and valued at K.....

The property will be used for the following purposes (give full details):

The proposed mortgage term is ..... years and the repayments will be K ..... per month including interest at .....%.

The following are the details required by you under the Act:

K

(a) Advances made during year to date:

Ordinary advances

Special advances

Collective advances

TOTAL

(b) Total balance of special advances outstanding as  
at..... K

(c) Total "mortgage assets" as at ..... K

(d) Percentage of (b) to (c) %

Date..... ..

*Director/Secretary*

\* Delete if inapplicable.

**FORM BS.7**  
**THE BUILDING SOCIETIES ACT**

(Section 71)

CERTIFICATE OF VALUATION

I, .....  
of .....  
.....

hereby certify that on the .....day of....., 19.....,  
inspected the property known as .....

.....  
.....  
.....

My valuation of the said property as at the said date is K .....  
( .....kwacha).

Dated at .....this.....day of....., 19.....  
.....

*Valuer*

**FORM BS.8**  
**THE BUILDING SOCIETIES ACT**

(Section 73)

NOTICE TO PROSPECTIVE BORROWER WHERE SECURITY IS TO BE  
TAKEN FROM THIRD PARTY

To: .....

Address .....

.....

.....

WHEREAS the .....Building Society  
is prepared to consider making an advance to you of K .....  
to assist you in defraying the purchase price of .....

.....

.....

AND WHEREAS the Society proposes to take a mortgage on the said land as security for  
the advance:

NOTICE is hereby given that-

- (1) The maximum amount that the Society would consider proper to advance on the  
security of the land if no other security were taken by the Society is K .....
- (2) The amount by which the advance exceeds the said amount is K ....
- (3) The Society proposes to take security for the advance from a third party, particulars of  
which are-
  - (a) [description of the security]

(b) [name and address of the party giving the security]

Date.....

*Manager/Secretary*



# FORM BS.9 THE BUILDING SOCIETIES ACT

(Section 93)

MONTHLY RETURN TO THE BANK OF ZAMBIA AS AT .....

Name of the Society .....

I. Assets	
(i) Total Assets	
(ii) <i>Deduct:</i> Exces of total book vlaue of investments over total market value	
(iii) Net Assets	
II. Liquid Funds	
(i) Notes and coin (legal tender of Zambia)	
(ii) Balances and money at call with:	
(a) Registered discount houses	
(b) Registered acceptance houses	
(c) Registered commercial banks	
(iii) Treasury Bills issued by the Government of Zambia	
(iv) Local registered securities issued or guaranteed by the Government, of final maturity date:	
(a) Six years or less	
(b) More than six years (not to exceed the figure (a) above)	
(v) Other prescribed assets	
(vi) Interest accrued on investments	
<b>SUB-TOTAL</b>	
(vii) <i>Deduct (a)</i> Excess of total book value over total market value of the assets under (iii), (iv) and (v) above	
(b) Bank loans or overdrafts	
(c) Other liabilities	
(viii) Net Liquid Funds	
III. Net Liquid Funds (II, viii) as a percentage of Net Assets (I, iii)	%

Date.....

.....

*Manager or Secretary*

Note.-A copy of this return must be sent also to the Registrar of Building Societies.

**FORM BS.10**  
**THE BUILDING SOCIETIES ACT**

(Section 95)

NOTICE OF CHANGE OF NAME

..... Building Society

*(name already registered)*

Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

Notice is hereby given that by a special resolution, as defined in section 49 of the Building Societies Act, passed at a meeting of the Society held on the .....

day of ....., 19....., it was resolved that the

name of the Society be changed to .....

.....Building Society.

Date.....

.....

*Secretary*

**FORM BS.11**  
**THE BUILDING SOCIETIES ACT**

*(Section 95)*

CERTIFICATE OF REGISTRATION OF CHANGE OF NAME

The Registrar of Building Societies hereby certifies that the former .....

..... Building Society,

Registration No ..... , is from the date hereof registered

in the name following:

.....Buidling Society.

Dated the. .... day of....., 19.....

*Registrar of Building Societies*

**FORM BS.12**  
**THE BUILDING SOCIETIES ACT**

(Section 96)

NOTICE OF CHANGE OF ADDRESS

.....Building Society

Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

Notice is hereby given that the above-named Society on the .....

day of ....., 19.....changed its registered office/postal address\*

from .....

.....

.....

to .....

.....

.....

.....

Date .....

.....

*Secretary*

\* Delete as applicable.

**FORM BS.13**  
**THE BUILDING SOCIETIES ACT**

*(Section 96)*

CERTIFICATE OF REGISTRATION OF CHANGE OF ADDRESS

The Registrar of Building Societies certifies that the registered office/postal address\* of the .....  
Building Society is from the date hereof the following: .....

Date Stamp

*Registrar of Building Societies*

\* Delete as applicable.

**FORM BS.14**  
**THE BUILDING SOCIETIES ACT**

(Section 97)

APPLICATION TO REGISTER AN ALTERATION OF RULES  
 (being a substitution of an entire set of rules)

..... Building Society

Registration No. ....

Registered Office .....

To: The Registrar of Building Societies

1. Application is hereby made for the registration of an alteration of rules
2. The matters required to be provided for in the rules of a building society by section 11 of the Building Societies Act are provided for in the rules, application for which is hereby made, as follows:

<i>Matters required to be provided for in the Rules</i>	<i>Number of Rule</i>
(a) the name of the society and the address of its chief office or place of meeting;	
(b) the manner in which the stock or funds of the society is or are to be raised;	
(c) the manner in which a person may become a member of the society and the manner in which he may cease to be a member;	
(d) the purposes to which the funds of the society are to be applied;	
(e) provision that the society shall not, except with the approval of the Minister, make advances on the security of freehold or leasehold estate or in respect of any development, lands or buildings, situated outside the territorial limits of Zambia;	
(f) the classes of shares to be issued and the preferential and other rights and conditions attached to each class of shares;	
(g) the terms and conditions on which deposits are to be accepted and repaid;	
(h) provision that the society reserves the right to make all repayments, whether of shares, deposits, loans or otherwise, in Zambian currency;	
(i) the manner in which advances are to be made and repaid and the conditions on which a borrower can redeem the amount due from him before the end of the period for which the advance was made;	
(j) the manner in which losses are to be ascertained and provided for;	
(k) whether the society intends to borrow money and if so, within what limits, not exceeding those prescribed by the Building Societies Act;	
(l) the manner of appointing, remunerating and removing the board of directors and other officers, their powers and duties, and the manner of remunerating auditors;	
(m) the manner of calling and holding meetings, the giving of notice thereof, form of notice, quorum, voting rights, right to requisition meetings, procedure to be observed at meetings, the right to demand a poll, and the manner in which a poll is to be taken;	
(n) the manner of settling disputes, subject to the provisions of the Building Societies Act;	
(o) provision for an annual or more frequent audit and the inspection by the auditors of the titles, mortgage deeds and other securities held by the society;	
(p) provision for the custody of the titles, mortgage deeds and other securities belonging to or held by the society;	
(q) provision for the device, custody and use of the society's common seal;	
(r) the fines and forfeitures, if any, to be imposed on members of the society;	
(s) the manner in which the society may be dissolved.	

3. There accompany this application:

- (a) two printed copies of the alteration of rules signed by three members and the secretary, marked "All previous rules rescinded" and marked to show the date of the passing of the special resolution by which the alteration was made;
- (b) a printed copy of the existing set of rules;
- (c) a statutory declaration of an officer of the society in Form BS.14/B stating that the alteration of rules now submitted for registration was made on the ..... day of ....., 19....., by a special resolution as defined in section 49 of the Building Societies Act.

Date..... (Seal of the Society)

**FORM BS.14/A**

**THE BUILDING SOCIETIES ACT**

*(Section 97)*

APPLICATION TO REGISTER AN ALTERATION OF RULES  
(not being a substitution of an entire set of rules)

..... Building Society

Registration No. ....

Registered Office .....

.....

To: THE REGISTRAR OF BUILDING SOCIETIES

Application is hereby made for the registration of an alteration of rules.

There accompany this application:

- (a) two printed copies of the alteration of rules (or, in the case of the rescission of a rule, two copies of the resolution) signed by three members and the secretary, and stating the date of the passing of the special resolution by which the alteration was made;
- (b) a printed copy of the existing set of rules, marked to show where and in what manner they have been altered;
- (c) a statutory declaration by an officer of the society stating that the alteration of rules now submitted for registration was made on the .....day of....., 19..... by a special resolution as defined in section 49 of the Building Societies Act.

Date.....

(Seal of the Society)



**FORM BS.14/B**  
**THE BUILDING SOCIETIES ACT**

(Section 97)

STATUTORY DECLARATION TO ACCOMPANY APPLICATION TO  
REGISTER AN ALTERATION OF RULES

..... Building Society

Registration No. ....

Registered Office .....

.....

I,  
of

an officer of the above-named society, do solemnly and sincerely declare that the alteration of the rules of the said society, the application for the registration of which this declaration accompanies, was made by a special resolution, as defined in section 49 of the Building Societies Act, passed on the .....day of....., 19.....;

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835, of the United Kingdom.

Signature of Declarant. ....

Declared at .....

..... the ..... day of .....

19..... before me,

.....

*Commissioner for Oaths*

**FORM BS.15**  
**THE BUILDING SOCIETIES ACT**

*(Section 97)*

CERTIFICATE OF REGISTRATION OF ALTERATION OF RULES

The Registrar of Building Societies hereby certifies that the alteration of the rules of  
the ..... Building Society,  
Registration No .....to which this certificate is attached,  
is registered under the Building Societies Act, this .....day  
of....., 19.....

.....

*Building Societies*

*Registrar of*

**FORM BS.16**  
**THE BUILDING SOCIETIES ACT**

(Section 98)

NOTICE OF UNION OF SOCIETIES

(A) ..... Building Society  
Registration No. ....

(B) ..... Building Society  
Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

Notice is hereby given that at a meeting of the (A) .....  
.....Building Society held on the.....  
day of ....., 19....., a special resolution, as defined in  
section 49 of the Building Societies Act, was passed which approved the union of the said  
(A) .....Building Society with the said  
(B) .....Building Society in accordance with  
the terms of the instrument of union, a copy of which signed by the Secretary of each  
Society is annexed to this notice.

And that at a meeting of the said (B) .....  
Building Society held on the ..... day of ....., 19....., a special  
resolution, as defined in section 49 of the Building Societies Act, was passed which  
approved the union of the said (B) .....  
Building Society with the said (A) .....  
Building Society in accordance with the terms of the said instrument of union.

The whole number of shares of the (A) .....  
Building Society is ..... and the concurrence in writing of the holders of  
not less than two-thirds of such shares is submitted with this notice.\*

The whole number of shares of the (B) .....  
Building Society is .....and the concurrence in writing of the holders of  
not less than two-thirds of such shares is submitted with this notice.\*

Seal of the (A) ..... Building Society.

Seal of the (B) ..... Building Society.

Name and address to which registered copy is to be sent:

.....

.....

.....

Date .....

\* Omit where confirmation of union is sought without such concurrence pursuant to section 100 of the Building Societies Act.

**FORM BS.17**  
**THE BUILDING SOCIETIES ACT**

(Section 99)

NOTICE OF TRANSFER OF ENGAGEMENTS

(A) ..... Building Society  
Registration No. ....

(B) ..... Building Society  
Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

Notice is hereby given that at a meeting of the (A) .....  
.....Building Society, held on the ..... day of  
....., 19....., a special resolution, as defined in section 49 of the  
Building Societies Act, was passed that the said Society do transfer its engagements  
to the (B) .....

Building Society, in accordance with the terms of the instrument of transfer, a copy of  
which signed by the Secretary of each Society is annexed to this notice.

The whole number of shares of the (A) .....  
..... Building Society is ..... and the concurrence  
in writing of the holders of not less than two-thirds of such shares is submitted with this  
notice.\*

The (B) ..... Building Society-  
† by special resolution as defined in section 49 of the Building Societies Act;  
† with the consent of the Registrar of Building Societies by a resolution in a general  
meeting;  
† with the consent of the Registrar of Building Societies by a resolution of its Board  
of Directors or Committee of Management;

has undertaken to fulfil the engagement of the (A) .....  
..... Building Society in accordance with the terms of the  
said instrument of transfer.

The whole number of shares of the (B). .....  
.....Building Society is ..... and the  
concurrence in writing of the holders of not less than two-thirds of such shares is submitted  
with this notice.\*

Seal of the (A) ..... Building Society.

Seal of the (B) ..... Building Society.

Name and address to which registered copy is to be sent:

.....

.....

Date .....

\* Omit where confirmation of transfer is sought without such concurrence pursuant to section 100 of the Building Societies Act.

† Delete as applicable.

**FORM BS.18**  
**THE BUILDING SOCIETIES ACT**

(Section 100)

APPLICATION FOR CONFIRMATION OF UNION OR TRANSFER OF  
ENGAGEMENTS

..... Building Society

Registration No. ....

To: THE REGISTRAR OF BUILDING SOCIETIES

The above-named society desires to unite with/transfer its engagements to/accept a transfer of the engagements of\* the .....

.....Building Society, Registration No. ....

and hereby applies to the Registrar of Building Societies to confirm the union/transfer\* notwithstanding that the written concurrence of the holders of two-thirds of the whole number of its shares has not been obtained in the manner required by the Building Societies Act.

Date .....

(Seal of the Society making the application)

NOTE.-Notice of this application as per Form BS.19 must be advertised in the Government Gazette, and in one or more newspapers in the country, at least one calendar month before this application can be heard.

\* Delete as applicable.

**FORM BS.19**  
**THE BUILDING SOCIETIES ACT**

(Section 100)

**NOTICE OF APPLICATION FOR CONFIRMATION OF UNION OR  
TRANSFER OF ENGAGEMENTS**

Notice is hereby given that the .....  
Building Society, Registration No ....., whose registered  
office is at .....

.....

.....

desires to unite with/transfer its engagements to/accept a transfer of the engagements  
of\* the .....Building Society,

Registration No .....and that the first-named society has  
applied to the Registrar of Building Societies to confirm the union/transfer\*  
notwithstanding that the written concurrence of the holders of two-thirds of the whole  
number of shares of the said society has not been obtained in the manner required by the  
Building Societies Act.

The application will be heard on the .....day of....., 19.....

Any person wishing to be heard on such application should apply by letter to the  
Registrar of Building Societies, P.O. Box RW.62, Lusaka, at least seven days before the  
date of the hearing.

Date Stamp .....Building Society  
*Secretary/Manager*

\* Delete as applicable.



# FORM BS.20 THE BUILDING SOCIETIES ACT

(Section 111)

## INSTRUMENT OF DISSOLUTION

..... Building Society

Registration No .....

Instrument of dissolution of the .....

..... Building Society, made the .....

day of ....., 19 ....., and signed by members holding not less than two-thirds of the number of shares in the said society.

It is agreed and declared as follows:

- The liabilities and assets of the society are the following:

Liabilities	K	n	Assets	K	n

2. The number of members is ..... the number of shares is ..... and the amount standing to the credit of the members in the books of the society is K .....

3. The society owes to depositors the sum of K and to other creditors the sum of K .....and such sums shall be paid out of the first moneys which shall be received by the trustees hereby appointed.\*

4. After payment of the claims of depositors and other creditors, the funds and property of the society shall be appropriated and divided among the members thereof in the proportion of the amount standing to each member's credit in the books of the society.\*

5. The following persons are hereby appointed trustees for the purposes of the dissolution:

<i>Full name</i>	<i>Address</i>	<i>Description</i>
------------------	----------------	--------------------

6. The trustees shall be remunerated by the sum of\*

7. (Here insert any other provisions the society desires to make as to the dissolution.)

Signatures of Members	Number of Shares held by Members
	signing

.....

.....

.....

.....

Signatures of Trustees

.....

.....

Seal of the Society

To be signed and sealed in duplicate.

\* Or as the case may be.

**FORM BS.21**  
**THE BUILDING SOCIETIES ACT**

*(Section 111)*

CERTIFICATE OF REGISTRATION OF INSTRUMENT OF DISSOLUTION

The Registrar of Building Societies hereby certifies that the instrument of dissolution of the .....Building Society, Registration No ..... , dated the.....day of ..... , 19....., is registered under the Building Societies Act, this .....day of....., 19...

.....

*Registrar of Building Societies*

**FORM BS.22**  
**THE BUILDING SOCIETIES ACT**

(Section 117)

APPLICATION FOR APPROVAL TO INCUR EXPENDITURE ON REAL ASSETS  
EXCEEDING K100,000 IN RESPECT OF ANY SINGLE TRANSACTION

..... Building Society

Registration No .....

To: THE REGISTRAR OF BUILDING SOCIETIES

Permission is hereby requested to incur expenditure in respect of the following transaction:

K

- (1) Estimated cost of transaction:
- (2) Proposed date of transaction:
- (3) Name and address of seller:
  - \* (4) Land (section 117 (3)):
    - (a) Location
    - (b) Size
    - (c) Freehold or Leasehold
    - (d) Terms of Lease
    - (e) Building to be constructed on this land:
      - (i) description:
      - (ii) purpose:
      - (iii) estimated cost of constructing it:
      - (iv) estimated cost of furnishing it:
  - \* (5) Building (section 117 (2)):
    - (a) Location
    - (b) Size of plot
    - (c) Freehold or Leasehold
    - (d) Terms of Lease
    - (e) Whether built or to be built
    - (f) Description
    - (g) Purpose
    - (h) Estimated cost of constructing/adapting it

(i) Estimated cost of furnishing it.

Date.....

*Secretary*

\* Delete as applicable.

**FORM BS.23**  
**THE BUILDING SOCIETIES ACT**

(Section 133)

APPLICATION FOR INSPECTION OF A BUILDING SOCIETY'S DOCUMENTS

To: THE REGISTRAR OF BUILDING SOCIETIES

I, ..... of .....,  
hereby apply to inspect the following document/s relating to. ....  
..... Building Society, Registration No.....  
which is/are required to be lodged with you in terms of this Act.

<i>No.</i>	<i>Document reference or description</i>	<i>No. of Section under Act</i>
1.		
2.		
3.		

I would like a copy of such document/s/extract of such document/s as follows:

<i>No.</i>	<i>From page</i>	<i>To page</i>	<i>Beginning with words</i>	<i>Ending with words</i>
1.				
2.				
3.				

I enclose K..... in respect of the inspection and copying fees.

Date ..... Signature

NOTES: An inspection fee is payable whether or not a copy is required.

Inspection fee on same day, 8 fee units.

Copying fee per page or part thereof, 8 fee units.

(As amended by Act No. 13 of 1994)



	SUB-TOTAL <i>brought forward</i>	
	Valuation fees and expenses	
	Interest-	
	on deposits and loans other than Banks	
	on loans or overdraft from Banks	
	Depreciation on land and buildings owned by the Society	
	Depreciation on other fixed assets	
	Loss on realisation of mortgages	
	Loss on realisation of investments	
	Loss on realisation of assets	
	Other expenditure-	
	TOTAL EXPENDITURE	

Last Year K	<i>APPROPRIATION</i>	K
	Surplus for the year-excess of income over expenditure	
	<i>Add:</i>	
	Unappropriated revenue brought forward	
	Transfers from Reserves	
	<i>Deduct:</i>	
	Transfers to Reserves	
	<i>Deduct:</i>	
	Interest, dividends and bonuses to shareholders for period ended	
	UNAPPROPRIATED REVENUE CARRIED FORWARD	

BALANCE SHEET AS AT .....19.....

Last Year K	ASSETS	K	K
	Advances outstanding:		
	Ordinary (up to K50,000)		
	Special (over K50,000)		
	Collective		
(    )	Less provision for anticipated losses		
	Investment at cost:		
	Zambia Government securities		
	Local Authority securities		
	Short-term money market deposits		
	Other investments		
	<i>Add</i> interest accrued		



( )			
	<i>Less provision for anticipated losses</i>		
	Cash at Bank and in hand		
	Sundry Debtors and payments in advance		
	Land and Buildings:		
	Balance as at .....		
	Additions		
( )	Disposals		
( )	Depreciation		
	Other fixed assets:		
	Balance as at .....		
	Additions		
( )	Disposals		
( )	Depreciation		
	Other assets		
		<b>TOTAL ASSETS</b>	

Last Year K		K	K
	<i>LIABILITIES</i>		
	(a) Shareholders' Funds		
	Shares (by classification)		
	Interest, dividends and bonuses accrued		
	General Reserve		
	Other Resrves		
	Unappropriated Revenue		
	<b>TOTAL SHAREHOLDERS' FUNDS</b>		
	(b) Other Credit Balances		
	Deposits and loans (including interest accrued)-		
	Other than Banks		
	Banks		
	Sundry Creditors and accrued expenses		
	Other provisions		
		<b>TOTAL LIABILITIES</b>	

Date .....

On behalf of the Board

Director  
 Director  
 Manager or Secretary

# THIRD SCHEDULE

(Regulation 8)

## PRESCRIBED FEES

<i>Under Section No. of the Act</i>		Fee units
3 and 6	For the certificate of registration of a Building Society ....	450
5	For the certificate that the General Reserve Fund is satisfactory .....	75
56	For every award by the Registrar on a dispute .....	150
56	For every hearing of a dispute after the first hearing and for every adjournment .....	75
62	For every application for approval of a special advance ...	75
63	For every application for approval of a collective advance	75
87	For an application for designation of trustee status .....	150
95	For the certificate of registration of a change of name .....	75
96	For the certificate of registration of a change of registered address .....	15
97	For the certificate of registration of an alteration of rules .	150
98	For receiving notice of a union, to be paid by each uniting society (including registration) .....	75
99	For receiving notice of a transfer of engagements, to be paid by each society concerned (including registration) .....	75
100	For receiving an application for confirmation of a union or transfer of engagement (including confirmation) .....	150
106	For receiving an application to appoint an inspector .....	150
111	For the certificate of registration of an instrument of dissolution or of any alteration therein .....	150
112	For receiving an application for investigation .....	150
116	For registration of notice of commencement or termination of a dissolution or winding-up .....	15
117	For every application for approval to incur expenditure on real assets in excess of K100,000 .....	75
121	For cancellation of registration at the request of a society	150

133	For every inspection on the same day of documents (one or more) in the custody of the Registrar relating to one society .....	4
133	For a copy or extract of any document in the custody of the Registrar, per page .....	4
	For the signature by the Registrar of any document required to be so signed (except as otherwise provided) .....	15

*(As amended by Act No. 13 of 1994)*

**CHAPTER 414**  
**THE COMPANIES (CERTIFICATES VALIDATION)**  
**ACT**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title
2. Interpretation
3. Validity of certificates

**CHAPTER 414**

**COMPANIES (CERTIFICATES VALIDATION)**

*29 of 1969*

An Act to remove doubt as to the validity of, and to declare valid, certificates heretofore issued for the purposes of the Companies Act under the hands of public officers other than the Registrar of Companies.

[*8th August, 1969*]

**1.** This Act may be cited as the Companies (Certificates Validation) Act. Short title

**2.** In this Act, unless the context otherwise requires- Interpretation

"Act" means the Companies Act;

Cap. 388

"officer" means any public officer heretofore designated as Assistant Registrar of Companies, or any other public officer who heretofore for the time being exercised the function of issuing statutory certificates under the Act;

"Registrar" means the Registrar of Companies appointed under the Act.

**3.** For the removal of doubts, it is hereby declared that any certificate of incorporation, any certificate of mortgage, any certificate of charge or any other statutory certificate heretofore issued for the purposes of the Act under the hand of any officer shall, for all purposes, be deemed to be and to have been validly and properly issued under the Act, as if the same had been issued under the hand of the Registrar.

Validity of  
certificates

**CHAPTER 415  
THE TRADES CHARGES ACT**

**ARRANGEMENT OF SECTIONS**

Section

1. Short title
2. Interpretation
3. Floating and fixed charges
4. Procedure for and effect of registration of charges and the satisfaction and cancellation thereof
5. Effect of floating and fixed charges
6. Effect of fraud
7. Penalty for non-disclosure or incorrect information
8. Regulations

**CHAPTER 415**

**TRADES CHARGES**

*49 of 1973  
13 of 1994*

An Act to provide for the creation of charges to secure loans advanced by banks, financial institutions or parastatal corporations to persons licensed under the Trades Licensing Act; to establish a register to record such charges; and to provide for matters incidental to or connected therewith.

*[28th September, 1973]*

1. This Act may be cited as the Trades Charges Act. Short title
  
  2. In this Act, unless the context otherwise requires- Interpretation
- "bank" and "financial institution" shall have the meaning respectively assigned to those expressions in the Banking and Financial Services Act. Cap. 387

"bulk transfer" means transfer by a person of the whole or a substantial part of his secured property otherwise than in the ordinary course of his business;

"debtor", in relation to a particular floating charge, means the person identified in the register as the debtor;

"parastatal corporation" means any body corporate established by an Act of Parliament; or any company (registered under section *thirty-two* of the Companies Act) in which more than fifty per centum of the paid-up capital is held directly or indirectly by Government; Cap. 388

"person giving the security", in relation to a particular floating charge, means the person identified in the register as the owner of the secured property;

"register" means the register maintained under subsection (2) of section *four*;

"Registrar" means the Registrar of Trades Charges appointed under subsection (1) of section *four*;

"secured party", in relation to a particular charge, means the bank, financial institution or parastatal corporation which is identified in the register as the creditor or its assignee;

"secured property" means, with respect to a specific floating charge, the stock-in-trade or other personal property described in the register, whether or not at the time of registration such property is in existence or owned by the person giving the security and, with respect to a specific fixed charge, the property described in the register;

"stock-in-trade" means any goods the person giving the security sells by way of business as defined in the Trades Licensing Act; Cap. 393

"reserved licence" has the meaning assigned to it in section *seventeen* of the Trades Licensing Act; Cap. 393

"trader" means a person who holds a reserved licence.

**3.** (1) Notwithstanding anything contained in any written law, and subject to the production of adequate proof by the trader of his ownership, a bank, financial institution or parastatal corporation may, for the purpose of securing repayment of a loan or advance made to a trader, take a floating charge on the stock-in-trade and personal property which the trader owns or of which he may subsequently become the owner, whether or not such property is in existence at the time of such delivery.

Floating and fixed charges

(2) A bank or financial institution or parastatal corporation may take a fixed charge on any personal property which the trader owns at the time he delivers the document creating the fixed charge.

(3) The sum secured may be either a specific amount, advanced in one sum or in more than one sum, or a fluctuating amount advanced on a current account whether or not subject to a maximum specified in the floating charge. The floating charge may, if the parties so speculate, continue to be effective, notwithstanding the fluctuation or temporary extinction of the debt.

**4.** (1) The Minister shall appoint a public officer as a Registrar of Trades Charges.

Procedure for and effect of registration of charges and the satisfaction and cancellation thereof

(2) The Registrar shall, from all notices in the prescribed form received by him, maintain a register showing the following information:

- (a) the date the notice is received;
- (b) the name, in alphabetical order, of the person giving security;
- (c) the name and address of the debtor;
- (d) the owner of the security and the creditor;



- (e) a description of the secured property;
- (f) the maximum amount and term of the loan or advance and the type thereof; and
- (g) if specified, the duration of the charge.

(3) All notices filed under this section shall be executed by the person giving the security.

(4) The register and the notices filed under this section shall at all reasonable times be open to any member of the public who may, on payment of the prescribed fee, make copies or extracts therefrom or request the Registrar to provide him with a certified copy of any entry in the register or a certified copy of a notice received under this section.

(5) For all purposes connected with the secured property, registration of a charge under this section shall, from its commencement and throughout its continuance, constitute, unto all persons, actual notice both of the charge and of the fact of its registration.

(6) No rights or powers as against any person, other than a debtor or person giving any security shall, under this Act, accrue to any bank or financial institution or parastatal corporation in respect of any property until a notice in the prescribed form is received by the Registrar.

(7) Unless the parties to the notice withdraw it earlier, the notice shall cease after the expiration of three years.

(8) Registration of a charge may, by the submission of a renewal notice in the prescribed form, be renewed, within sixty days prior to the expiration of the original notice.

(9) Notwithstanding anything to the contrary contained in the Bills of Sale Acts, 1878-1882, of the United Kingdom, a charge registered under this Act shall have effect and no such charge shall be deemed to be a Bill of Sale within the meaning of those Acts.

(10) When the loan or advance secured by the charge and all interest due thereon have been fully paid, the secured party shall, on the written request of the debtor or the person giving the security, execute and deliver to the Registrar a certificate of satisfaction in the prescribed form and the Registrar shall forthwith cancel the registration of the charge:

Provided that when, after due request he secured party refuses or fails to deliver a certificate of satisfaction, the person making the request may inform the Registrar to cancel the registration and the Registrar, if satisfied on the evidence produced to him that all debts which are the subject of the charge have been full paid, shall forthwith cancel the registration of the charge.

5. (1) The provisions of subsections (2) to (8) of section *four* shall apply to a charge created under this Act and such a charge shall have, in so far as it is not inconsistent with the provisions of the said subsections (2) to (8), the same effect as if the charge had been created by a duly registered debenture under the provisions of the Companies Act.

Effect of  
floating and  
fixed charges  
Cap. 388

(2) (a) The secured party shall have the right to take possession of the secured property and, after five clear days or, in the case of perishable goods immediately, to sell the secured property upon the happening of the following events:

- (i) the insolvency of the debtor or of the person giving the security;
- (ii) a receiving order in bankruptcy being made against the debtor or the person giving the security;
- (iii) the death of the trader or the person giving the security;
- (iv) the dissolution of the partnership in the case where the debtor is in partnership or the property charged is partnership property;
- (v) the non-payment of the sum secured, or of any interest due thereon, in accordance with the terms of the loan or advance; or
- (vi) notice in writing, to that effect, being given by the secured party to the debtor, on the happening of any event which, by virtue of the charge, confers upon the holder the right to give such notice:

Provided that the secured party shall immediately notify, in writing, the debtor and the person giving the security, if any, that he has taken possession of the secured property and intends to sell it.

(b) The proceeds from the sale of the secured property by the secured party shall go first to discharging the expenses incurred in connection with the sale of the secured property, then the interest and other charges, and finally the principal of the loan or advance.

(c) Any surplus shall be returned forthwith to the person giving the security; and in the event of the net proceeds of the sale being less than the sum outstanding, the debtor shall continue to be liable for the deficiency.

(3) Any secured property shall not, for the purposes of section *forty-one* of the Bankruptcy Act, comprise the property of the bankrupt divisible among his creditors. Cap. 82

(4) A charge registered under this Act shall have priority over all rights subsequently acquired in, on or in respect of the secured property except-

(a) any rights acquired in the secured property that is stock-in-trade by a subsequent purchaser in good faith; and

(b) any rights acquired by a subsequent secured party in any secured property with the written agreement of a prior secured party.

(5) If any secured property is transferred by the person giving the security in order to defraud the secured party or, generally, creditors, the transfer of the secured property shall be null and void.

(6) In the event of the secured party being unable to take possession of the secured property in which his right has, under this section priority, he shall be entitled to receive, from the person to whom the person giving the security, sold or transferred the secured property, the proceeds from any such sale or transfer. The proceeds shall be applied as provided for in paragraph (b) of subsection (2).

**6.** If, with the intent to defraud, the person giving the security removes or suffers to be removed from his possession the secured property, or any part thereof, or obtains the cancellation of the registration of the charge, he shall be guilty of an offence and on conviction liable to a prescribed fine or to imprisonment for a prescribed period, or to both. Effect of fraud

**7.** Any person giving security who-

- (a) fails to disclose to a person from whom the charge is obtained that property offered is already secured under this Act; or
- (b) withholds from the person from whom the charge is obtained material information affecting the secured property; or
- (c) gives to the person from whom the charge is obtained incorrect material information affecting the secured property;

shall be guilty of an offence and on conviction shall be liable to a fine of five thousand penalty units or to imprisonment for two years with hard labour, or to both.

*(As amended by Act No. 13 of 1994)*

Penalty for non-disclosure or incorrect information

**8.** (1) The Minister may, by statutory instrument, make regulations providing for the better carrying out of the Act and, without prejudice to the generality of the foregoing, such regulations may make provision for-

- (a) the form of any notice to be given under this Act;
- (b) the form of the register to be maintained under section *four*;
- (c) the form of cancellation, discharge or release of a charge;
- (d) prescribing anything required to be prescribed under this Act.

(2) Regulations made under this section may provide in respect of any contravention thereof that an offender shall be guilty of an offence and may, for such an offence prescribe a penalty in respect thereof.

Regulations

## CHAPTER 416 THE STANDARDS ACT

### ARRANGEMENT OF SECTIONS

#### **PART I**

#### **PRELIMINARY**

Section

1. Short title
2. Interpretation
3. Relationship to other laws

**PART II**

**ADMINISTRATION**

4. The Zambia Bureau of Standards
5. Functions of Bureau

**PART III**

**STANDARDS**

6. Voluntary standards
7. Compulsory standards
8. Export standards
9. Publicity
10. Compliance with standards
11. Supply of commodity not complying with standard
12. Permission for supply or export

**PART IV**

**PROMOTION OF COMMODITIES**

13. Declaration of marks
14. Use of marks
15. Prohibition on use of certain words

**PART V**

**DANGEROUS OR DEFECTIVE COMMODITIES**

Section

16. Interim order prohibiting or restricting supply of commodity
17. Order of High Court prohibiting or restricting supply of commodity

18. Contravention of orders
19. Remedy for supply of commodity in contravention of order
20. Order for recall of defective commodities
21. Voluntary recall of commodities
22. Certain amounts recoverable
23. Certain action not to affect insurance contracts

## **PART VI**

### **FINANCIAL PROVISIONS**

24. Standards Development Fund
25. Repealed by Act No. 6 of 1997

## **PART VII**

### **MISCELLANEOUS**

26. Acquisition of patent rights, etc.
27. Rights of Bureau in discoveries, etc., within the Bureau
28. National calibration service
29. Inspection of commodities, etc.
30. Co-operation with other agencies
31. Production of authority
32. Unauthorised publication of information
33. Proceedings for offences
34. Offences by bodies corporate
35. Additional powers of the court
36. Immunity from suit
37. Regulations
38. Savings
39. Repeal of Act No. 22 of 1982

FIRST SCHEDULE-The Bureau

SECOND SCHEDULE-Savings and Transitional Provisions

## CHAPTER 416

### STANDARDS

*Act No.*  
20 of 1994  
13 of 1994  
6 of 1997

An Act to provide for standards of quality control for certain commodities; to continue the Zambia Bureau of Standards and to re-define its powers and functions; to establish the Standards Council of Zambia; to repeal the Zambia Bureau of Standards Act; and to provide for matters connected with or incidental to the foregoing.

[3rd June, 1994]

### PART I

#### PRELIMINARY

1. This Act may be cited as the Standards (Amendment) Act, 1997, and shall be read as one with Standards Act, in this Act referred to as the principal Act.

Short title and commencement

Cap. 416

(2) This Act shall be deemed to have come into operation on the 1st February, 1997.

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"Bureau" means the Zambia Bureau of Standards;

"Council" means the Standards Council of Zambia established by this Act;

"commodity" means any article or goods, whether manufactured or not;

"defect" includes a dangerous characteristic;

"defective commodity" means a commodity that does not comply with a compulsory standard for the commodity or is the subject of an order under section *sixteen* or *seventeen*;

"mark of conformity" means a mark declared under section *thirteen* to be a mark of conformity in relation to a commodity;

"compulsory standard" means a standard declared under section *seven* to be a compulsory standard;

"dangerous", in relation to any commodity, means likely to cause death or injury to the body or health of a person, whether the death or injury is likely to be caused directly or indirectly and whether or not because of-

(a) a failure to include with or on the commodity any instructions for its use;

(b) the inclusion with or on the commodity of instructions for the use of the commodity that are inaccurate or inadequate;

(c) a failure of the commodity to function in the manner represented by the manufacturer or supplier;

(d) the commodity's not being of the quality represented by the manufacturer or supplier; or

(e) the necessity for, or possibility of, the use of the commodity with any other commodity;

"Director" means the director of the Bureau appointed under this Act;

"export standard" means a standard declared under section *eight* to be an export standard;

"inspector" means a person appointed to be an inspector for the purposes of this Act;

"standard" means a specification or code of practice designed to regulate-

(a) the nature, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics of a commodity; or

(b) the material or substance from which a commodity may be produced, manufactured, processed, treated or finished;

and which is declared under this Act to be a voluntary, compulsory or export standard in relation to the commodity concerned;

"supplier" means a person who, in the course of a business, supplies any commodity;

"supply" includes-

(a) supply or re-supply by way of sale, exchange, lease, hire or



hire-purchase; and

(b) exhibit, expose or have in possession for the purpose of sale, exchange, lease, hire or hire-purchase or for any purpose of manufacture or trade;

"voluntary standard" means a standard declared under section *six* to be a voluntary standard.

(2) Except in so far as the contrary intention appears, a reference in this Act to a standard is a reference to the standard as from time to time amended.

3. In the event of any inconsistency between this Act and the Pharmacy and Poisons Act, the Food and Drugs Act or any other Act, the provisions of this Act shall prevail to the extent of the inconsistency.

Relationship to  
other laws  
Cap. 299  
Cap. 303

## PART II

### ADMINISTRATION

4. (1) The body corporate known as the Zambia Bureau of Standards established under the Zambia Bureau of Standards Act, 1982, is hereby continued in existence, notwithstanding the repeal of that Act by this Act.

The Zambia  
Bureau of  
Standards  
Act No. 22 of 1982

(2) The First Schedule has effect in respect of the Bureau, its governance and its staff.

5. (1) The functions of the Bureau shall be-

Functions of  
Bureau

(a) to promote and require the adoption of standards in industry and commerce, with a view to improving-

(i) the quality of commodities;

(ii) industrial efficiency and productivity; and

(iii) after-sale support services and all aspects of quality assurance

for commodities;

(b) to make arrangements or provide facilities for the examination and testing of-

- (i) commodities to which standards apply; and
- (ii) the material or substance from which a commodity may be produced, manufactured, processed, treated or finished;

(c) to provide schemes of pre-export inspection of export commodities;

(d) to provide for other schemes of quality control and quality assurance for commodities in order to promote and improve the export trade;

(e) to co-ordinate the efforts of producers and consumers in the improvement of appliances, processes, new materials and products;

(f) to provide testing facilities and such other facilities and technical services as may be required by the Government or industry in connection with-

- (i) structural, electrotechnical or mechanical engineering;
- (ii) biological or chemical technology, including fibre technology;
- (iii) any other industrial application of science or technology, and
- (iv) any scientific, technological or metrological matter to be determined for the purposes of any Act or law or for other purposes;

(g) to make arrangements or provide facilities for the testing and calibration of precision instruments, gauges and scientific apparatus, for the determination of their degree of accuracy and the certification thereof;

(h) to act as consultants in the field of standards and provide advisory services to industry, including any service industry;

(i) to establish laboratories and other facilities for the performance of its functions;

(j) to encourage or undertake education in connection with standards; and

(k) to perform such other functions as may be conferred upon the Bureau by or under the Weights and Measures Act or any other written law.

Cap. 403

(2) The Council may by resolution delegate any of the powers and functions of the Bureau to any person in the Bureau or to any committee formed by the Council or, with the consent of the Minister, to any other person.

### **PART III**

### **STANDARDS**

6. The Bureau may, by notice in the *Gazette*-

Voluntary  
Standards

(a) publish any specification or code of practice drawn up in relation to a commodity and declare the same to be a voluntary standard for that commodity; and

(b) from time to time make and publish amendments to, or at any time repeal, any standard so declared.

7. (1) If the Minister is satisfied, on the recommendation of the Bureau, that it is necessary or expedient to do so for the promotion of public safety or otherwise in the public interest, he may by statutory instrument-

Compulsory  
standards

(a) publish any specification or code of practice drawn up in relation to a commodity and declare the same to be a compulsory standard for that commodity; and

(b) from time to time make and publish amendments to, or at any time repeal, any standard so declared.

(2) A compulsory standard shall not be declared, nor shall it be amended in a manner that, in the opinion of the Minister, affects a substantial variation, except after compliance with section *nine*.

**8.** (1) If the Minister is satisfied, on the recommendation of the Bureau, that it is necessary or expedient to do so for the promotion or development of the export trade, he may by statutory instrument-

Export standards

(a) publish any specification or code of practice drawn up in relation to an export commodity and declare the same to be an export standard for that commodity; and

(b) from time to time make and publish amendments to, or at any time repeal, any standard so declared.

(2) An export standard shall not be declared, nor shall it be amended in a manner that, in the opinion of the Minister, affects a substantial variation, except after compliance with section *nine*.

(3) An export standard may be declared whether or not there is an existing voluntary or compulsory standard.

**9.** (1) The Bureau shall, before making any recommendation for the purposes of section *seven* or *eight*, by notice in the *Gazette* publish a draft of its proposed recommendation, together with-

Publicity

(a) a summary of the purpose and effect of the proposed standard or, as the case may be, the proposed amendment;

(b) in the case of a proposed new standard, a reference to any existing voluntary or other standards affecting the commodity concerned; and

(c) an invitation to any interested persons to lodge with the Bureau, in writing addressed to the Director and lodged within a specified time, any objections they may wish to make to the substance of the recommendation.

(2) Subsection (1) does not apply to a recommendation of the Bureau for the repeal of a standard or for its amendment in a manner that, in the opinion of the Minister, affects a purely formal or otherwise insubstantial variation.

(3) The time specified for the purposes of paragraph (c) of subsection (1) shall not be less than two months.

(4) The Bureau shall consider any objection duly lodged and may, if it thinks fit, for that purpose hold an inquiry at which the objector shall be entitled to be present and, by himself or by counsel, to be heard.

(5) The Bureau's final response to any such objection, whether or not the subject of an inquiry, shall be notified to the objector.

(6) It shall be the duty of the Bureau, when making any recommendation for the purposes of section *seven* or *eight*, to bring to the notice of the Minister the nature and grounds of any objection that was made to the proposed recommendation and the Bureau's response to that objection.

**10.** A person shall not-

(a) supply to another person any commodity to which a compulsory standard applies; or

(b) export any commodity to which an export standard applies; unless the commodity concerned complies with the standard.

Compliance with standards

**11.** (1) If a commodity is supplied to a person in contravention of section *ten*-

Supply of commodity not complying with standard

(a) the supplier shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding one year, or to both; and

(b) the person to whom the commodity was supplied may recover from the supplier as a debt any money paid for the commodity, whether or not the supplier has been convicted of an offence in respect of its supply.

(2) If judgement is given for the plaintiff in an action under paragraph

(b) of subsection (1), the judgement debt may, if the court so directs, be satisfied by repair or modification of the commodity in such a manner that-

(a) the commodity concerned would have complied with the relevant standard if the commodity had been supplied as repaired or modified; or

(b) the repaired or modified commodity is accepted by the plaintiff on or before a day specified in the direction.

*(As amended by Act No. 13 of 1994)*

**12.** (1) A person who manufactures a commodity to which a compulsory standard applies or who obtains such a commodity in Zambia otherwise than by being supplied with it shall not supply the commodity to another person unless the Bureau has given, and has not withdrawn, its authority in writing for the supply.

Permission for  
supply or export

(2) A person shall not export a commodity to which an export standard applies unless the Bureau has given, and has not withdrawn, its authority in writing for the export.

(3) Except as provided by subsection (6), the Bureau shall give the requisite authority under this section unless it is satisfied that the commodity concerned does not comply with the relevant standard or that there is reason to think that it will not do so in the future.

(4) The authority may be given unconditionally or may be given on such terms and conditions as the Bureau considers necessary to ensure continued compliance by the commodity with the relevant standard.

(5) Except as provided by subsection (6), the Bureau may by notice in writing withdraw its authority if it is satisfied that the commodity concerned no longer complies with the relevant standard or with any terms and conditions on which the authority was given.

(6) If, in the case of a commodity to which an export standard applies, the Bureau is satisfied that-

(a) an exporter of the commodity is required under contract to export the commodity in accordance with specifications contained in the contract;

(b) by reason of those specifications, the commodity does not comply with the standard; and

(c) the specifications were not made in the contract with the object of defeating the operation of the other provisions of this section;

the Bureau may, for the purpose of enabling the exporter to perform his contractual obligations, give the authority required by this section or, as the case may require, refrain from withdrawing it.

(7) For the purposes of this section, the Bureau shall, to such extent as it thinks necessary, cause the commodity concerned to be inspected, before giving its authority and from time to time thereafter, to ascertain whether it complies or continues to comply with the relevant standard.

(8) A person who supplies or exports any commodity in contravention of this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

*(As amended by Act No. 13 of 1994)*

## **PART IV**

### **PROMOTION OF COMMODITIES**

**13.** (1) The Minister, on the recommendation of the Bureau, may by statutory order declare a mark depicted or described in the order to be a mark of conformity with respect to a standard.

Declaration of marks

(2) No mark of conformity shall be declared which so closely resembles a trade mark registered under the Trade Marks Act as to be likely, in the opinion of the Minister, to be mistaken for the trade mark.

Cap. 401

**14.** (1) A person shall not apply a mark of conformity to any

Use of marks

commodity except with the authority in writing of the Bureau.

(2) The Bureau shall give the requisite authority under this section unless it is satisfied that the commodity concerned does not comply with the relevant standard or that there is reason to think that it will not do so in the future.

(3) A person shall not apply to a commodity, or otherwise use in connection with the supply or promotion of a commodity, any mark that so closely resembles a mark of conformity as to be likely to be mistaken for the mark of conformity, unless it was registered as a trade mark before the commencement of this Act.

(4) A person shall not, in connection with the supply or promotion of a commodity, make any reference to the Council or the Bureau or to any mark of conformity, except to the extent authorised under subsection (1).

(5) A person who contravenes this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(6) For the purposes of this section, a mark of conformity or other mark shall be deemed to be applied to a commodity if it is applied to any wrapper, covering, container or label used in connection with the commodity.

*(As amended by Act No. 13 of 1994)*

**15.** (1) A person shall not, except with the written approval of the Minister-

Prohibition on use  
of certain words

(a) under any law register a society, company, firm, trade, business or association; or

(b) start any activity, society, trade, business, occupation or association;

under any name that contains the words "Bureau of Standards", "Standards Bureau", "Council of Standards", "Standards Council" or



other words that may create the impression that the person is, or is connected or associated with, the Bureau or the Council.

(2) A person shall not, except with the written approval of the Minister-

(a) under any law register any trade or trade name that contains the word "standard"; or

(b) supply any commodity under a mark or description that contains the word "standard", otherwise than as authorised under this Part;

in a manner likely to create the impression that the commodity to which the trade mark, trade name, mark or description relates complies with any standard under this Act.

(3) A person who contravenes this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Where the Minister is satisfied that any approval given by him under this section is being abused, he may withdraw his approval.

*(As amended by Act No. 13 of 1994)*

## **PART V**

### **DANGEROUS OR DEFECTIVE COMMODITIES**

**16.** (1) The Minister, on the recommendation of the Director, may by order prohibit, or impose conditions on, the supply of a commodity of any specified kind or description, if the Minister considers that the commodity is so defective that, in the interests of public safety, supply of the commodity should be prohibited or restricted immediately.

Interim order  
prohibiting or  
restricting supply  
of commodity

(2) An order under this section may be made under the hand of the Minister or by statutory instrument.

(3) An order under this section under the hand of the Minister takes

effect when written notice of the order is given to the supplier.

(4) Unless sooner revoked, an order under this section expires thirty days after it takes effect.

(5) An order under this section may be once renewed by further order made in the same manner, but only if application has been made to the High Court for an order under section *seventeen*.

**17.** (1) On the application of the Director, the High Court may by order prohibit, or impose conditions on, the supply of a commodity of any specified kind or description, if the Court considers that the commodity is defective and that, in the interests of public safety or otherwise in the public interest, supply of the commodity should be prohibited or restricted.

Order of High Court prohibiting or restricting supply of commodity

(2) An application may be made under this section whether or not an order has been made under section *sixteen* with respect to the commodity concerned.

(3) An order of the High Court under this section revokes any order under section *sixteen* in force with respect to the same commodity.

**18.** A person who-

(a) supplies a commodity in contravention of an order under section *sixteen* that was made by statutory instrument or of which the person was given due notice; or

(b) supplies a commodity in contravention of an order of the High Court under section *seventeen*;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

Contravention of orders

**19.** (1) If a commodity is supplied to a person in contravention of an order under this Part, the person may recover from the supplier as a debt any money paid for the commodity, whether or not the supplier has been convicted of an offence in respect of its supply.

Remedy for supply of commodity in contravention of order

(2) If judgment is given for the plaintiff in an action under this section, the judgment debt may, if the court so directs, be satisfied by repair or modification of the commodity in such a manner that-

(a) the contravention relied on by the plaintiff would not have occurred if the commodity had been supplied as repaired or modified; or

(b) the repaired or modified commodity is accepted by the plaintiff on or before a day specified in the direction.

**20.** (1) The Minister may by order under his hand require a supplier of any defective commodity to do any one or more of the following:

Order for recall of defective commodities

(a) recall the commodity, and all others of the same type that were supplied by him, in the manner, and within the period, specified in the order;

(b) disclose to the public, or to a class of persons specified in the order, in the manner and within the period so specified, one or more of the following:

(i) the nature of any defect in any commodities identified in the order;

(ii) the circumstances in which the use of any such commodities is dangerous;

(iii) procedures for disposing of any such commodities;

(c) notify the public, or a class of persons specified in the order, in the manner and within the period specified in the order, that the supplier undertakes to do whichever of the following the supplier thinks is appropriate:

(i) repair the defective commodity;

(ii) replace the defective commodity;

(iii) refund to a person to whom the commodity was supplied (whether by the supplier or by another person) the price of the commodity;

within the period specified in the order.

(2) If an order under this section so provides, where-

(a) the supplier undertakes to refund the price of any commodity;  
and

(b) a period of more than twelve months has elapsed since any person (whether or not the person to whom the refund is to be made) acquired the commodity from the supplier;

the amount of the refund may be reduced by an amount that is attributable to the use which a person has had of the commodity and is calculated as specified in the order.

(3) If a supplier undertakes to repair any commodity, the supplier shall cause the commodity to be repaired so that-

(a) any defect in the commodity identified in the order is remedied;  
and

(b) if there is a compulsory standard for commodities of that kind, the commodity complies with the standard.

(4) If a supplier undertakes to replace a commodity, the supplier shall replace the commodity with a like commodity which-

(a) does not contain any defect in the commodity that was identified in the order; and

(b) complies with any compulsory standard for commodities of that kind.

(5) If a supplier undertakes to repair a commodity or replace a commodity, the cost of the repair or replacement, including any necessary transportation costs, shall be borne by the supplier.

(6) While an order made under this section is in force, a supplier of a commodity to which the order relates who-

(a) fails to comply with a requirement of, or a direction in, the order;

(b) where the order identifies a defect in the commodity, supplies a commodity of the kind to which the order relates and which contains that defect;

(c) in a case other than a case referred to in paragraph (b), supplies a commodity of the kind to which the order relates;

(d) fails to carry out an undertaking notified by the supplier under this section; or

(e) having given such an undertaking to repair or replace a commodity, fails to comply with this section in relation to the action undertaken;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

*(As amended by Act No. 13 of 1994)*

**21.** (1) A supplier who of his own volition takes action to recall any commodity shall give to the Director a notice in writing, not later than two days after that action is taken-

Voluntary recall of commodities

(a) stating that the commodity is subject to recall;

(b) if the commodity has a defect, stating the nature of the defect; and

(c) if the commodity does not comply with a standard for the commodity, stating the nature of the non-compliance.

(2) A supplier who fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand penalty units.

*(As amended by Act No. 13 of 1994)*

**22.** (1) If a supplier fails to carry out an undertaking given under section *twenty* to refund the price of a commodity, the amount that should have been refunded is recoverable as a debt due by the supplier to

Certain amounts recoverable

the person to whom the undertaking was given.

(2) If a supplier fails to carry out an undertaking under section *twenty* to repair or replace a commodity, the supplier shall be deemed to have given instead an undertaking, notified under that section, to refund the price of the commodity within the period specified for the repair or replacement of the commodity.

**23.** (1) The liability of an insurer under a contract of insurance with any person, being a contract relating to the recall of commodities supplied or proposed to be supplied by him or to his liability with respect to possible defects in any such commodities, shall not be affected only because he gives to the Minister, or to the Bureau or the Director or any officer of the Bureau, any information relating to any commodity supplied or proposed to be supplied by him.

Certain action not to affect insurance contracts

(2) A contract of insurance is void and of no effect to the extent that it contains any provision that would defeat the operation of this section.

## **PART VI**

### **FINANCIAL PROVISIONS**

**24.** (1) The Bureau shall establish a Standards Development Fund, into which shall be paid all sums of money-

Standards Development Fund

(a) payable to the Bureau from time to time from moneys appropriated by Parliament;

(b) payable to the Bureau under this or any other Act or statutory instrument;

(c) obtained by way of grants or donations to the Bureau;

(d) accruing to or vested in the Bureau from time to time, whether in the course of the exercise of its functions or otherwise; or

(e) accrued to or vested in the Bureau immediately before the commencement of this Act.

(2) The Fund shall be applied by the Bureau to defray the costs of the exercise and performance of its powers and functions.

(3) Such amounts standing to the credit of the Fund as are not immediately required by the Bureau may be invested in Government-issued securities or in any manner authorised by law for the investment of trust funds.

**25.** Repealed by Act No. 6 of 1997.

Acquisition of patent rights, etc.

## **PART VII**

### **MISCELLANEOUS**

**26.** The Bureau may-

(a) apply for, purchase, receive by assignment or otherwise acquire in accordance with the laws of Zambia or any other country, any patent brevets, inventions, concessions, licences or similar rights to use information relating to any invention or discovery; and

(b) develop, use, exercise, assign, transfer, sell, grant licences in respect of or otherwise turn to account the property rights or information so acquired.

Rights of Bureau in discoveries, etc., within the Bureau

**27.** (1) Where in the course of his duties an employee of the Bureau makes any discovery, whether by way of invention or improvement, the Bureau shall be deemed to be the owner for all purposes of the rights therein.

National calibration service

(2) The Bureau may pay to the employee such bonus, fees or royalties therefor, or make such arrangement for that employee to share in the profits therefrom, as the Bureau may determine.

**28.** (1) The Minister may establish a national calibration service to be operated by the Bureau which shall provide for the calibration of measuring instruments and measurement standards or etalon.

Inspection of commodities, etc.

(2) The Director may on application register a person, subject to such conditions as he may determine, as a participant in the national calibration service.

(3) An application for registration shall be accompanied by such data as the Director may require to enable the Director to assess the suitability of the applicant to participate in the national calibration service.

(4) The Bureau shall publish guidelines specifying the requirements for a person to participate in the service.

**29.** (1) Subject to the other provisions of this Act, an inspector whom the Bureau has generally or specifically authorised in writing in that behalf may, at all reasonable times, enter any premises in or upon which he has reason to believe that an export commodity or a commodity which is the subject of a compulsory standard is produced, manufactured, processed, treated, finished or stored and may-

Co-operation with  
other agencies

(a) inspect or take samples of any such commodity;

(b) inspect or take samples of any material or substance which he has reason to believe is used or is intended to be used in the production, manufacture, processing, treatment or finishing of any such commodity;

(c) open any package or container which he has reason to believe contains any such commodity or any such material or substance;

(d) inspect any process or operation which is carried on in connection with the production, manufacture, processing, treatment or finishing of any such commodity;

(e) examine and make copies of or take extracts from any book, notice, record, list or document which relates to any such commodity;

(f) require any person to explain any entry in any such book, notice, record, list or document;

(g) carry out any other investigations in connection with any such commodity; and



(h) exercise such other powers as are connected with or incidental to his powers under this section.

(2) The person in charge of the premises shall provide such facilities as are reasonably necessary for the performance by the inspector of his functions.

(3) The inspector when entering the premises may be accompanied by an employee of the Bureau and may take such equipment as may appear to him to be necessary for the exercise of his powers.

(4) Any person who hinders or obstructs an inspector in the course of his duty or who wilfully fails to comply with any requirement lawfully made under this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

*(As amended by Act No. 13 of 1994)*

**30.** With the approval of the Minister, the Bureau may co-operate or provide for co-operation with any person, association or organisation within or outside Zambia having objects similar to those of the Bureau.

Production of authority

**31.** An inspector exercising any power under this Act shall, on demand by any person affected thereby, produce for inspection his certificate of appointment.

Unauthorised publication of information

**32.** (1) A person shall not, without consent in writing given by or on behalf of the Bureau, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to and which has come to his knowledge in the course of his duties under this Act.

Proceedings for offences

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(3) A person having information which to his knowledge has been published or disclosed in contravention of subsection (1) and who unlawfully publishes or communicates the information to any other person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

*(As amended by Act No. 13 of 1994)*

**33.** Proceedings for an offence against this Act or the regulations shall not be instituted except by or with the written consent of the Director of Public Prosecutions. Offences by bodies corporate

**34.** If a body corporate is convicted of an offence against this Act or any regulations made under this Act, every person-

- (a) who is a director of the corporation; or
- (b) who is concerned in the management of the corporation;

shall be deemed to have committed the same offence if he knowingly authorised or permitted the act or omission constituting the offence.

**35.** (1) Where a person is convicted of any offence under this Act, the court may, in addition to any sentence that it may impose, make an order- Additional powers of the court

- (a) confiscating all or any part of any commodity in respect of which the offence was committed;
- (b) prohibiting the manufacture or supply of that commodity unless it complies with the relevant standard; and
- (c) that any commodity which is the subject of an order under paragraph (a) shall be disposed of in such manner as it may direct.

(2) Where a complaint is made in respect of an offence under paragraph (a) of subsection (1) of section *eleven*, the court may-

- (a) on application made *ex parte* by an inspector; and
- (b) on receiving evidence that the commodity, method or procedure

complained of, or its manufacture or supply, fails to comply with the relevant standard;

make an order prohibiting, either absolutely or on such terms and conditions as the court thinks fit, the manufacture or supply of that commodity or, as the case may require, the carrying on of that method or procedure, until the complaint is determined.

**36.** (1) No act, matter or thing done or omitted by any member, officer or employee of the Bureau or the Council shall subject him to any personal liability if the matter or thing was done or omitted in good faith in the exercise or performance of any powers and functions conferred or imposed by this Act. Immunity from suit

(2) The fact that any commodity complies or is alleged to comply with any standard or specification declared or approved under this Act, or has or is alleged to have been manufactured, treated, adjusted or otherwise dealt with in accordance with any such specification, shall not give rise to any action, claim, suit or demand against the Government, the Bureau or the Council or against any member, officer or employee thereof.

**37.** (1) The Minister may by statutory instrument make regulations prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or expedient to be prescribed for carrying out or giving effect to this Act. Regulations

(2) Without limiting the generality of subsection (1), regulations may be made for or with respect to-

(a) the operation of the national calibration service;

(b) the charges that may be made for calibrations, consultancies and any other services provided by the Bureau to public or private sector customers;

(c) such transitional provisions as the Minister considers necessary or expedient to be made in consequence of the enactment of this Act.

**38.** The savings and transitional provisions contained in the Second Schedule shall apply in respect of the Bureau, the Council and other matters. Savings

**39.** The Zambia Bureau of Standards Act, 1982 is hereby repealed.

Repeal of Act No.  
22 of 1982

## FIRST SCHEDULE

(Section 4)

# THE BUREAU

1. (1) The Bureau shall be governed by a body of fifteen persons, to be known as the Standards Council of Zambia, which shall be responsible for the exercise and performance of the powers and functions of the Bureau.

The  
Standards  
Council of  
Zambia

(2) In the exercise and performance of its powers and functions, the Council shall be subject to the control and direction of the Minister.

2. (1) The Council shall consist of the following members:

Composition  
of Council

(a) a representative of or above the rank of Deputy Permanent Secretary, from each of the Ministries responsible for-

(i) industry;

(ii) finance;

(iii) planning;

(iv) health; and

(v) local government;

(b) a representative from each of the following organisations:

(i) the National Council for Scientific Research;

(ii) the School of Engineering of the University of Zambia;

(iii) the Engineering Institution of Zambia;

(iv) the Zambia Consumers Protective Association;

(v) the Zambia Confederation of Commerce and Industry;

(vi) the Zambia Association of Manufacturers;

(vii) the Zambia Federation of Employers; and

(viii) the Zambia Congress of Trade Unions; and

(c) two persons who, in the opinion of the Minister, have experience in matters relating to standards.

(2) The members referred to in sub-items (a) and (b) of sub-paragraph (1) shall be nominated by their respective Ministries or organisations, and shall be appointed in writing by the Minister.

3. (1) A member of the Council other than the Director shall, subject to this Act, hold office for a term of not more than three years.

Term of  
office and  
vacancy

(2) A member of the Council shall, if otherwise qualified, be eligible for re-appointment upon the expiry of his term of office.

(3) Upon the expiration of the term for which a member is appointed he shall continue to hold office until his successor has been appointed, but in no case shall any such extension of the term exceed three months.

(4) The office of a member shall be vacated-

(a) upon his death;

(b) if he is adjudged bankrupt;

(c) if he is absent, without the prior approval of the Council, from three consecutive meetings of the Council of which due notice was given to him;

(d) upon the expiry of one month's notice of his intention to resign his office given by him in writing to the Minister;

(e) upon the expiry of one month's notice of his removal given to him in writing by the Minister;

(f) if he becomes mentally or physically incapable of performing his duties as a member; or

(g) on ceasing to be a representative of the Ministry or organisation that nominated him.

(5) The Council may act notwithstanding any vacancy of office among its members.

4. (1) The Council shall from among its members elect a Chairman and a Vice-Chairman.

Chairman  
and Vice-  
Chairman

(2) The Chairman or Vice-Chairman ceases to hold office-

(a) on ceasing to hold office as a member of the Council;

(b) upon the expiry of one month's notice of his intention to resign his office given by him in writing to the Council at a duly convened Council meeting; or

(c) on being removed from office by resolution of the Council.

5. (1) Subject to the other provisions of this Act, the Council may regulate its procedure.

Business of  
the Council

(2) The Council shall meet as often as necessary or expedient for the conduct of its business, but at least once in every four months, and such meetings shall be held at such places, times and days as the Chairman may determine.

(3) The Chairman may at any time call a meeting of the Council and shall call a special meeting to be held within seven days of receipt of a written request for that purpose addressed to him by a least four members of the Council.

(4) There shall preside at any meeting of the Council-

(a) the Chairman;

- (b) in the absence of the Chairman, the Vice-Chairman; or
- (c) in the absence of both the Chairman and Vice-Chairman, such member as the members present may elect for the purpose of the meeting.
- (5) The decision of the Council shall be by a majority of votes and in the event of an equality of votes, the Chairman or other person presiding at the meeting, in addition to his deliberative vote, shall have a second or casting vote.
- (6) The Council may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Council, but such a person shall have no vote.
- (7) The Director shall be entitled to attend any meeting of the Council, subject to the right of the meeting to exclude him from its deliberations on any particular matter for reasons of a conflict of interest.
- (8) The validity of any act, decision or proceedings of the Council shall not be affected by any defect in the appointment of any member or by reason of the fact that any person took part in its proceedings who was not entitled to do so.
- (9) Eight members of the Council shall form a quorum at any meeting of the Council.
- (10) Minutes of each meeting of the Council shall be kept and shall be confirmed as soon as practicable thereafter at a subsequent meeting.

6. (1) Where any member of the Council referred to in sub-item (a) or (b) of sub-paragraph (1) of paragraph *two* of this Schedule is for any reasonable cause unable to attend any meeting of the Council, the Ministry or organisation whose representative he is may in writing nominate another person to attend the meeting in his stead. Alternative members

(2) A person so nominated shall, for the purposes of the meeting concerned, be deemed to be a member of the Council.

7. A member of the Council or any committee thereof shall be entitled to such allowances as the Minister may determine in respect of him. Allowances

8. (1) If any person is present at a meeting of the Council or any committee of the Council at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested, he shall as soon as is practicable after the commencement of the meeting disclose the interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter. Disclosure of interest

(2) A disclosure of interest shall be recorded in the minutes of the meeting.

9. (1) The Council may for the purpose of performing its functions establish technical, advisory or other committees. Committees

(2) The Council may appoint as members of any such committee persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, a committee may regulate its own procedure.

10. (1) The Council shall, on such terms and conditions as it may determine, appoint a Director of the Bureau.

The  
Director

(2) The Director shall be the chief executive officer of the Bureau, and shall be responsible for the administration of the Bureau and for the implementation of decisions of the Council.

(3) The Director may, with the approval of the Council, establish such organisational structures for the Bureau as he may consider necessary for the proper performance of the functions of the Bureau.

11. The Council may appoint a Deputy Director of the Bureau whose functions shall be-

The  
Deputy  
Director

(a) to assist the Director in the exercise and performance of his powers and functions; and

(b) to exercise and perform the powers and functions of the Director whenever the office of Director is vacant or the Director is absent or is for any other cause unable to act.

12. The Council shall, on such terms and conditions as it may determine, appoint such other staff as may be necessary for the exercise and performance of the powers and functions of the Bureau.

Staff of  
the  
Bureau

13. (1) The Bureau shall under paragraph *twelve* appoint sufficient inspectors for the purposes of this Act.

Inspectors

(2) An inspector shall be provided with a certificate of appointment, which shall be prima facie evidence of his appointment.

14. The financial year of the Bureau shall be the period of twelve months ending on 31st December in each year.

Financial  
year

15. (1) The Bureau shall cause proper accounts to be kept of its assets and liabilities and of its income and expenditure for each financial year.

Accounts  
and audit

(2) The accounts of the Bureau for each financial year shall be audited by one or more persons who publicly carry on the profession of accountants in Zambia, and who shall be appointed by the Bureau with the approval of the Minister.



16. (1) The Bureau shall, not later than six months after the end of each financial year of the Bureau, submit to the Minister a report of its activities, together with a copy of its audited accounts for that financial year. Annual report

(2) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, lay it before the National Assembly.

17. (1) The seal of the Bureau shall be such device as may be determined by the Council. Seal of Bureau

(2) The Council may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman together with two other persons authorised in that behalf by a resolution of the Council.

(4) Any contract or instrument which if entered into or executed by a natural person would not require to be under seal may be entered into or executed without seal on behalf of the Bureau by the Director or by any other person generally or specifically authorised by the Council in that behalf.

(5) Any document purporting to be a document executed under the seal of the Bureau or issued on behalf of the Bureau shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof unless the contrary is proved.

## SECOND SCHEDULE

(Section 37)

# SAVINGS AND TRANSITIONAL PROVISIONS

1. In this Schedule-

"the appointed day" means the day appointed under section *one*;

"the former Bureau" means the Zambia Bureau of Standards established under the repealed Act;

"the repealed Act" means the Zambia Bureau of Standards Act, 1982.

Interpretation

2. A person who, immediately before the appointed day, held office as one of the members of the former Bureau referred to in any of paragraphs *(b)* - *(k)* of subsection (1) of section *four* of the repealed Act shall hold office, subject to this Act, as members of the Council until replaced by persons appointed for the purposes of sub-items *(a)* and *(b)* of subparagraph (1) of paragraph *two* of the First Schedule to this Act.

Act No. 22 of 1982 Former members of Bureau to be members of Council for a time

3. Nothing in this Act affects the rights of any person employed by the Bureau immediately before the appointed day.

Staff of former Bureau

4. Any voluntary, compulsory or export standard in force immediately before the appointed day under the repealed Act shall be deemed to be a voluntary, compulsory or export standard declared and in force under this Act.

Standards

5. Any mark declared, under the repealed act, to be a certification mark for any standard in force under that Act immediately before the appointed day shall be deemed to be a mark of conformity for the purposes of this Act with respect to the same standard.

Certification marks

6. Any authority granted by the former Bureau under section *twenty-one* or *twenty-two* of the repealed Act and in force immediately before the appointed day shall be deemed to be an authority granted for like purposes, and on the same terms and conditions, under section *twelve* of this Act.

Authorities

7. In any Act or statutory instrument or other document, a reference to the repealed Act or

References

any provision thereof shall be read and construed as a reference to this Act or the corresponding provision thereof, except to the extent that the contrary intention appears.

## SUBSIDIARY LEGISLATION

### **SECTION 37-THE STANDARDS (STANDARDS AND CERTIFICATION MARKS) REGULATIONS\***

*Statutory  
Instrument  
72 of 1994*

**\*These Regulations made under Act. No. 22 of 1982 (repealed) are continued in force by the provisions of section 15 of the Interpretation and General Provisions Act (Cap. 2).**

Regulations by the Minister

1. These Regulations may be cited as the Zambia Bureau of Standards (Standards and Certification Marks) Regulations. Title
  
2. In these Regulations, unless the context otherwise requires- Interpretation  
  
"authority" means the written authority obtained from the Bureau to apply a certification mark;  
  
"authorised person" means a person who has been granted authority to use a certification mark;  
  
"inspection" includes the process of examining and conducting of relevant tests by the Bureau to determine the conformity of any commodity with a declared standard.
  
3. The written Authority referred to in section 14 (1) of the Act shall be in Form ZABS/1 set out in the Schedule. Authority
  
4. An application for use or renewal of authority shall be in Form ZABS/2 set out in the Schedule. Application for authority
  
5. The Bureau shall not consider an application for an authority unless an inspector has been to the applicant's premises and has together with the applicant completed Form ZABS/3 set out in the Schedule. Inspection
  
6. (1) The authority issued by the Bureau shall be subject to the following general conditions- Condition of authority

(a) the authorised person shall comply with the general and specific conditions and scheme of supervision and control which the Bureau may issue from time to time;

(b) the authority shall not be transferable;

(c) costs incurred by inspectors, to determine whether commodities to which a certification mark has been applied fulfil the applicable requirements laid down by the Bureau, shall be borne by the authorised person to the extent specified in the scheme of supervision and control for the commodities listed in the authority;

(d) the right to use a certification mark applies only to the commodities listed in the authority;

(e) costs incurred in applying a certification mark shall be borne by the authorised person;

\*These Regulations made under Act. No. 22 of 1982 (repealed) are continued in force by the provisions of section 15 of the Interpretation and General Provisions Act (Cap. 2).

(f) the Bureau reserves the right to revise the procedures for marking standardised commodities;

(g) if the declared standard on which the authority is based is revised, the authority shall be valid only if the authorised person agrees to comply with the requirements set out in the revised declared standard;

(h) the authority shall be valid for one year from the date of issue unless earlier revoked.

(2) The Bureau shall impose any other conditions on the Authority as it thinks fit.

**7.** The Bureau shall periodically send an inspector to the authorised person's premises and the inspector shall complete Form ZABS/4 set out in the Schedule.

Periodic inspection

- |  |   |
|--|---|
| <b>8.</b> Any person aggrieved by the refusal of the Bureau to grant authority may within twenty-one days declare a dispute by completing Form ZABS/5 set out in the Schedule. | Declaration of dispute                      |
| <b>9.</b> The Bureau shall keep a register of all authorised persons and the products in respect of which an authority has been issued   | Register of authorised persons and products |
| <b>10.</b> Any person may, on payment of the appropriate fee, inspect the register.  | Inspection of register                      |

# FORM ZABS/1

THE REPUBLIC OF ZAMBIA

THE STANDARDS ACT

(Cap. 416)

THE STANDARDS (STANDARDS AND CERTIFICATION MARKS)  
REGULATIONS.

AUTHORITY TO USE A CERTIFICATION MARK

*(Regulation 3)*

No.....

This authority is granted to

of

to use the certification mark specified in Statutory Instrument No

of 19....., and in respect of

commodity/process which commodity/process

conforms to

declared standard or approved specification mark.

This authority is issued subject to the general conditions contained in the Zambia Bureau

of Standards (Standards and Certification Marks) Regulations, 1987, and the following additional condition(s).

Date.....

.....

*Director*



# FORM ZABS/2

## THE REPUBLIC OF ZAMBIA

THE STANDARDS ACT (Cap. 416)

THE STANDARDS (STANDARDS AND CERTIFICATION MARKS)  
REGULATIONS

APPLICATION FOR GRANT/RENEWAL OF AUTHORITY

*(Regulation 4)*

The Director, Zambia Bureau of Standards

1. \*I/We, carrying on business at.

(full business address) under

the name of

(full name of individual or firm) hereby apply for GRANT OF AUTHORITY/RENEWAL

OF AUTHORITY No to use the certification

mark in respect of the article/class of articles/process which conforms to the declared

standard(s) listed below:

*(a)* Article

Type

Size

Grade

*(b)* Class of articles.

Type

Size

Grade

(c) Process

\*Delete as applicable.

Only one of the three items under (a), (b) and (c) may be covered by one application.

Delete the other two.

(d) Related declared standard(s)

No Title.....

No Title.....

2. The above article(s) is/are manufactured by

carried out

factory) on the premises

situated at (address)

3. Production figures for the said article(s)/process and the value thereof to the best of my/our knowledge and estimates are as follows:

Year	Production	Unit	Value
------	------------	------	-------

K

last year from .....

to .....

Current year from.....

to .....

(estimates)

4. In order to ensure conformity of the said article(s)/process to the related declared standard(s)-

\*I/We have in use/propose to use the scheme of inspection and testing described in the statement attached hereto. Routine records of all the inspections and tests are being/will be kept in the form detailed in the statement. I/We further undertake to modify, amend or alter my/our scheme of inspection and testing to bring it in line with that which may be specified by the Bureau from time to time.

\*I/We have at present no scheme of inspection and testing in operation.

I/We, however, undertake to put in operation any such scheme as recommended by the Bureau.

5. Should any initial enquiry be made by the Bureau I/We agree to extend to the Bureau all reasonable facilities at my/our command and I/We also agree to pay all expenses of the said enquiry, including charges for testing, as and when required by the Bureau.

6. Should the authority be granted and as long as it will remain operative, I/We hereby undertake to abide by all the terms and conditions of the Bureau and the Regulations prescribed under the Act. In the event of the authority being suspended or cancelled, I/We also undertake to cease with immediate effect to use the authority and to withdraw all relevant advertising matters and to take such other steps as may be necessary to fulfil the provisions of the Act.

Dated this.....day of

Signature

Name

Designation

For and on behalf of

.(name of firm)

# FORM ZABS/3

## THE REPUBLIC OF ZAMBIA

THE STANDARDS ACT (Cap. 416)

STANDARDS (STANDARDS AND CERTIFICATION MARKS) REGULATIONS.

PRELIMINARY INSPECTION REPORT

*(Regulation 5)*

No.....

### 1. GENERAL INFORMATION

1.1 Applicant's name

1.2 Address

1.3 Situation of factory Telephone No.....

1.4 Management Staff Person(s) Contacted

(i)

(ii)

### 2. PRODUCTION INFORMATION

2.1 Product name

2.2 Applicable declared standard

2.3 Type Size ..... Grade .....

### 3. RAW MATERIALS

3.1 Raw materials used:

(a)

(b)

(c)

(d)

3.2 Sources of supply:

(a)

(b)

(c)

(d)

3.3 Mode of receipt (batches, lots, nature of package)

3.4 Test certificate of suppliers

3.5 Arrangement for testing as received

3.6 Details of sampling

3.7 Methods of disposal of sub-standard raw materials

3.8 Record of tests with pro forma of records.

4. MANUFACTURE

4.1 Type/Grade being manufactured at the time of inspection:

(a)

(b)

(c)

4.2 Description of process from raw materials to finished product stage

4.3 Intermediate points where control has to be exercised

4.4 Details of records maintained and controls used

.

4.5 Methods of disposal of sub-standard products

.

4.6 Units of production

4.7 Production per day or per shift.

5. PACKAGING AND MARKING

5.1 Nature of package in

5.2 Quantity per packaging

5.3 Marking on article.

5.4 Method of marking  
(printing, stencilling, embossing, etc.)

5.5 Form of label(s) if any

5.6 Batch or code numbering for identification

## 6. LABORATORY AND INSPECTION

6.1 Details of staff

6.2 Equipment and other facilities for complete specification testing

6.3 Accuracy of instruments and arrangements for calibration

6.4 Any laboratory where the firm could test its products

6.5 Records maintained in laboratory for routine tests

6.6 Stages of processing where laboratory reports are made available

6.7 Sampling and testing of end products

## 7. SAMPLE

7.1 Type, size and grade of the sample

7.2 Details of counter sample

7.3 How sealed

7.4 Laboratory to which despatched

7.5 Test results on a sample if tested in factory

7.6 Any further information regarding sample drawn

7.7 Information regarding sample of other type/grade applied for

## 8. OTHER INFORMATION

8.1 Main buyers and selling price

8.2 Storage facilities

8.3 Hygienic conditions (in case of food products)



8.4 Discussion with the firm on scheme of testing and inspection

9. CONCLUSION, RECOMMENDATIONS

Signature ..... Inspected by .....

Date .....

# FORM ZABS/4

## THE REPUBLIC OF ZAMBIA

THE ZAMBIA BUREAU OF STANDARDS ACT

(Act No. 22 of 1982)

THE STANDARDS (STANDARDS AND CERTIFICATION MARKS)  
REGULATIONS.

PERIODIC INSPECTION REPORT

*(Regulation 7)*

AUTHORITY NO .....

1. AUTHORISED PERSON

1.2 Address

1.3 Person(s) contacted

2. PRODUCT NAME

2.1 Date of inspection

3. PREVIOUS INSPECTION

3.1 Date..... Conducted by .....

3.3 Conclusion and recommendation

3.4 Action in advice rendered in previous inspection or otherwise asked for

4. Changes since previous inspection

4.1 TECHNICAL

Authority No.....

4.2 Administrative

5. DESCRIPTION OF ARTICLE(S) BEING MANUFACTURED AT THE TIME OF INSPECTION

6. RAW MATERIALS

6.1 Name of major ones\* ..... Supplier\* .....

6.2 Does the firm test the major raw materials or does it depend on test certificates from suppliers?

6.3 Maximum and minimum values of principal requirements

6.4 Disposal of sub-standard raw materials

7. PRODUCTION AND SUPPLY (from to.....)

7.1 Quantity produced

7.2 Quantity marked

7.3 Quantity unmarked

7.4 Reasons for not marking

7.5 Parties supplies to .

8. STORING, PACKING AND MARKING

8.1 Material held in stock

8.2 Condition of storing

8.3 Packing and marking on packages .

8.4 At what stage is marking done (after or before test results are known)

\*Attach list

Authority No.....

8.5 Any change in the marking procedure from approved one

9. PRODUCTION CONTROL

9.1 How is the control system operated?

9.2 Variation in test results for principal requirements (append test results, if necessary or if required by the instruction sheet for the standard)

9.3 Are the test records maintained satisfactorily?

9.4 What is the percentage of rejections, their reasons and manner of disposal?

9.5 Whether the failure is due to inherent causes or chance cause

## 10. TESTING IN FACTORY

10.1 Requirements tested with results (use laboratory pro forma)

10.2 Comparison of results obtained with firm's records

10.3 Comparison of results with the requirements of the specifications

10.4 Are the instruments used calibrated periodically?

10.5 Are the instruments used reasonably accurate?

10.6 Any addition in the existing testing equipment?

....

## 11. SAMPLES FOR INDEPENDENT TESTS

11.1 Number of samples drawn

11.2 From where sampled?

Authority No.....

11.3 Code number/batch number/date of manufacture, etc., of the lot sampled and other markings

11.4 Test record of the batch from which sample is drawn

11.5 Samples brought in or left with the firm for despatch to testing laboratory

11.6 Laboratory to which sample is sent/proposed to be sent

11.7 Details of counter sample left with the firm

11.8 Any further information

12. FOOD ARTICLES (indicate the hygienic conditions maintained in the factory)

...

### 13. CONCLUSION AND RECOMMENDATIONS

13.1 Has the scheme operated satisfactorily for this period since last inspected?

13.2 Assessment of the operation of the scheme based on the present vis-a-vis past performance

13.3 Any discussion with the firm on any point of interest, e.g. any difficult in operation, irregularities observed in the operation

13.4 Any action to be taken including suspension

13.5 Any other observations/comments

.

File Ref.

Signature

Date

Authority No

REMARKS OF THE REVIEWING OFFICER



**FORM ZABS/5**  
**THE REPUBLIC OF ZAMBIA**

THE STANDARDS ACT

Cap. 416

THE ZAMBIA BUREAU OF STANDARDS (STANDARDS AND CERTIFICATION MARKS) REGULATIONS, 1987

DECLARATION OF A DISPUTE

*(Regulation 8)*

To: The Director, Zambia Bureau of Standards

\*I/We, carrying on business at

(full business address)

under the name of

(full name of individual or firm) hereby, pursuant to the provisions of section 25 (2) of the Zambia Bureau of Standards Act, declare a grievance stated hereunder:

(Here state the facts concisely in numbered paragraphs)

\*I/We, the said do hereby  
refer the said matters in grievance to the Arbitrators.

Dated this ..... day of .....



Signature .....

Name .....

\*Delete as applicable.

Designation .....

For and on behalf of

(Name of firm)

## **SECTION 31-THE ZAMBIA BUREAU OF STANDARDS (CALIBRATION SERVICE) REGULATIONS\***

*Statutory  
Instrument  
72 of 1994*

\*These Regulations made under Act. No. 22 of 1982 (repealed) are continued in force by the provisions of section 15 of the Interpretation and General Provisions Act (Cap. 2).

Regulations by the Minister

1. These Regulations may be cited as the Zambia Bureau of Standards (Calibration Service) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"bureau" means the Bureau established by section *three* of the Zambia Bureau of Standards Act; *Act No.22 of 1982*

"calibration" means all stages of any process aimed at or determining the degrees of the errors of a measuring instrument, as well as, where necessary, for the purpose of determining other metrological properties;

"measuring instrument" includes any device such as a graduated rule, set of weights, equal-arm balance, U-tube manometer, clock, ammeter, and others intended for the purpose of measurement and which may reproduce one or more known values of a given quantity, or provide an indication of the value of the measured quantity of equivalent information or which combines these functions;

"metrology" means the field of knowledge concerned with measurements and includes theoretical and practical aspects of measurements, at whatever level of accuracy, and in whatever fields of science or technology they occur;

"primary standard" means a standard which has the highest metrological qualities;

"standard" means a material measure, measuring instrument or system such as the one kilogram mass, standard gauge block, the 100 ohm standard resistor, the standard ammeter, the caesium atomic frequency standard and others, intended to define, realise, conserve or reproduce a

unit or one or more known values of a quantity in order to transmit them to other measuring instruments by comparison;

"traceability" means the ability to trace the calibration of a measuring instrument to a more accurate and recognised standard.

**3.** (1) The Director shall, by notice, in the *Gazette* prescribe the categories of instruments and equipment which shall be calibrated by the Bureau and shall on that notice state-

Categories of instruments and equipment to be calibrated

\*These Regulations made under Act. No. 22 of 1982 (repealed) are continued in force by the provisions of section 15 of the Interpretation and General Provisions Act (Cap. 2).

(a) the date by which all instruments and equipment within that category shall be calibrated;

(b) the Standard to be used for calibration;

(c) the interval between each calibration; and

(d) the fee to be paid for calibration.

(2) Where a notice has been published under sub-regulation (1), the person responsible for the operation of the equipment or instrument affected shall deliver to the Bureau all relevant information in the approved form.

(3) A person who operates a prescribed equipment or an instrument which should have been calibrated but does so without a calibration certificate in respect thereof shall be guilty of an offence.

**4.** Every person who supplies a measuring instrument shall provide the user of the instrument with all the necessary documentation relating to the operation, servicing or repairing of the measuring instrument:

Documentation received with instrument

Provided that the documentation shall be in accordance with the existing standard for such documentation.

**5.** Every calibrated measuring instrument which is repaired or serviced shall, before being taken into use, be re-calibrated after such repair or service.

Re-calibration of measuring instrument

**6.** The Director may, by notice in writing, require a person to furnish information on any measuring or test instrument or piece of equipment within the period specified in the notice and a person who fails to comply with that notice shall be guilty of an offence.

Information required

**7.** (1) The Bureau shall issue a calibration certificate in respect of equipment or an instrument which has been calibrated and the certificate shall be in the approved form stating-

Calibration certificate

(a) the date and place of issue;

(b) details of the measurement results; and

(c) the calibration date.

(2) Where a calibration certificate has been issued, a calibration mark in the form shown in the First Schedule to these Regulations shall be affixed to the calibrated instrument.

(3) The Bureau shall seal access to adjustable devices on the calibrated instrument or equipment that are fixed at the time of calibration and a seal shall be so designed that any tampering with it shall destroy it.

**8.** A person who commits an offence under these regulations shall be liable to a fine not exceeding one hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

Penalty

*(As amended by Act No. 13 of 1994)*

# FIRST SCHEDULE

*(Regulation 7)*

## CALIBRATION MARK

Zambia Calibration Service

Instrument:

Serial No.

Date Calibrated:

By:

Certificate No.

Recalibration due:

## CHAPTER 417

### THE COMPETITION AND FAIR TRADING ACT

#### ARRANGEMENT OF SECTIONS

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title
2. Interpretation
3. Non-application

#### **PART II**

#### **ZAMBIA COMPETITION COMMISSION**

4. Establishment of Commission
5. Seal of Commission
6. Functions of Commission

#### **PART III**

#### **ANTI-COMPETITIVE TRADE PRACTICES, ETC.**

7. Enumeration of anti-competitive trade practices
8. Control of mergers and takeovers
9. Trade agreements
10. Anti-competitive trade practices by associations
11. Criteria for controlling monopolies and concentrations of economic power
12. Unfair trading
13. Authorisation of allowable acts

## **PART IV**

### **GENERAL**

14. Powers of Executive Director
15. Appeals
16. Offences and penalties
17. Regulations

SCHEDULE-Zambia Competition Commission

## **CHAPTER 417**

### **COMPETITION AND FAIR TRADING**

*Act No.*  
*18 of 1994*  
*13 of 1994*

An Act to encourage competition in the economy by prohibiting anti-competitive trade practices; to regulate monopolies and concentrations of economic power; to protect consumer welfare; to strengthen the efficiency of production and distribution of goods and services; to secure the best possible conditions for the freedom of trade; to expand the base of entrepreneurship; and to provide for matters connected with or incidental to the foregoing.

[3rd June, 1994]

## **PART I**

### **PRELIMINARY**

1. This Act may be cited as the Competition and Fair Trading Act. Short title
  
2. In this Act, unless the context otherwise requires- Interpretation

"affiliated" means associated with each other, formally or informally, by shareholding or otherwise;

"anti-competitive trade practices" means the trade practices enumerated

in sections *seven, eight, nine* and *ten*;

"Chairman" means the Chairman of the Commission, elected under paragraph 1 of the Schedule;

"Committee" means a committee of the Commission, established under paragraph 5 of the Schedule;

"consumer" includes any person-

(a) who purchases or offers to purchase goods otherwise than for the purpose of resale but does not include a person who purchases any goods for the purpose of using them in the production and manufacture of any other goods or articles for sale;

(b) to whom a service is rendered;

"customer" means a person who purchases goods or services;

"distribution" includes any act by which goods are sold or services supplied for consideration;

"distributor" means a person who engages in distribution;

"Executive Director" means the Executive Director appointed under paragraph 7 of the Schedule;

"manufacturing" means transforming, on a commercial scale, raw materials into finished or semi-finished products, and includes the assembling of inputs into finished or semi-finished products but does not include mining;

"member" means a member of the Commission;

"monopoly undertaking" means a dominant undertaking or an undertaking which together with not more than two independent undertakings-

(a) produces, supplies, distributes or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed throughout Zambia or any substantial part of Zambia; or



(b) provides or otherwise controls not less than one-half of the services that are rendered in Zambia or any substantial part thereof;

"person" includes an individual, a company, a partnership, an association and any group of persons acting in concert, whether or not incorporated;

"sale" includes an agreement to sell or offer for sale and includes the exposing of goods for sale, the furnishing of a quotation, whether verbally or in writing, and any other act or notification by which willingness to enter into any transaction for sale is expressed;

"Secretary" means the person appointed as such under paragraph 8 of the Schedule;

"service" includes the sale of goods where the goods are sold in conjunction with the rendering of a service;

"supply", in relation to goods, includes supply or resupply by way of sale, exchange, lease, hire or hire purchase;

"trade association" means a body of persons which is formed for the purpose of furthering the trade interests of its members or of persons represented by its members; and

"trade practice" means any practice related to the carrying on of any trade and includes anything done or proposed to be done by any person which affects or is likely to affect the method of trading of any trader or class of traders or the production, supply or price in the course of trade of any goods, whether real or personal, or of any service.

**3. Nothing in this Act shall apply to-**

Non-application

(a) activities of employees for their own reasonable protection as employees;

(b) arrangements for collective bargaining on behalf of employers and employees for the purpose of fixing terms and conditions of employment;

(c) activities of trade unions and other associations directed at advancing the terms and conditions of employment of their members;

(d) the entering into an agreement in so far as it contains a provision relating to the use, licence or assignment of rights under, or existing by virtue of, any copyright, patent or trade mark;

(e) any act done to give effect to a provision of an agreement referred to in paragraph (d);

(f) activities expressly approved or required under a treaty or agreement to which the Republic of Zambia is a party;

(g) activities of professional associations designed to develop or enforce professional standards reasonably necessary for the protection of the public; and

(h) such business or activity as the Minister may, by statutory instrument, specify.

## **PART II**

### **ZAMBIA COMPETITION COMMISSION**

**4.** (1) There is hereby established the Zambia Competition Commission which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform. Establishment of Commission

(2) The provisions of the Schedule shall apply as at to the constitution of the Commission and otherwise in relation thereto.

**5.** (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary. Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman and the Secretary or any other person authorised in that behalf by a resolution of the Commission.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed without seal on behalf of the Commission by the Secretary or any other person generally or

specifically authorised by the Commission in that behalf.

6. (1) It shall be the function of the Council to monitor, control and prohibit acts or behaviour likely to adversely affect competition and fair trading in Zambia.

Functions of  
Council

(2) Without limiting the generality of subsection (1), the functions of the Council shall be-

(a) to carry out, on its own initiative or at the request of any person, investigations in relation to the conduct of business, including the abuse of a dominant position, so as to determine whether any enterprise is carrying on anti-competitive trade practices and the extent of such practices, if any;

(b) carry out investigations on its own initiative or at the request of any person who may be adversely affected by a proposed merger;

(c) to take such action as it considers necessary or expedient to prevent or redress the creation of a merger or the abuse of a dominant position by any enterprise;

(d) to provide persons engaged in business with information regarding their rights and duties under this Act;

(e) to provide information for the guidance of consumers regarding their rights under this Act;

(f) to undertake studies and make available to the public reports regarding the operation of this Act;

(g) to co-operate with and assist any association or body of persons to develop and promote the observance of standards of conduct for the purpose of ensuring compliance with the provisions of this Act; and

(h) to do all such acts and things as are necessary, incidental or conducive to the better carrying out of its functions under this Act.

### **PART III**

## **ANTI-COMPETITIVE TRADE PRACTICES, ETC.**

7. (1) Any category of agreements, decisions and concerted practices which have as their object the prevention, restriction or distortion of competition to an appreciable extent in Zambia or in any substantial part of it are declared anti-competitive trade practices and are hereby prohibited.

Enumeration of  
anti-competitive  
trade practices

(2) Subject to the provisions of subsection (1), enterprises shall refrain from the following acts or behaviour if, through abuse or acquisition of a dominant position of market power, they limit access to markets or otherwise unduly restrain competition, or have or are likely to have adverse effect on trade or the economy in general:

(a) predatory behaviour towards competition including the use of cost pricing to eliminate competitors;

(b) discriminatory pricing and discrimination, in terms and conditions, in the supply or purchase of goods or services, including by means of pricing policies in transactions between affiliated enterprises which overcharge or undercharge for goods or services purchased or supplied as compared with prices for similar or comparable transactions outside the affiliated enterprises;

(c) making the supply of goods or services dependant upon the acceptance of restrictions on the distribution or manufacture of competing or other goods;

(d) making the supply of particular goods or services dependant upon the purchase of other goods or services from the supplier to the consignee;

(e) imposing restrictions where or to whom or in what form or quantities goods supplied or other goods may be sold or exported;

(f) mergers, takeovers, joint ventures or other acquisitions of control whether of horizontal, vertical or conglomerate nature; or

(g) colluding, in the case of monopolies of two or more manufacturers, wholesalers, retailers, contractors or suppliers of services, in setting a uniform price in order to eliminate competition.

**8.** (1) Any persons who, in the absence of authority from the Commission, whether as a principal or agent and whether by himself or his agent, participates in effecting-

Control of mergers  
and takeovers

(a) a merger between two or more independent enterprises engaged in manufacturing or distributing substantially similar goods or providing substantially similar services;

(b) a takeover of one or more such enterprises by another enterprise, or by a person who controls another such enterprise;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or imprisonment not exceeding five years or to both.

(2) No merger or takeover made in contravention of subsection (1) shall have any legal effect and no rights or obligations imposed on the participating parties by any agreement in respect of the merger or takeover shall be legally enforceable.

*(As amended by Act No. 13 of 1994)*

**9.** (1) It shall be an offence for enterprises engaged on the market in rival or potentially rival activities to engage in the practices appearing in subsection (2) where such practices limit access to markets or otherwise unduly restrain competition;

Trade agreements

Provided that this subsection shall not apply where enterprises are dealing with each other in the context of a common entity wherein they are under common control or where they are otherwise not able to act independently of each other.

(2) This section applies to formal, informal, written and unwritten agreements and arrangements.

(3) For the purposes of subsection (1), the following are prohibited:

(a) trade agreements fixing prices between persons engaged in the business of selling goods or services, or purchase of goods or services

between persons, or limit or restrict the terms and conditions of sale or supply or purchase between persons engaged in the sale of purchased goods or services;

(b) collusive tendering;

(c) market or customer allocation agreements;

(d) subject to the Coffee Act, allocation by quota as to sales and production;

Cap. 228

(e) collective action to enforce arrangements;

(f) concerted refusals to supply goods and services to potential purchasers; or

(g) collective denials of access to an arrangement or association which is crucial to competition.

**10.** The following practices conducted by or on behalf of a trade association are declared to be anti-competitive trade practices:

Anti-competitive trade practices by associations

(a) unjustifiable exclusion from a trade association of any person carrying on or intending to carry on in good faith the trade in relation to which the association is formed; or

(b) making of recommendations, directly or indirectly, by a trade association, to its members or to any class of its members which relate to-

(i) the prices charged or to be charged by such members or any such class of members or to the margins included or to be included in the prices or to the pricing formula used or to be used in the calculation of those prices; or

(ii) the terms of sale (including discount, credit, delivery, and product and service guarantee terms) of such member or any class of members and which directly affects prices or profit margins included in the pricing formula.

**11.** (1) The Commission shall keep the structure of production of goods and services in Zambia under review to determine where concentration

Criteria for controlling

of economic power exist whose detrimental impact on the economy outweigh the efficiency advantages, if any.

monopolies and concentrations of economic power

(2) For the purposes of subsection (1) but without limiting the generality thereof, the Commission shall consider whether-

(a) a person controls a chain of distributing units the value of whose sales accounts for a significant portion of the relevant market;

(b) a person, by virtue of controlling two or more physically distinct enterprises which manufacture substantially similar goods, supplies a significant portion of the domestic market at unreasonably low prices; or

(c) a person has substantial shares in a manufacturing enterprise and whether he simultaneously has a beneficial interest, however small, of outstanding shares in one or two wholesale or retail enterprises which distribute products of the manufacturing enterprise.

**12.** A person shall not-

Unfair trading

(a) withhold or destroy producer or consumer goods, or render unserviceable or destroy the means of production and distribution of such goods, whether directly or indirectly, with the aim of bringing about a price increase;

(b) exclude liability for defective goods;

(c) in connection with the supply of goods or services, make any warranty-

(i) limited to a particular geographic area or sales point;

(ii) falsely represent that products are of a particular style, model or origin;

(iii) falsely represent that the goods are new or of specified age; or

(iv) represent that products or services have any sponsorship, approval, performance and quality characteristics, components, materials, accessories, uses or benefits which they do not have;

(d) engage in conduct that is likely to mislead the public as to the nature, price, availability, characteristics, suitability for a given purpose,

quantity or quality of any products or services; or

(e) supply any product which is likely to cause injury to health or physical harm to consumers, when properly used, or which does not comply with a consumer safety standard which has been prescribed under any law.

**13.** (1) The Commission may authorise any act which is not prohibited outright by this Act, that is, an act which is not necessarily illegal unless abused if that act is considered by the Commission as being consistent with the objectives of this Act.

Authorisation of allowable acts

(2) The Minister may, on the recommendation of the Commission, by statutory instrument, make regulations prescribing the particulars to be furnished to the Commission for the purposes of subsection (1).

## **PART IV**

### **GENERAL**

**14.** (1) Where the Executive Director or any officer has reasonable cause to believe that an offence under this Act or any regulations made hereunder has been or is being committed, he may seek from a court a warrant granting-

Powers of Executive Director

(a) authority to enter any premises;

(b) access to, or production of, any books, accounts or other documents relating to the trade or business of any person and the taking of copies of any such books, accounts or other documents:

Provided that any books, accounts or other documents produced shall be returned forthwith if they are found to be irrelevant.

(2) In the exercise of the powers contained in subsection (1), the Executive Director or other officer of the Council may be accompanied or assisted by any such police officers as he thinks necessary to assist him to enter into or upon any premises.



**15.** Any person aggrieved by a decision of the Commission made under this Act or under any regulations made hereunder may, within thirty days after the date on which a notice of that decision is served on him, appeal to the High Court.

Appeals

**16.** (1) Any person who-

Offences and penalties

(a) contravenes or fails to comply with any provision of this Act or any regulations made hereunder, or any directive or order lawfully given, or any requirement lawfully imposed under this Act or any regulations made hereunder, for which no penalty is provided;

(b) omits or refuses-

(i) to furnish any information when required by the Commission to do so; or

(ii) to produce any document when required to do so by a notice sent by the Commission: or

(c) knowingly furnishes any false information to the Commission; shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand penalty units or imprisonment for a term not exceeding five years or to both.

(2) If the offence is committed by a body corporate, every director and officer of such body corporate, or if the body of persons is a firm, every partner of that firm, shall be guilty of that offence provided that no such director, officer or partner shall be guilty of the offence if he proves on a balance of probability that such offence was committed without his knowledge or consent, or that he exercised all due diligence to prevent the commission of the offence.

*(As amended by Act No. 13 of 1994)*

**17.** The Commission may, with the approval of the Minister, by statutory instrument, make regulations governing-

Regulations

(a) anything which under this Act is required or permitted to be prescribed;

(b) any forms necessary or expedient for purposes of this Act;

(c) any fees payable in respect of any service provided by the Commission; or

(d) such other matters as are necessary or expedient for the better carrying out of the purposes of this Act.

# SCHEDULE

(Section 4)

## ZAMBIA COMPETITION COMMISSION

1. (1) The Commission shall consist of-
- (a) a representative from each of the Ministries responsible for finance, and commerce and industry;
  - (b) a representative of the Zambia Bureau of Standards;
  - (c) two representatives from the Zambia Chamber of Commerce and Industry, each representing different sections of that body;
  - (d) a representative of the Law Association of Zambia;
  - (e) a representative of the Zambia Federation of Employers;
  - (f) a representative of the Zambian Congress of Trade Unions;
  - (g) two persons representing consumer interests and appointed by the Minister;
  - (h) a representative of the Engineering Institution of Zambia;
  - (i) a representative of the accounting profession; and
  - (j) the Economics Association of Zambia.

Composition  
of  
Commission

(2) All members shall be nominated by their respective institutions and shall be appointed by the Minister.

(3) The Chairman and the Vice-Chairman shall be elected by the Commission from amongst its members:

Provided that the members appointed under items (a) and (b) of sub-paragraph (1) shall not be elected as Chairman or Vice-Chairman.

2. (1) The members shall hold office for a period of three years from the date of appointment and may, upon the expiration of that term, be re-appointed for a like term and, for this purpose, paragraph 1 (2) of this Schedule shall apply.

Tenure of  
office and  
vacancy

(2) A member referred to in items (b), (c), (d), (e), (f), (g) and (h) of paragraph 1 (1) of this Schedule may resign upon giving one month's notice in writing to the organisation which nominated him and to the Minister and shall be removed by the Minister at any time if the body which nominated him withdraws its recognition and so informs the Minister in writing.

(3) The office of a member shall become vacant-

- (a) upon his death;

- (b) if he is absent without reasonable excuse from three consecutive meetings of the Commission of which he has had notice; or
- (c) if he is lawfully detained or his freedom of movement is restricted for a period exceeding six months;
- (d) if he becomes an undischarged bankrupt;
- (e) if he becomes of unsound mind; or
- (f) by operation sub-paragraph (2).

**3.** A member shall be paid such remuneration or allowances as the Council may, subject to the approval of the Minister, determine.

Remuneration  
and  
allowances  
Proceedings  
of  
Commission

**4.** (1) Subject to the other provisions of this Act, the Commission may regulate its procedure.

(2) The Commission shall meet as often as necessary or expedient for the discharge of its business and such meetings shall be held at such places, times and days as the Commission may determine.

(3) The Chairman may at any time call a meeting of the Commission and shall call a special meeting to be held within ten days of receipt of a written request for that purpose addressed to him by at least one-third of the members of the Commission.

(4) Seven members shall form a quorum at any meeting of the Commission.

(5) There shall preside at any meeting of the Commission-

(a) the Chairman;

(b) in the absence of the Chairman, the Vice-Chairman; or

(c) in the absence of both the Chairman and Vice-Chairman, such member as the members present may elect for the purpose of the meeting.

(6) The decision of the Commission shall be by a majority of members present and voting at the meeting and, in the event of an equality of votes, the Chairman or other person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Commission may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberation of a meeting of the Commission but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Commission shall not be affected by any vacancy in the membership of the Commission or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Commission shall cause minutes to be kept of every meeting of the Commission and of every meeting of any committee established by the Commission.

**5.** (1) The Commission may for the purpose of performing its functions under this Act

Committees

establish committees and delegate to any such committee such of its functions as it considers necessary.

of  
Commission

(2) The Commission may appoint as members of a committee established under sub-paragraph (1) persons who are or are not members of the Commission and such persons shall hold office for such period as the Commission may determine.

(3) Subject to any specific or general direction of the Commission, a committee established under sub-paragraph (1) may regulate its own procedure.

**6.** (1) If any person is present at a meeting the Commission or committee of the Commission at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested, he shall as soon as is practicable after the commencement of the meeting disclose such interest and shall not, unless the Commission or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

**7.** (1) The Commission shall appoint, on such terms and conditions as it may determine, an Executive Director who shall be the chief executive officer of the Commission.

Executive  
Director of  
Commission

(2) The Executive Director shall be responsible for the day-to-day administration of the Commission.

**8.** (1) There shall be a Secretary to the Commission who shall be appointed by the Commission on such terms and conditions as the Commission may determine.

Secretary  
and other  
staff

(2) The Secretary shall, under the general supervision of the Executive Director, carry out corporate secretarial duties.

(3) The Commission may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

**9.** (1) A person shall not, without the consent in writing given by or on behalf of the Commission publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to and which has come to his knowledge in the course of his duties under this Act.

Prohibition  
of  
publication  
or disclosure  
of  
information  
to  
unauthorised  
persons

(2) Any person who knowingly contravenes the provisions of sub-paragraph (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding three years or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of sub-paragraph (1) unlawfully publishes or communicates any such information to any other person he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding three years or to both.

*(As amended by Act No. 13 of 1994)*

**10.** No action or other proceeding shall lie against any member, member of staff, servant, agent or representative of the Commission for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act. Immunity

**11.** (1) The funds of the Commission shall consist of such moneys as may- Funds of Commission  
(a) be appropriated by Parliament for the purposes of the Commission;  
(b) be paid to the Commission by way of grants or donations; and  
(c) vest in or accrue to the Commission.

(2) The Commission may-  
(a) accept money by way of grants or donations;  
(b) raise by way of loans or otherwise from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia, such money as it may require for the discharge of its functions; and  
(c) charge and collect fees in respect of programmes, publications, seminars, consultancy and other services provided by the Commission.

(3) There shall be paid from the funds of the Commission-  
(a) the salaries, allowances, loans, gratuities and pensions of the staff of the Commission and other payments for the recruitment and retention of staff;  
(b) such reasonable travelling and subsistence allowances for members or members of any committee of the Commission when engaged on the business of the Commission and at such rates as the Commission may determine; and  
(c) any other expenses incurred by the Commission in the performance of its functions.

(4) The Commission may after the approval of the Minister, invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

**12.** The financial year of the Commission shall be the period of twelve months ending on 31st December in each year. Financial Year

**13.** (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Minister.

(3) The auditors' fees shall be paid by the Commission.

**14.** (1) As soon as practicable but not later than six months after the expiry of the financial year, the Commission shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report-

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay it before the National Assembly.

## CHAPTER 418

### THE EXPORT DEVELOPMENT ACT

#### ARRANGEMENT OF SECTIONS

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title
2. Interpretation

#### **PART II**

**REPEALED BY ACT No.29 OF 1994**

#### **PART III**

#### **EXPORT BOARD OF ZAMBIA**

9. Establishment of Board
10. Seal of Board
11. Composition of Board
12. Tenure of office and vacancy
13. Remuneration and allowances of members
14. Functions of Board
15. Proceedings of Board
16. Committees of Board
17. Disclosure of interest
18. Immunity of Board members

#### **PART IV**

#### **ADMINISTRATION**



19. Director and Deputy Director
20. Secretary and other staff
21. Prohibition of publication or disclosure of information to unauthorised persons

## **PART V**

### **FINANCIAL AND OTHER PROVISIONS**

#### Section

22. Funds of Board
23. Financial year
24. Accounts
25. Annual report
26. Appeals
27. Regulations

## **CHAPTER 418**

### **EXPORT DEVELOPMENT**

No 25 of 1985  
13 of 1994  
No 29 of 1994

An Act to establish the Export Board of Zambia; to define the functions and powers of the Board; and to provide for matters connected with or incidental to the foregoing.

*(As amended by Act No. 29 of 1994)*

## **PART I**

### **PRELIMINARY**

1. This Act may be cited as the Export Development Act.\*

Short title

\* The Export Development Act shall be deemed to have come into operation on 27th December, 1985.

2. In this Act, unless the context otherwise requires-

Interpretation

"Board" means the Export Board of Zambia established by section *nine*;

"Deputy Director" means the person appointed Deputy Director of the Board under section *nineteen*;

"Director" means the person appointed Director of the Board under section *nineteen*;

"Secretary" means the person appointed Secretary of the Board under section *twenty*;

(As amended by Act No 29 of 1994)

## **PART II**

### **REPEALED BY ACT NO. 29 OF 1994**

## **PART III**

### **EXPORT BOARD OF ZAMBIA**

9. There is hereby established the Export Board of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

Establishment of Board

10. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of Board

(2) The Board may use a wafer or rubber stamp *in lieu* of the seal.

\*The Export Development Act shall be deemed to have come into operation on 27th December, 1985.

(3) The affixing of the seal shall be authenticated by the Board chairman or the Board vice-chairman, and the Secretary or such other person as may be authorised by the Board in that behalf.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**11.** (1) The Board shall consist of not fewer than six and not more than ten members, who shall be appointed by the Minister from among persons duly nominated by organisations or associations recognised by Government as representing exporters and other persons concerned with the export trade.

Composition of Board

(2) A person shall not be eligible for appointment as a member unless he has had experience in industry, trade, agriculture or finance or in a field connected with export development and promotion.

(3) In appointing members, the Minister shall ensure that at least two-thirds of the members are from the business sector concerned with the export trade sector.

(4) The Board shall elect a Chairman and a Vice-Chairman from amongst its members.

*(As amended by Act No. 29 of 1994)*

**12.** (1) A member shall hold office for a period of three years from the date of his appointment and may be re-appointed upon the expiration of such term.

Tenure of office and vacancy

(2) A member may resign upon giving one month's notice in writing to the Minister and may be removed by the Minister upon giving like notice.

(3) The office of a member shall become vacant-

(a) if he is declared to be unsound mind;

(b) if he is adjudged bankrupt;

(c) if he is detained, or his freedom of movement is restricted, under any law in force in Zambia for a period in excess of six months;

(d) if he is sentenced to a term of imprisonment of not less than six months;

(e) if he is convicted of any offence involving dishonesty;

(f) upon the expiration of not less than one month's notice given in writing by the member to the Minister of the member's intention to resign from the Board;

(g) if he is absent from three consecutive meetings of the Board without reasonable cause; or

(h) upon the expiration of not less than one month's notice given in writing to the member by the Minister.

*(As amended by Act No. 29 of 1994)*

**13.** A member other than a public officer shall be paid such remuneration or allowance as the Minister may from time to time determine.

Remuneration and allowances of members

**14.** (1) The functions of the Board shall be to do all such acts and things as are necessary to develop, promote and encourage, in accordance with the policies approved by the Minister, the export of goods and services from Zambia.

Functions of Board

(2) Without prejudice to the generality of subsection (1), the Board may-

(a) recommend for the approval of the Minister-

(i) policies relating to the development, promotion, and encouragement of export of goods and services from Zambia;

(ii) policies relating to the adoption, entering into or ratification of multi-lateral and bi-lateral agreements which affect exports from Zambia;

(iii) measures aimed at improving existing laws, systems and programmes with a view to maximising exports from Zambia;

(b) complement the efforts of exporters in Zambia by-

(i) collecting and disseminating information, statistics and other relevant data relating to markets or potential markets abroad;

(ii) assisting them to benefit from incentives, credits, credit guarantee schemes, export guarantee schemes, etc.,

(iii) providing technical know-how and specialised assistance;

(iv) advising them on acquiring inputs for manufacturing goods for export;

(v) co-ordinating the organisation of, and participation in, trade affairs in Zambia;

(vi) advising them on maintaining the quality, supply and prices of goods and services for export;

(c) promote export trade by-

(i) participating in trade affairs abroad and assisting and co-ordinating Zambian exporters to so participate;

(ii) disseminating abroad information on Zambia, Zambian goods and services with a view to developing markets for Zambian exports;

(iii) liaising with organisations abroad with a view to developing markets for Zambian exports;

(iv) liaising with Zambian missions abroad and foreign missions in Zambia to co-ordinate efforts to promote Zambian exports;

(v) assisting and co-ordinating trade delegations to and from Zambia; and

(d) organise training programmes, seminars and workshops on

activities connected with exports from Zambia.

(3) The Board may, in accordance with regulations made by statutory instrument, establish a revolving export fund denominated in a foreign currency and out of such fund may lend any foreign exchange for the purpose of securing imported inputs required to fill exports orders of non-traditional products in excess of the quantities, if any, exported by that enterprise in its preceding financial year.

(4) The Board may, by directions in writing and subject to such terms and conditions as it thinks fit, delegate to the Director, any member or the Secretary any of its functions under this Act.

*(As amended by Act No. 29 of 1994)*

**15.** (1) Subject to the provisions of this Act, the Board may regulate its own procedure.

Proceedings of  
Board

(2) The Board shall meet for the transaction of business at least once every three months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The particulars of any business to be transacted at a meeting of the Board shall be circulated to the members with the notice of the meeting.

(5) Five members shall form a quorum at any meeting of the Board.

(6) There shall preside at any meeting of the Board its Chairman or in his absence, its Vice-Chairman or in their absence, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or that any person not entitled so to do took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

**16.** (1) The Board may, for the purpose of performing its functions under this Act, establish committees whose Chairman shall be a Board member and may delegate to any such committee such of its functions as it thinks fit.

Committees of  
Board

(2) The Board may appoint as members of a committee established under subsection (1), persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

**17.** (1) If a person is present at a meeting of the Board, or of a committee of the Board, at which any matter in which the person or his spouse is directly or indirectly interested in a private capacity is the subject of consideration, the person shall, as soon as practicable after the commencement of the meeting, disclose the interest and shall not, unless the Board decides otherwise, take part in any consideration or

Disclosure of  
interest

discussion of, or vote on, any question touching the matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

*(As amended by Act No. 29 of 1994).*

**18.** No action or other proceedings shall lie or be instituted against a member of the Board or of a committee of the Board for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity of Board members

*(As amended by Act No. 29 of 1994).*

## **PART IV**

### **ADMINISTRATION**

**19.** (1) Subject to the approval of the Minister, the Board shall appoint, on such terms and conditions as it may determine, a Director who shall be the chief executive officer of the Board and who, subject to the control of the Board, shall be responsible for the overall management and the administration of the affairs of the Board and the Board may in like manner, appoint a Deputy Director to assist the Director.

Director and Deputy Director

(2) The Deputy Director shall discharge the functions of the Director whenever the office of Director is vacant or the Director is absent or is for any other cause unable to discharge the functions of his office.

(3) The Director, or in his absence the Deputy Director, shall attend meetings of the Board and may attend meetings of any committee established by the Board and may address such meetings, but shall not vote on any matter:

Provided that the person presiding at any such meeting, may for good cause, require the Director or the Deputy Director, as the case may be, to withdraw from the meeting.

(4) The provisions of section seventeen shall apply *mutatis mutandis* to



the Director and the Deputy Director.

**20.** (1) There shall be a Secretary of the Board who shall be appointed by the Board on such terms and conditions as the Board may determine. Secretary and other staff

(2) The Secretary shall carry out the day-to-day affairs of the Board under the supervision of the Director.

(3) The Board may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions.

**21.** (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

*(As amended by Act No 29 of 1994 and Act No. 13 of 1994).*

## **PART V**

### **FINANCIAL AND OTHER PROVISIONS**

**22.** (1) The funds of the Board shall consist of such moneys as may- Funds of Board

- (a) be appropriated by Parliament for the purposes of the Board;
- (b) be paid to the Board by way of grants or donations; and
- (c) vest in or accrue to the Board.

(2) The Board may-

- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
- (c) charge and collect fees in respect of programmes, seminars, consultancy services, and other services provided by the Board.

(3) There shall be paid from the funds of the Board-

- (a) the salaries, allowances and loans of the staff of the Board;
- (b) such reasonable travelling, transport and subsistence allowances for members or members of any committee of the Board when engaged on the business of the Board, at such rates as the Minister may determine; and
- (c) any other expenses incurred by the Board in the performance of its functions.

(4) The Minister may, from time to time, direct the Board to pay into the general revenues of the Republic such portion of its surplus funds as he shall determine.

**23.** The financial year of the Board shall be the period of twelve months ending on the 31st December in each year.

Financial year

**24.** (1) The Board shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The Board shall receive a comprehensive report relating to its accounts at least once in every three months.

**25.** (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during such financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and there shall be appended thereto-

(a) a balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt by the Minister of the report referred to in subsection (1), lay it before the National Assembly.

**26.** (1) A person who is aggrieved by any decision of the Board may, within thirty days after the date on which he is notified of the decision, appeal to the Minister against the decision, and the Minister may confirm, reverse or vary the decision, stating the reasons for his decision. Appeals

(2) An appeal that was lodged under this Act before the commencement of this section shall be dealt with as if this section had not commenced, and as if a reference to the council were a reference to the Minister.

*(As amended by Act No. 29 of 1994)*

**27.** The Minister may, by statutory instrument, make regulations prescribing anything which by this Act is required or permitted to be prescribed, and for the better carrying out of the purposes of this Act. Regulations

(As amended by Act No. 29 of 1994)

**CHAPTER 420  
THE FINANCIAL INSTITUTIONS (VALIDATION OF  
ACTS) ACT**

**ARRANGEMENT OF SECTIONS**

Section

1. Short title
2. Interpretation
3. Validation of acts
4. No liability in respect of actions

**CHAPTER 420**

**FINANCIAL INSTITUTIONS (VALIDATION OF ACTS)**

13 of 1968

An Act to validate certain acts done and omissions made by financial institutions; and to provide for matters incidental to or connected with the foregoing.

[1st March, 1968]

**1.** This Act may be cited as the Financial Institutions (Validation of Acts) Act.

Short title

**2. (1)** In this Act, unless the context otherwise requires-

Interpretation

"declared day" means a day specified, by reference to its date, in the statutory instrument;

"financial institution" means an institution which, being entitled to do so, closed its place of business to members of the public on each declared day;

"the operative date" means the date upon which the statutory instrument

was published in the *Gazette*;

"the statutory instrument" means the statutory instrument made by the Minister responsible for finance under section *twenty* of Bank of Zambia Act. Cap. 360

(2) Any reference in this Act to an act done shall be deemed to include a reference to an omission made.

**3.** Any act done by a financial institution on or after the operative date which would have been validly done if at the time of the doing thereof each of the declared days had been declared to be a public holiday, shall be deemed to have been validly done. Validation of acts

**4. (1)** No financial institution shall be subject to any liability, action, claim or demand whatsoever for or in respect of any act deemed to have been validly done under the provisions of section *three*. No liability in respect of actions

(2) The provisions of this section shall apply-

(a) to any liability incurred or claim or demand made before or after the commencement of this Act;

(b) to any action whether commenced before or after the commencement of this Act;

(c) for the purpose of determining any appeal from a judgment entered before the commencement of this Act.

## CHAPTER 421

### THE CONTROL OF GOODS ACT

#### ARRANGEMENT OF SECTIONS

##### Section

1. Short title
2. Interpretation

3. Regulations for the control of goods
4. Rationing of commodities and animals
5. Evidence
6. Penalties

FIRST SCHEDULE

SECOND SCHEDULE

## CHAPTER 421

### CONTROL OF GOODS

An Act to enable the President to provide by regulation for the control of the distribution, disposal, purchase and sale, and the wholesale and retail prices of any manufactured or unmanufactured commodity or of any animal or poultry, or of any class of any such commodity, animal or poultry, for the control of imports into and exports from Zambia, and for other purposes incidental and supplementary to the foregoing.

[26th March, 1954]

*Federal Act*  
 12 of 1954  
 Act 41 of 1966  
 4 of 1977  
 26 of 1977  
 3 of 1979  
 20 of 1981  
 7 of 1982  
 13 of 1982  
 11 of 1991  
 10 of 1993  
 13 of 1994  
 25 of 1995  
 7 of 1997  
 7 of 1998  
 12 of 2004  
*Government*  
*Notices*  
 1 of 1964  
 497 of 1964

1. (1) This Act may be cited as the Control of Goods Act.

Short title and commencement

(2) This Act shall be deemed to have come into operation as the Minister may, by statutory instrument appoint.

Cap. 421

2. In this Act, unless the context otherwise requires-

Interpretation

"animal" means any animal or poultry or any class of animals or poultry;

"commodity" means any manufactured or unmanufactured commodity

or any class of such commodities;

"Controlled Services" means garage services, services relating to household installations, and any other services which the Minister may, by statutory instrument declare to be controlled services;

"goods" means anything capable of being imported or exported;

"hoarding" means the accumulation or hiding of any goods or commodities or of any animals ordinarily held for commercial purposes, so as to prevent or manipulate the distribution or sale of such goods, commodities or animals to the public.

*(As amended by G.N. No. 1 of 1964 and Act No. 26 of 1977)*

**3. (1)** Whenever it appears to the President necessary or expedient-

Regulations for the control of goods

(a) to control the import into or export from Zambia of any goods;

(b) to control the distribution, disposal, purchase and sale or the wholesale or retail prices of any commodity or animal and the charges which may be made-

(i) for the services relating to distribution, disposal, purchase and sale of the commodity or animal, as the case may be; and

(ii) for the delivery of any commodity or animal, the wholesale or retail prices of which are controlled under this section;

(c) to prevent the hoarding of any goods, commodities or animals; and

(d) to regulate the charges for any controlled services;

he may, by Statutory Instrument, make such regulations as appear to him to be necessary or expedient for such purposes.

(2) Without prejudice to the generality of the powers conferred by subsection (1), such regulations may provide-

(a) for requiring persons carrying on or employed in connection with any trade, business, undertaking or enterprise specified in such

regulations to produce to such person as may be so specified any books, accounts or other documents relating to that trade, business, undertaking or enterprise, and for requiring any persons to furnish to such person as may be so specified such estimates or returns as the President considers it desirable to obtain for the effectual exercise of any of his powers under this section;

(b) for any incidental and supplementary matters for which the President thinks it expedient for the purposes of the regulations to provide, including in particular the entering and inspection of premises to which the regulations relate by persons authorised in that behalf by the President with a view to securing compliance with the regulations.

(3) Regulations made under this section may provide for empowering such Minister as may be specified in such regulations to make orders-

(a) for the control to such extent as may be specified in such regulations of the import into or export from Zambia of such goods or classes of goods as may be specified in such regulations;

(b) in respect of such commodities and animals as may be specified in such regulations for any of the purposes specified in paragraph (b) of subsection (1).

Any orders made in terms of this subsection may contain such incidental or supplementary provisions as appear to the specified Minister to be necessary or expedient for the purpose of such orders.

(4) Regulations and orders under this section may be made so as to apply generally or to any particular trade, business, undertaking or enterprise, or class thereof, and either to the whole or to any part of any trade, business, undertaking or enterprise, and so as to have effect either throughout Zambia or in any particular area therein.

(5) For the avoidance of doubt, it is hereby declared that the provisions of section *four* shall not apply in relation to any order under this section.

*(As amended by G.N. No. 1 of 1964 Acts 4 of 1977, 26 of 1977, 3 of 1979, 20 of 1981, 7 of 1982, 13 of 1982)*

**3A.** (1) Subject to subsections (10) and (11) there shall be charged, in respect of goods of a value in excess of five hundred United States

Import declaration  
fee



dollars, imported into Zambia, an import declaration fee, hereinafter referred to as the fee, equal to five per centum of the value of the goods.

(2) The value of the goods for import to which this section applies shall include the Free On Board value of the goods, the cost of transportation, the value of the insurance policy covering the goods, if any, and the cost of freight.

(3) The fee shall be computed and become payable upon completion and submission of the prescribed import declaration form to a commercial bank, before the importation of the goods.

(4) Any import to which this section applies shall not be released from Customs control until all requirements under the Customs and Excise Act have been complied with and a duly approved import declaration form evidencing the payment of the fee, where required, in the prescribed manner, is produced. Cap. 322

(5) If any commercial bank fails to remit, at the prescribed time and place, any monies forming part of the fee collected under the provisions of this section it shall be required to pay interest on the monies it has failed to remit equivalent to the annualised nominal interest rates of the 28 days Treasury Bills and such interest, together with any unpaid fee, shall be a debt by the commercial bank to the State.

(6) If an officer discovers goods on which the fee was not paid by virtue of under valuation in terms of the value for Customs Duty purposes as defined in the Customs and Excise Act, misdescription or for any other reason, in addition to requiring the person to make an application for an import declaration form and pay the required fee to the bank, the officer shall assess and collect from the person in possession or control of such goods, a penalty equal to the amount of the fee that was payable prior to their release from customs control. Cap. 322

(7) (a) For the purpose of conducting an audit, an officer shall have authority to inspect all goods, premises, documents, books of account, any correspondence or other writing and records relating to the fee remitted by a bank or in relation to any person who is an importer and to remove them at a reasonable time and for a reasonable period.

(b) Where information referred to in subsection (1) is electronically stored, an officer shall be empowered to-

(i) view the information or document and to copy or take extracts from it by electronic means; or

(ii) require that it be reproduced in hard copy, or copied onto computer diskette or reduced to some other portable form suitable for removal and capable of reproducing the information or document for viewing.

(c) An officer may make an assessment of the fee for any of the following cases:

(i) where a payment by a bank is not filed within the specified time;

(ii) where an incomplete payment is filed; or

(iii) where the officer has reason to believe that the amount of fee is understated or otherwise incorrect.

(d) An assessment of the fee shall be made within one year from the date that the goods were released from customs control or in the case of a bank from the date the bank was liable to remit the fee under subsection (3).

(e) An assessment shall be immediately due and payable in a manner prescribed in this Act.

(8) Any person who-

(a) attempts to evade the fee;

(b) knowingly fails to collect the fee;

(c) knowingly fails to file an import declaration form, or to supply information;

(d) knowingly conceals or destroys any book, record, document, statement, or other information;

- (e) knowingly fails to obey summons;
- (f) makes or furnishes any fraudulent document, statement, or other information;
- (g) attempts to interfere with the determination or collection of the fee;
- (h) knowingly discloses any information in a manner not authorised by law or regulations; or
- (i) in any way knowingly assists in, or contributes to, any of the foregoing;

shall be guilty of an offence and liable, upon conviction to a fine of not less than twenty thousand penalty units and not exceeding one million penalty units or upon default of such payment one month imprisonment for each twenty thousand penalty units or portion thereof:

Provided that the penalties imposed in this section shall not in any way prejudice the imposition of other sanctions under Customs law or the criminal laws of the Republic of Zambia or elsewhere under this law.

(9) Where any person satisfies the commercial bank to which a fee has been paid and any office authorised by the Minister that any amount of the fee-

- (a) was paid in excess or in error;
- (b) is related to goods for which a drawback of Customs Duty has been approved or to which a claim for drawback would be fair and reasonable under the circumstances; or
- (c) for any other reason as the Minister may prescribe;

the stated amount of the fee shall be refunded provided the application for refund is submitted within two years of the event giving cause to the refund.

(10) The provisions of this section shall not apply to the importation of goods covered by the First Schedule.

(11) Importers under the Second Schedule must complete an import declaration form, but no fee is liable for qualified goods.

(12) All the monies collected under the provisions of this section shall be paid into the general revenues of the Republic.

(13) The Minister may, by statutory instrument, make regulations-

(a) prescribing the method of computing the value of any transaction;

(b) prescribing the grounds necessitating an assessment and auditing of any import;

(c) setting out the procedure for the collection of the import declaration fee and for assessment and auditing of any import;

(d) designating officers for the purposes of this Act; and

(e) generally, for the better carrying out of the provisions of this section.

*(As amended by Act No. 7 of 1997)*

*3B created by Act No. 20 of 1981 repealed by Act No. 13 of 1982*

**4.** Regulations made under section *three*, in relation to the rationing of any commodity or animal, may-

Rationing of commodities and animals

(a) fix or provide for fixing different quantities of the commodity or animal to be obtainable in the aggregate or individually by different classes of persons;

(b) provide for methods of distribution of the commodity or animal which differentiate as between different classes of persons so far as appears to the President to be necessary in order to secure or permit such distribution through the usual channels and agencies through which such classes of persons normally obtain the commodity or animal.

*(As amended by G.N. No. 1 of 1964)*

**5.** (1) In any proceedings under this Act against any person, any statement or entry contained in any book or document kept by him or any person in his employ, or by his agent, shall be admissible in evidence as an admission of the facts set forth in that statement or entry, unless it is proved that the statement or entry was not made by that person, by any person in his employ, or by his agent.

Evidence

(2) Whenever the manager, agent or servant of any person does or omits to do anything which it would be an offence under this Act for such person to do or omit to do, such person shall be deemed himself to have done or omitted to do such thing and be liable to the penalties therefor in terms of this Act unless he proves to the satisfaction of the court that all reasonable steps were taken by him to prevent any act or omission of the kind in question:

Provided that the fact that the person issued instructions forbidding in respect of his manager, agent or servant any act or omission of the kind in question shall not by itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

**6.** Regulations made under this Act may provide in respect of any contravention thereof or of any order made thereunder that-

Penalties

(a) the offender shall be liable to a fine not exceeding one million five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both; and

(b) upon the conviction of such offender, the court may order that any animal, commodity or goods which are the subject-matter of such contravention shall be forfeited.

*(Act No. 41 of 1966 and Act No. 13 of 1994)*

## FIRST SCHEDULE

(Goods not requiring an Import Declaration Form or payment of the fee)

1. Goods of a value for customs duty purposes of the equivalent of five hundred United States dollars US\$500 or less;
2. Goods destined for approved duty free stores;
3. Goods destined for approved EPZ (export processing zone) enterprises;
4. Goods destined to approved MUB (manufacturing under bond) enterprises;
5. Accompanied or unaccompanied personal baggage if such importation is free of all customs duties by reason of a duty-free allowance;
6. Ammunition, weapons or implements of war imported by the Government;
7. Household and personal effects of new residents and returning residents if such importation is free of all customs duties by reason of duty-free allowance;
8. Gifts by foreign governments;
9. Supplies to diplomatic and accredited consular missions, diplomatic personnel, and United Nations organisations, imported for their own use;
10. Goods subject to a technical assistance agreement;
11. Goods for use in humanitarian aid when imported by an organisation recognised by the Ministry of Finance and Economic Development;
12. Books, current newspapers and periodicals;
13. Live animals;
14. Fertilizers;
15. Antiques more than 100 years old, and original works of art;
16. Unset precious stones, and precious metals in bullion form; and
17. Commercial samples of no commercial value.
18. Goods in transit through Zambia
19. Goods temporarily imported into Zambia.
20. Goods exported from Zambia for repair and return and in respect of which a certificate

to that effect has been issued by an officer of Customs and Excise Division.

*(As amended by Act No. 7 of 1997 and Act No.7 of 1998)*

## **SECOND SCHEDULE**

### **APPENDIX**

*(Section 3)*

### **THE SECOND SCHEDULE**

*(Section 3A)*

(Goods requiring an Import Declaration Form without payment of the fee)

1. Goods specified under an Investment Certificate issued pursuant to the Investment Act, Cap. 385 and which are accorded an exemption from customs duty.
2. Goods on which an exemption from customs duty has been granted under section 97 of the Mines and Minerals Act, Cap.213

*(As amended by Act No. 7 of 1998)*

## SUBSIDIARY LEGISLATION

### **SECTIONS 3 AND 6-THE CONTROL OF GOODS (IMPORT AND EXPORT) (AGRICULTURE) REGULATIONS**

*Statutory  
Instrument  
73 of 1970*

#### **Regulations by the President**

**1.** These Regulations may be cited as the Control of Goods. (Import and Export) (Agriculture) Regulations. Title

**2.** In these Regulations, unless the context otherwise requires- Interpretation

"controlled goods" means any goods specified in the Schedule or any class of such goods, the import into or the export from the Republic of Zambia of which is prohibited, restricted or otherwise controlled by an order made under regulation 3.

**3.** (1) The Minister may make statutory orders prohibiting, restricting or otherwise controlling the import into or the export from the Republic of Zambia of any goods specified in the Schedule or any class of such goods. Delegation of powers and duties

(2) Without derogation from the generality of the powers conferred by sub-regulation (1), an order made under this regulation may-

(a) prescribe the terms and conditions subject to which controlled goods or any class of such goods may be imported into or exported from the Republic of Zambia;

(b) provide for empowering such person as may be prescribed by the order-

(i) to issue permits authorising, to such extent as may be prescribed by the order, the import into or the export from the Republic of Zambia of any controlled goods or any class of such goods;

(ii) on the issue of any such permit, to impose terms and conditions subject to which the controlled goods to which the permit relates or any class of such goods may be imported into or exported from the Republic



of Zambia;

(iii) to revoke any such permit issued by him in such circumstances and in such manner as may be prescribed by the order.

# **SCHEDULE**

*(Regulations 2 and 3)*

## **SPECIFIED GOODS**

1. Animal semen.
2. Bananas.
3. Barley malt.
4. Bees; unmanufactured beeswax; foundation comb.
5. Bones; bone meal.
6. Carcasses, portions of carcasses and offal of animals (including poultry and other birds but excluding reptiles) and the edible products manufactured therefrom, including beef, veal, mutton, lamb, pig meat, goat meat and canned products.
7. Citrus fruits.
8. Compound animal feedstuffs.
9. Dairy produce, including ice-cream and ice-cream mix.
10. Eggs of poultry and other birds, whether in shell, pulp or dried form.
11. Fish, whether fresh or dried, including fish meal.
12. Fodder, forage.
13. Game meat and game biltong.
14. Grain of any variety, including barley, beans, groundnuts and grain meals, flours and residues.
15. Hay, grass or straw of any variety.
16. Hides; skins.
17. Honey, unprocessed royal jelly, any bottle, can, jar or other receptable whatsoever which has been used solely for storing or transporting honey or unprocessed royal jelly.
18. Live animals, including poultry and other birds but excluding reptiles.
19. Maleic hydrazide, also known as M.H.
20. Manure.
21. Meat meal; blood meal; carcass meal.
22. Oil-seeds; oil-meal; oil-cake and offals and residues of oil-seeds.
23. Onions.
24. Potatoes.

25. Seed cotton.
26. Seeds for planting.
27. Sorghum malt.
28. Tomatoes.
29. Turkish-type tobacco.
30. Unmanufactured flue-cured and fire-cured tobacco of Virginia variety.
31. Unmanufactured tobacco of Burley variety.
32. Unprocessed poultry feathers which are not part of a manufactured article.
33. Used beehives; used bee-keeping accessories and appliances.
34. Used poultry crates and incubators.
35. Vaccines, toxins, sera and analogous biological products used for the diagnosis or treatment of diseases in animals.
36. Vegetable oils.

**ORDERS MADE UNDER THE CONTROL OF GOODS  
(IMPORT AND EXPORT) (AGRICULTURE)  
REGULATIONS**

*Statutory  
Instruments*  
76 of 1970  
8 of 1971  
23 of 1972  
177 of 1974  
126 of 1975  
96 of 1995

**THE CONTROL OF GOODS  
(IMPORT AND EXPORT) (AGRICULTURE) ORDER**

**Order of the Minister**

1. This Order may be cited as the Control of Goods (Import and Export) (Agriculture) Order.

Title

2. In this Order, unless the context otherwise requires-

Interpretation

"form" means a form prescribed in the First Schedule;

"honey" includes unprocessed royal jelly;

"ice-cream mix" includes any mixture, whether in powder or other form, suitable for manufacture into ice-cream, with or without the addition of other ingredients;

"issuing authority", in relation to an application for the issue of a permit under this Order, means the Permanent Secretary, Ministry of Agriculture.

3. (1) The issuing authority may issue a permit authorising, subject to the provisions of this Order and of any other written law-

Issue of permits

(a) the import into the Republic of Zambia of any goods listed in the Second Schedule;

(b) the export from the Republic of Zambia of any goods listed in the Third Schedule;

on such terms and conditions as may be specified in, or attached to, the permit.

(2) A permit issued under this paragraph shall-

(a) if it relates to the import of goods into the Republic of Zambia, be in Form No. 1;

(b) if it relates to the export of goods from the Republic of Zambia, be in Form No. 2.

(3) Any export permit other than an export permit relating to maize meal including hominy chop, maize cones, maize grits, maize offals processed with or without additives and maleie hydrazide also known as M.H.

*(As amended by S.I. No. 96 of 1995)*

4. (1) Subject to the provisions of sub-paragraph (2), no person shall import into the Republic of Zambia any goods listed in the Second Schedule except in accordance with the terms and conditions of a permit issued under paragraph 3.

Exceptions in relation to the import of goods

(2) The provisions of sub-paragraph (1) shall not apply in relation to-

(a) any goods which are in the course of transit through the Republic of Zambia to a place beyond the borders thereof;

(b) any goods not exceeding twenty thousand kwacha in value which are imported in any one week into the Republic of Zambia by an individual residing in the Republic of Zambia for his personal domestic consumption and not for sale or disposal to any other person;

(c) any goods not exceeding twenty thousand kwacha in value which are imported in any one week into the Republic of Zambia as a *bona fide* gift from a person residing outside the Republic of Zambia to a person residing in the Republic of Zambia.

(3) Any person importing maize meal, including hominy chop, maize cones, maize grits, maize offals, processed maize with or without additives and maleie hydrazide, also known as M.H., shall require an import permit in relation to goods-

(a) which are in the course of transit through the Republic of Zambia to a place beyond the borders; or

(b) which are exported under an export permit issued under the principal Order if the exporter satisfies the Ministry responsible for agriculture, food and fisheries, that such exporter has, on the basis and by reason of his having been earlier issued with such export permit, incurred a contractual and legally enforceable obligation prior to the publication of this Order.

(As amended by S.I. No. 96 of 1995)

**5.** (1) Subject to the provisions of sub-paragraph (2), no person shall export from the Republic of Zambia any goods listed in the Third Schedule except in accordance with the terms and conditions of a permit issued under paragraph 3.

Exceptions in relation to the export of goods

(2) The provisions of sub-paragraph (1) shall not apply in relation to-

(a) any goods which are in the course of transit through the Republic of Zambia to a place beyond the borders thereof;

(b) any goods not exceeding four kwacha in value which are exported in any one week from the Republic of Zambia by an individual for personal domestic consumption and not for sale or disposal by any other person;

(c) any goods not exceeding four kwacha in value which are exported in any one week from the Republic of Zambia as a *bona fide* gift from a person residing in the Republic of Zambia to a person residing outside the Republic of Zambia.

**6.** An application for the issue of a permit under this Order shall be made in writing and, subject to the provisions of paragraph 7, shall be addressed to the Permit Officer, Ministry of Agriculture.

Application for the issue of permits

**7.** Where a permit is required in accordance with the provisions of this Order and also in accordance with the Stock Diseases Act, to authorise the import into the Republic of Zambia of the same goods-

Special provisions regarding the issue of permits in terms of the Stock Diseases Act. Cap. 252

(a) an application for the issue of a permit in terms of this Order

shall be deemed to be an application for the issue of a permit in terms of the Stock Diseases Act; Cap. 252

(b) if the issuing authority issues a permit, he shall thereupon forward the permit and the application to the appropriate person authorised to issue a permit in terms of the Stock Diseases Act to be dealt with by such person in accordance with the provisions of such Act unless-

(i) he is satisfied that the person authorised to issue a permit in terms of the Stock Diseases Act has already issued a permit which is in force; or

(ii) the applicant specifically requests otherwise;

(c) the issuing authority shall not issue a permit under this Order if he is satisfied that the person authorised to issue a permit in terms of the Stock Diseases Act has already refused to issue a permit;

(d) if the issuing authority issues a permit under this Order after being furnished with a permit issued by the person authorised to issue a permit in terms of the Stock Diseases Act which is in force, he shall thereupon forward both permits to the applicant.

**8.** Nothing contained in this Order or in any permit issued thereunder shall exempt the holder of such permit from complying with the provisions of any other written law controlling the import into or the export from the Republic of Zambia of the goods to which such permit relates.

Order or permit not to limit compliance with any other written law

## **FIRST SCHEDULE**

*(Paragraphs 2 and 3)*

### **FORMS OF PERMITS**

**FORM NO. 1**

THE CONTROL OF GOODS ACT

IMPORT PERMIT

*Issued in terms of the Control of Goods (Import and Export)  
(Agriculture) Order*

No.....

IN THE EXERCISE of the powers conferred upon the issuing authority by the Control of Goods (Import and Export) (Agriculture) Order:

is hereby authorised, subject to the provisions of that Order and of any other written law,  
to import into the Republic of Zambia  
from

on the following terms and conditions:

- 1 .
- 2 .

This permit is valid until

Date .....

*Issuing Authority*



**FORM NO. 2**  
**THE CONTROL OF GOODS ACT**

EXPORT PERMIT

*Issued in terms of the Control of Goods (Import and Export)*  
*(Agriculture) Order.*

No

IN THE EXERCISE of the powers conferred upon the issuing authority by the Control of Goods (Import and Export) (Agriculture) Order:

is hereby authorised, subject to the provisions of that Order and of any other written law,  
to export from the Republic of Zambia

on the following terms and conditions:

- 1 .
- 2 .

This permit is valid until

Date.....

*Issuing Authority*

# SECOND SCHEDULE

*(Paragraphs 3 and 4)*

GOODS FOR THE IMPORT OF WHICH A PERMIT ISSUED UNDER PARAGRAPH 3 IS REQUIRED

1. Bananas.
2. Beans, excluding-
  - (a) beans which are tinned, bottled or otherwise preserved;
  - (b) seed beans in quantities of less than 200 lb.
3. Bean meal.
4. Bones; bone meal.
5. Butter; cheese, excluding tinned or bottled cheeses weighing one pound or less.
6. Cattle; beef, veal and edible products manufactured from the carcasses of cattle, but excluding sausage casings, meat extract, meat paste, meat powder, potted meat and tinned meat.
7. Citrus fruits.
8. Compound products containing flour, meal, residues and other preparations of a kind suitable only for use as animal feedstuffs, but excluding-
  - (a) anti-biotic growth stimulants;
  - (b) bird seed;
  - (c) cat and dog foods;
  - (d) chemical additions to animal feedstuffs;
  - (e) inert fillers;
  - (f) salt lick for cattle;
  - (g) synthetic animal feedstuffs;
  - (h) trace elements.
9. Eggs of poultry, whether in shell, pulp or dried form; eggs of wild birds.
10. Game meat and game biltong.
11. Goats; carcasses of goats.
12. Groundnuts, excluding salted or roasted peanuts.
13. Honey.
14. Ice-cream; ice-cream mix, but excluding ice-cream mix contained in sealed tins of one pound or less in weight.
15. Maize, including-
  - (a) crushed maize;

(b) dried maize, on or off the cob;

(c) samp;

but excluding green maize on the cob.

16. Deleted.

17. Deleted.

18. Meat meal, blood meal; carcass meal.

19. Oil-seeds; oil-meal; oil-cake; offals and residues from oil-seeds.

20. Onions.

21. Pigs, edible products manufactured from the carcasses of pigs, including canned products, but excluding hog casings, meat pastes and potted meats with a pig meat content.

22. Potatoes.

23. Live poultry, including day-old chicks.

24. Rice, excluding canned products, and puffed, parched and beaten rice.

25. Sheep; mutton, lamb and edible products manufactured from the carcasses of sheep, excluding sausage casings.

26. Tomatoes, excluding canned tomatoes.

27. Vegetable oils, but excluding almond oil, castor oil, coconut oil, linseed oil, olive oil and sesame oil.

28. Wheaten bran, wheaten pollard.

29. Seeds.

*(As amended by No. 8 of 1971 and No. 23 of 1972 and No. 96 of 1995)*

# THIRD SCHEDULE

*(Paragraphs 3 and 5)*

GOODS FOR THE EXPORT OF WHICH A PERMIT ISSUED UNDER PARAGRAPH 3 IS REQUIRED

1. Bones; bone meal.
2. Butter; cheese.
3. Cattle; beef and edible products manufactured from the carcasses of cattle, but excluding meat extract, meat paste, meat powder, potted meat and tinned meat.
4. Compound products containing flour, meal, residues and other preparations of a kind suitable only for use as animal feedstuffs, but excluding-
  - (a) anti-biotic growth stimulants;
  - (b) bird seed;
  - (c) cat and dog foods;
  - (d) chemical additions to animal feedstuffs;
  - (e) inert fillers;
  - (f) synthetic animal feedstuffs;
  - (g) trace elements.
5. Groundnuts.
6. Honey.
7. Maize, including-
  - (a) crushed maize;
  - (b) dried maize, on or off the cob;
  - (c) samp;but excluding green maize on the cob.
8. Maize meal, including-
  - (a) hominy chop;
  - (b) maize cones;
  - (c) maize grits;
  - (d) maize offals.
9. Meat meal, blood meal, carcass meal.
10. Oil-seeds; oil-meal; oil-cake.
11. Pigs, edible products manufactured from carcasses of pigs, including canned products.
12. Potatoes.

13. Seed cotton.

14. Wheat, including-

(a) wheat flour;

(b) wheaten bran;

(c) wheaten pollard.

15. Seeds.

16. Fish, including fish meal.

*(As amended by S.I. No. 177 of 1974 and 126 of 1975)*

**THE CONTROL OF GOODS (IMPORT AND EXPORT)  
(AGRICULTURE) (PROHIBITION OF  
IMPORTATION) ORDER**  
**Order by the Minister**

*Statutory  
Instruments  
24 of 1972  
72 of 1972  
208 of 1973*

1. This Order may be cited as the Control of Goods (Import and Export) (Agriculture) (Prohibition of Importation) Order.

Title

2. In this Order, unless the context otherwise requires-

Interpretation

"permit" means a permit in respect of any of the scheduled goods issued under the provisions of the Control of Goods (Import and Export) (Agriculture) Order;

"scheduled goods" means any goods specified in the Schedule or any class of such goods.

3. Subject to the provisions of paragraph 4, no person shall import into the Republic of Zambia any scheduled goods.

Prohibition of importation

4. The provisions of paragraph 3 shall not apply in relation to any scheduled goods or any class of such goods-

Saving

(a) which are in the course of transit through the Republic of Zambia to a place beyond the borders thereof; or

(b) not exceeding four kwacha in value which are imported in any one week into the Republic of Zambia by an incoming individual residing in the Republic of Zambia for his personal domestic consumption and not for sale or disposal to any other person; or

(c) which are imported under any permit if the importer satisfies the Permanent Secretary, Ministry of Rural Development, that such importer has, on the basis and by reason of his having been earlier issued with such permit, incurred a contractual and legally enforceable obligation prior to the publication of this Order.

5. A permit other than the permit to which the provisions of paragraph 4 apply is hereby revoked. Revocation of permits

# **SCHEDULE**

*(Paragraph 2)*

## **SCHEDULED GOODS**

1. Birds (dead).
2. Nuts (tinned).
3. Peanuts, salted or roasted.
4. Tomatoes (tinned).

*(No. 72 of 1972)*



**THE CONTROL OF GOODS (IMPORTATION OF EGGS) ORDER**  
**Order by the Minister**

*Statutory Instrument*  
*312 of 1968*

1. This Order may be cited as the Control of Goods (Importation of Eggs) Order.

Title

2. In this Order, unless the context otherwise requires-

Interpretation

"hatching egg" means an egg obtained from a poultry breeder for the purpose of hatching.

3. (1) Subject to the provisions of sub-paragraph (2), no person shall import into the Republic of Zambia poultry eggs in shell form.

Control of import of eggs

(2) The provision of sub-paragraph (1) shall not apply in relation to-

(a) hatching eggs;

(b) eggs to a value not exceeding two kwacha which are imported during any one week for personal consumption.

**SECTIONS 3, 4 AND 6-THE CONTROL OF GOODS (IMPORT AND EXPORT) (COMMERCE) REGULATIONS**  
**Regulations by the President**

*Statutory Instruments*  
*383 of 1965*  
*389 of 1967*  
*Act No.*  
*13 of 1994*

1. These Regulations may be cited as the Control of Goods (Import and Export) (Commerce) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"controlled goods" means any goods the import into or the export from

Zambia of which is prohibited, restricted or otherwise controlled by an order made under regulation 3.

**3.** (1) The Minister may make statutory orders prohibiting, restricting or otherwise controlling-

Orders by the Minister

(a) the import into Zambia of any goods which are not the product or manufacture of Zambia;

(b) the export from Zambia of any goods.

(2) Without derogation from the generality of the powers conferred by sub-regulation (1), an order made under this regulation may-

(a) prescribe the terms and conditions subject to which controlled goods or any class of such goods may be imported into or exported from Zambia;

(b) provide for empowering such person as may be prescribed by or under the order-

(i) to issue licences authorising, to such extent as may be prescribed by or under the order, the import into or the export from Zambia of any controlled goods or any class of such goods;

(ii) to revoke any such licence issued by him in such circumstances and in such manner as may be prescribed by or under the order.

**4.** (1) The Minister may revoke or amend a licence issued under an order made in terms of these Regulations if he considers that such revocation or amendment is necessary in the national interest.

Revocation or amendment of licences

(2) If the Minister revokes or amends a licence, other than an open general import licence, in terms of sub-regulation (1), an appeal against such revocation or amendment shall lie to the President, whose decision shall be final. An appeal in terms of this sub-regulation shall be lodged with the Permanent Secretary, Ministry of Trade, within twenty-one days of the revocation or amendment being notified and the ground of the appeal shall be set out clearly, specifically and in numbered sequence.

5. Any person who acts in contravention of or fails to comply with any order made under these Regulations, or acts in contravention of or fails to comply with the conditions of any licence issued or authority granted under or in pursuance of any order made under these Regulations, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding four months, or to both sixty thousand penalty units for a first offence; and on conviction for a second or subsequent offence, to a fine not exceeding sixty thousand penalty units or to imprisonment for a period not exceeding six months, or to both

Offences and Penalties

(No. 389 of 1967 and Act No. 13 of 1994)

**THE CONTROL OF GOODS (IMPORTATION OF SOAP) ORDER**  
*Order by the Minister*

*Government Notices*  
*5 of 1964*  
*169 of 1964*  
*497 of 1964*  
*Statutory Instrument*  
*5 of 1977*

1. This Order may be cited as the Control of Goods (Importation of Soap) Order.

Title

2. In this Order, unless the context otherwise requires-

Interpretation

"abrasive soap" means soap, whether in powder, paste, tablet, cake or block form, which is a mixture of soap with silica, sand, pumice-stone or other inert abrasive matter and which contains not less than twenty-five per centum of such silica, sand, pumice-stone or other inert abrasive matter, as the case may be;

"import" means to bring goods or cause goods to be brought into Zambia;

"soap" means the product which results from the process of saponification of fats and oils-

- (a) with sodium hydroxide or potassium hydroxide; or
- (b) by the neutralisation of fatty acids with sodium hydroxide or potassium hydroxide or their carbonates or bicarbonates; or
- (c) by the neutralisation of fatty acids with ammonia or triethanolamine.

*(As amended by No. 169 of 1964)*

3. (1) Soap in the form of bars, tablets, flakes or chips for household, laundry or toilet purposes shall contain not less than forty-five per centum of fatty acids, of which not more than one-third may be replaced by resin acids; shall not contain more than one-quarter of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide); and shall be free from any harmful ingredients.

Minimum standards of quality

(2) Liquid soap shall contain not less than fifteen per centum of fatty acids, of which not more than one-quarter may be replaced by resin acids; shall contain not more than one-twentieth of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide); and shall be free from any harmful ingredients.

(3) Soft soap shall contain not less than thirty-five per centum of fatty acids, of which not more than one-third may be replaced by resin acids; and shall contain not more than three-quarters of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide).

(4) The words "pure", "purest", "best", "superior", "finest", "first grade", "first quality", "No. 1 quality", "A.1 quality", "highest grade", "highest quality", or any other words indicating or suggesting special grade or quality, shall not be printed or marked on, or on the container or wrapper of, any soap which contains less than sixty-two per centum of fatty acids, of which not more than one-quarter may be replaced by resin acids, or more than one-tenth of one per centum of free caustic alkali (calculated for this purpose as sodium hydroxide):

Provided that where soap contains naphtha or carbolic acid or both these substances, the limit of sixty-two per centum for fatty acids specified in this sub-paragraph may be reduced to sixty per centum.

(5) The container or wrapper of abrasive soap which is imported for sale shall at the time of importation have prominently displayed thereon words indicating, as may be appropriate, that it is "abrasive soap", "abrasive soap powder" or "pumice soap", or that it contains abrasive matter or is intended to be used for scouring or polishing, and if no such container or wrapper is used then such words shall be clearly and legibly stamped or embossed on each tablet, cake or block, in which such soap is imported.

4. (1) Except in accordance with a permit issued by the Permanent Secretary, no person shall import for sale any soap the composition of which, or the wrapping or marking of which, does not at the time when it is imported comply with the provisions of paragraph 3.

Prohibition of import, except under permit, of soap which does not comply with minimum standards of quality

(2) For the purposes of determining whether the composition of a bar of soap for household or laundry purposes complies with the provisions of sub-paragraph (1) of paragraph 3 at the time when it is imported, a bar of soap for household or laundry purposes shall be deemed to weigh 2 lb. at the time when it is imported.

PARAGRAPH 3 OF THE CONTROL OF GOODS  
(IMPORT AND EXPORT) (COMMERCE) ORDER-

*Statutory  
Instrument  
29 of 1973*

## **THE CONTROL OF GOODS (IMPORT) (EXEMPTIONS FROM LICENCES) ORDER**

### **Order by the Minister**

1. This Order may be cited as the Control of Goods (Import) (Exemptions from Licences) Order.

Title

2. Subject to the provisions of any other written law, there is hereby authorised the import into Zambia by any person of-

Authorised imports

(a) the goods listed in the Schedule; and

(b) any goods for personal use and consumption and not for resale, the value of which does not exceed K50:

Provided that a person shall not be authorised to import any further goods within a period of ninety days.

3. Except as provided for in paragraph 2, no person shall import goods into Zambia without obtaining a licence for their import from the Ministry of Trade and Industry.

No import of goods without licence

# SCHEDULE

(Paragraph 2)

1. (a) Used personal and household effects imported by a returning resident.  
(b) Used personal and household effects, including motor vehicles, imported by a person who enters Zambia to take up residence or employment for the first time.
2. Goods, including motor vehicles, temporarily imported into Zambia by a tourist or other *bona fide* visitor for his own use.
3. Goods in transit through Zambia.
4. Samples and advertising material intended solely for use in the taking of orders and not for sale.
5. Any goods exported from Zambia for repair and return and in respect of which a certificate to that effect has been issued by a customs officer.
6. Goods imported by any person to whom privileges are extended by virtue of any enactment in force in Zambia relating to diplomatic, consular or other privileges if such goods are imported for his own use and consumption, or that of his household or for the purpose of his office.
7. All vehicles, aircraft and rail trucks used or to be used for the transport of goods or persons to destinations within Zambia entering Zambia temporarily for such purposes.
8. All vehicles, aircraft and rail trucks registered in Zambia and owned by persons ordinarily resident in Zambia if such vehicles, aircraft or rail trucks are temporarily taken out of Zambia and brought into Zambia within six months of their so being taken out.

PARAGRAPH 4 OF THE CONTROL OF GOODS  
(IMPORT AND EXPORT) (COMMERCE) ORDER-

*Statutory  
Instrument  
183 of 1966*

**THE CONTROL OF GOODS (EXPORT) OPEN  
GENERAL LICENCE**

**Order by the Minister**

1. This Licence may be cited as the Control of Goods (Export) Open General Licence. Title
  
2. Subject to the provisions of any other written law, the export from Zambia by any person is hereby authorised of- Authorised exports
  - (a) the goods listed in the First Schedule; and
  - (b) any goods (not being goods listed in the Second Schedule) which do not exceed K10,000 in value.

*(As amended by S.I. No. 34 of 1990)*

# FIRST SCHEDULE

(Paragraph 2)

1. Exposed cinematograph film.
2. Used personal and household effects, including motor vehicles, exported by a resident departing for a temporary period or by a person departing from Zambia to take up residence or employment elsewhere.
3. Goods, including motor vehicles, temporarily imported into Zambia by a *bona fide* tourist for his own use.
4. Goods in transit through Zambia.
5. Samples and advertising material intended solely for use in the taking of orders and not for sale.
6. Any goods exported from Zambia for repair and return and in respect of which a certificate to that effect has been issued by a customs officer.



## SECOND SCHEDULE

*(Paragraph 2)*

1. Implements of war (other than arms and ammunition), atomic energy materials of strategic value, and items of primary strategic significance used in the production of arms and ammunition and other implements of war, including the following metals:

- (a) beryllium;
- (b) columbite;
- (c) germanium;
- (d) lithium;
- (e) niobium (columbium);
- (f) tantalum;
- (g) thorium;
- (h) titanium;
- (i) uranium;

and any materials containing such metals.

2. Lead in any form.

3. Minerals, raw and treated (including residues and tailing) which contain by weight at least 0.05 per centum of uranium or thorium or a combination thereof, and, without derogation from the generality of the foregoing, including-

- (a) monazite sand and other ores containing thorium;
- (b) carnotite, pitchblende and other ores containing uranium.

4. Petroleum products.

5. The following rough and uncut precious stones:

- (a) beryls;
- (b) chrysoberyl of gem quality;
- (c) diamonds;
- (d) emeralds;
- (e) rubies;
- (f) sapphires;

but not including diamonds suitable only for use for industrial purposes.

6. Scrap and old metals of all kinds.

7. Bags made of jute fibre but excluding hessian bags.

9. The following items:

- (a) maize;
- (b) soyabeans/beans;
- (c) beverages;

- (d) blankets;
- (e) matches;
- (f) salt;
- (g) fertiliser;
- (h) torch cells;
- (i) wheat and wheat products;
- (j) baby food;
- (k) toothpaste;
- (l) insecticide;
- (m) cigarettes.

*(As amended by S.I. No. 21 of 1984)*

**THE CONTROL OF GOODS (PETROL PRICES) ORDER  
Order by the Minister**

*Statutory  
Instruments  
232 of 1967  
22 of 1968*

**1.** This Order may be cited as the Control of Goods (Petrol Prices) Order.

Title

**2.** In this Order, unless the context otherwise requires-

Interpretation

"petrol" means refined petroleum capable of being used as a motor spirit, but does not include aviation fuel supplied for use in aircraft, paraffin, distillate fuel, furnace oil or diesel fuel;

"wholesale dealer" means-

- (a) Agip (Zambia) Limited;
- (b) Shell and B.P. Zambia Limited;
- (c) Caltex Oil Zambia Limited;
- (d) Mobil Oil Zambia Limited;
- (e) Total Oil Products (Zambia) Limited.

**3.** The maximum price at which petrol may be sold by a person other than a wholesale dealer shall be the wholesale dealer's selling price plus-

Maximum selling price

- (a) the cost of transport, if any, ordinarily incurred by such person; and
- (b) the amount of customs duty, if any, actually paid by such person:

Provided that the maximum price for quantities of less than one litre shall be proportional to that allowed for one litre.

*(As amended by No. 22 of 1968)*

**4.** When the price per litre is calculated under this Order, any fraction of an ngwee which is less than half an ngwee shall be disregarded and any fraction of an ngwee which is equal to or more than half an ngwee shall be taken as an ngwee.

Calculation of prices

**SECTIONS 3 AND 6-THE CONTROL OF GOODS  
(AGRICULTURAL PRODUCTS PRICES)  
REGULATIONS**

**Regulations by the President**

*Federal  
Government  
Notices  
52 of 1958  
160 of 1960  
Government  
Notice  
1 of 1964  
Statutory  
Instrument  
390 of 1967  
Act No.  
13 of 1994*

1. These Regulations may be cited as the Control of Goods (Agricultural Products Prices) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"controlled goods" means any commodity or animal specified in the Schedule;

"dealer" means any person who carries on the business of buying and selling controlled goods;

"inspector" means a person appointed as an inspector under these Regulations;

"order" means an order made by the Minister in terms of these Regulations;

"price" includes any form of consideration;

"sell" includes-

(a) to sell by auction;

(b) to offer or attempt to sell;

(c) to expose, display or advertise for sale; or

(d) to exchange or dispose of controlled goods for any valuable consideration;

and the expressions "sale", "seller", "to purchase", "purchase" and

"purchaser" shall be construed accordingly.

**3.** (1) The Minister may appoint inspectors and graders for the purposes of these Regulations. Appointment of inspectors

(2) Every inspector shall be furnished with a certificate signed by the Minister which shall state that the inspector has been appointed as an inspector under these Regulations.

(3) An inspector exercising any power or performing any duty conferred or imposed upon him by these Regulations or about to exercise or perform any such power or duty shall, on demand by any person concerned, produce the certificate referred to in sub-regulation (2).

**4.** (1) The Minister may, by notice in writing, require any person who produces or has produced, deals in or has dealt in, or handles or has handled any controlled goods to furnish to the Minister or his authorised representative from time to time any information whatsoever available to such person relating to any such controlled goods which he or his servant or agent has or has had in his possession or custody or over which he has or has had any control or which he is capable of producing. Furnishing of information

(2) Any such person as aforesaid shall, at the request of an inspector, produce to the inspector any book, record, list or document at his disposal which relates to any such controlled goods, and shall furnish the inspector with such other information or explanation, either in writing or verbally, relating to such controlled goods as the inspector may demand from him.

**5.** (1) An inspector may examine and make extracts from and copies of books, records, lists or documents relating to controlled goods, and may demand from any dealer or other person an explanation of any entries therein and may seize and remove any such books, records, lists or documents as, in his opinion, may afford evidence of an offence under these Regulations. Powers of inspectors

(2) An inspector may, for the purposes of examination or production as

evidence, seize and remove without payment any sample or specimen of any controlled goods in the possession of any person referred to in sub-regulation (1).

(3) An inspector shall issue a receipt in respect of anything seized in terms of this regulation.

(4) Anything seized in terms of this regulation shall, if circumstances permit, be returned to its owner at the conclusion of any proceedings taken or inquiries made in relation thereto.

**6.** The Minister may by order-

Fixing of prices by order

(a) fix the maximum, minimum or specified prices to be paid to producers of any controlled goods by persons generally, by any specified person or by any persons of a specified class or group;

(b) determine the method by which such prices shall be fixed, computed or calculated;

(c) prescribe standards of quality, composition and condition, and minimum standards, for any controlled goods and prohibit, regulate or restrict the sale of any controlled goods which do not conform with such prescribed standards;

(d) prescribe the specific designation under which any particular controlled goods may be sold and prohibit, regulate or restrict the sale of such controlled goods under designations other than the prescribed designations;

(e) provide for the prevention of the evasion of any order.

**7.** Any person who-

Offences and penalties

(a) contravenes or fails to comply with any order, request or demand lawfully made under these Regulations;

(b) wilfully furnishes the Minister or an inspector with any incorrect or incomplete information or explanation;

(c) hinders, obstructs or delays an inspector in the performance of his duties or the exercise of his powers under these Regulations;

(d) refuses or fails to answer to the best of his knowledge any questions lawfully put to him under these Regulations;

(e) contravenes or fails to comply with any provision of these Regulations or of any order;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

*(As amended by S.I. No. 390 of 1967 and Act No. 13 of 1994)*

**SECTIONS 3 AND 6-THE CONTROL OF GOODS  
(IMPORT OF MEDICINAL SUBSTANCES AND  
POISONS) REGULATIONS**  
**Regulations by the President**

*Federal  
Government  
Notices  
271 of 1955  
225 of 1957  
Government  
Notices  
1 of 1964  
497 of 1964  
Statutory  
Instrument  
384 of 1967  
Act No.  
13 of 1994*

1. These Regulations may be cited as the Control of Goods (Import of Medicinal Substances and Poisons) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"advertisement" includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light or sound;

"appropriate designation", in relation to a substance, constituent or ingredient, means the accepted scientific name or other name descriptive of the true nature of that substance, constituent or ingredient;

"appropriate quantitative particulars" means-

(a) the approximate percentage of each of the active constituents or ingredients contained in any substance or the approximate quantity of each of the active constituents or ingredients contained in any article; or

(b) if an article consists of or comprises a number of separate portions of a substance, either the approximate percentage or quantity mentioned in paragraph (a) or the approximate quantity of each of the constituents or ingredients contained in each portion;

"container" includes a wrapper;

"proprietary designation", in relation to articles consisting of or comprising a substance recommended as a medicine, means a word or words used or proposed to be used in connection with the sale of those articles for the purpose of indicating that they are the goods of a particular person by reason of manufacture, selection or certification or by reason of his offering them for sale or his dealing in or with them;

"proprietor", in relation to a proprietary designation, means the person whose goods are indicated or intended to be indicated by that proprietary designation;

"substance" includes a preparation;

"substance recommended as a medicine", in relation to an article consisting of or comprising a substance so recommended, means a substance which is referred to-

(a) on the article, or on any wrapper or container in which the article is sold, or on any label affixed to, or in any document enclosed in, the article or such a wrapper or container; or

(b) in any placard or other document exhibited at any place in Zambia where the article is sold; or

(c) in any advertisement, letter, or other document published by or on behalf of the manufacturer of the article, or any person carrying on business in the course of which the article is sold, or, if the article is sold under a proprietary designation, the proprietor of the designation;

in terms which are calculated to lead to the use of the substance for the exertion of some pharmacological effect on the human body, not being terms which give a definite indication that the substance is intended to be used as, or as part of, a food or drink, and not as, or as part of, a medicine.

*(As amended by G.N. No. 1 of 1964)*

**3. (1)** No person shall import into Zambia any article consisting of or comprising a substance recommended as, or intended to be used as, a medicine unless there is written so as to be clearly legible on the article

Particulars to be recorded on containers or labels



or a label affixed thereto, or, if the article is imported in a container, on the container or a label affixed thereto, or, if the article is imported in more than one container, on the inner container or a label affixed thereto-

(a) the appropriate designation of the substance so recommended, or of each of the active constituents thereof, or of each of the ingredients of which it has been compounded; and

(b) if the appropriate designation of each of the active constituents or the ingredients is written as aforesaid, the appropriate quantitative particulars of the constituents or ingredients.

(2) Notwithstanding the provisions of sub-regulation (1), any article referred to in that sub-regulation may be imported into Zambia by-

(a) a medical practitioner registered or exempted from registration under any written law relating to the registration of medical practitioners;

(b) a traveller for his personal use.

*(As amended by F.G.N. No. 225 of 1957 and G.N. No. 1 of 1964)*

**4.** No person shall import into Zambia any poisons specified in the First Schedule or any preparation containing any such poison, whether or not that preparation is a substance recommended as a medicine, unless-

Prohibition on import of specified poisons except by authorised persons

(a) he is a person who is a member of a class of persons specified in paragraph 1, 2 or 3 of the Second Schedule; or

(b) he is authorised to do so in terms of an open general licence issued by the Minister by Gazette notice; or

(c) he has obtained a special licence to do so from the Permanent Secretary, Ministry of Health.

*(As amended by G.N. No. 1 of 1964)*

**5.** Any person who acts in contravention of or fails to comply with any of the provisions of these Regulations shall be guilty of an offence and shall be liable on conviction to a fine of one thousand five hundred penalty units or to imprisonment for three months, or to both and, in

Offences and penalties

addition to such aforesaid penalty, the court before which a person is so convicted may order any articles in respect of which such offence has been committed to be forfeited.

*(S.I. No. 384 of 1967 and Act No. 13 of 1994)*

# **FIRST SCHEDULE**

*(Regulation 4)*

## **SPECIFIED POISONS**

1. Barbituric acid or its salts.
2. Derivatives of barbituric acid or their salts.
3. Compounds with any other substance of barbituric acid or compounds with any other substance of its salts or of its derivatives and their salts.
4. Paraldehyde.

# SECOND SCHEDULE

*(Regulation 4)*

## **AUTHORISED PERSONS**

1. Persons authorised to sell poisons in terms of any written law.
2. Pharmacists registered under any written law.
3. Medical practitioners, dental surgeons and veterinary surgeons registered under any written law.

*(G.N. No. 1 of 1964)*

*Act No.  
13 of  
1994*

**SECTIONS 3 AND 6-THE CONTROL OF GOODS  
(IMPORT OF RADIOACTIVE SUBSTANCES)  
REGULATIONS**  
*Regulations by the President*

*Federal  
Government  
Notice  
406 of 1960  
Government  
Notices  
1 of 1964  
166 of 1964  
497 of 1964  
Statutory  
Instrument  
387 of 1967*

**1.** These Regulations may be cited as the Control of Goods (Import of Radioactive Substances) Regulations. Title

**2.** In these Regulations, unless the context otherwise requires-

Interpretation

"appropriate designation", in relation to a substance, constituent or ingredient, means the accepted scientific name or other name descriptive of the nature of the substance, constituent or ingredient;

"radioactive substance" means any substance which consists of or contains any radioactive chemical element, whether natural or artificial, and whose specific activity exceeds 0.002 of a microcurie per gramme of parent radioactive chemical element of substance and which has a total activity of more than 0.1 microcurie.

**3.** The Minister may, by Gazette notice, issue open import licences authorising, subject to the provisions of any other written law, the import into Zambia of any radioactive substances.

Open import  
licences

*(G.N. No. 1 of 1964 as amended by G.N. No. 166 of 1964)*

**4.** No person shall import into Zambia any radioactive substance unless-

Prohibition on  
import of  
radioactive  
substances except  
under licence

(a) he is authorised to do so in terms of an open import licence issued in terms of regulation 3; or

(b) he has obtained a licence to do so from the Permanent Secretary, Ministry of Power, Transport and Works; and

(c) there is clearly and legibly written on the container in which the

substance is placed or on a label affixed thereto-

(i) the appropriate designation of the substance or of each of the active constituents thereof or of each of the ingredients of which it has been compounded; and

(ii) if the appropriate designation of each of the active constituents or the ingredients is written on the container or label, the appropriate quantitative particulars of such constituents or ingredients.

*(As amended by G.N. Nos. 1 and 166 of 1964)*

**5.** Applications for the issue of a licence in terms of paragraph (b) of regulation 4 shall contain the following information:

Information to be contained in applications for licences

(a) name and address of importers;

(b) purpose for which radioactive substance is to be used (medical, research, industrial or educational);

(c) description of use to be made of radioactive substance;

(d) name and address of person or persons responsible for using radioactive substance;

(e) qualifications of person or persons responsible for using radioactive substance;

(f) appropriate designation of radioactive substance;

(g) physical state of radioactive substance (liquid, gas or solid);

(h) activity in millicuries on arrival in Zambia;

(i) radiation at surface of the container;

(j) whether source of radiation is sealed or unsealed;

(k) type of radiation;

(l) half-life;

(m) place of origin, e.g., Harwell, etc.;

(n) port and date of arrival in Zambia;

(o) mode of transport; number of vehicle if by road;

- (p) address of place where radioactive substance is to be used;
- (q) proposed means of final disposal.

*(As amended by G.N. No. 1 of 1964)*

**6.** Any person who acts in contravention of or fails to comply with these Regulations or any notice made thereunder, or acts in contravention of or fails to comply with the conditions of any licence issued or authority granted under or in pursuance of these Regulations or notice made thereunder, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

Offences and Penalties

*(S.I. No. 387 of 1967 and Act No. 13 of 1994)*

**SECTIONS 3 AND 6-THE CONTROL OF GOODS (IMPORTATION OF EMBLEMS PROHIBITION) REGULATIONS**

***Regulations by the President***

*Federal Government Notice 218 of 1956 Government Notices 1 of 1964 497 of 1964 Statutory Instrument 386 of 1967*

**1.** These Regulations may be cited as the Control of Goods (Importation of Emblems Prohibition) Regulations.

Title

**2.** No person shall import into Zambia-

(a) any drawing or design portraying any badge, token, emblem, insignia, symbol, name, slogan or motto of any society, organisation, association or other body of persons declared or deemed to be an unlawful society, organisation, association or body in terms of any written law;

Prohibition on importation of certain emblems or goods incorporating such emblems

(b) any goods in which such a drawing or design has been incorporated, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining or any other means whatever, whether manual, mechanical or chemical, separate or combined and whether applied to or incorporated in any goods for the pattern, shape, configuration or ornamentation thereof or for any two or

more such purposes.

*(As amended by G.N. No. 1 of 1964)*

**3.** Any person who acts in contravention of these Regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both and, in addition to such aforesaid penalty, the court before which a person is so convicted may order any articles in respect of which such offence has been committed to be forfeited.

Offences and penalties

*(S.I. No. 386 of 1967 as amended by Act No. 13 of 1994)*

### **SECTION 3-THE CONTROL OF GOODS (IMPORTATION OF PROHIBITED PUBLICATIONS) REGULATIONS**

#### ***Regulations by the President***

*Federal  
Government  
Notices  
368 of 1961  
334 of 1962  
Government  
Notices  
1 of 1964  
497 of 1964  
Statutory  
Instrument  
262 of 1965*

**1.** These Regulations may be cited as the Control of Goods (Importation of Prohibited Publications) Regulations.

Title

**2.** In these Regulations, unless the context otherwise requires-

Interpretation

"officer" means an officer as defined in section *two* of the Postal Services Act or section *two* of the Customs and Excise Act.

Cap. 470  
Cap. 322

*(As amended by S.I. No. 262 of 1965)*

**3.** No person shall import into Zambia any document or other article which-

Prohibition on importation of subversive or seditious documents

(a) is, in the opinion of the President, subversive or seditious;

(b) is published or produced by an organisation or emanates from a source which, in the opinion of the President, is subversive or seditious;

(c) is, if imported into Zambia, likely, in the opinion of the President, to be used in connection with subversive or seditious



activities.

*(F.G.N. No. 334 of 1962 as amended by G.N. No. 1 of 1964)*

4. An officer may seize and forward to the President any document or other article for the purposes of obtaining the President's opinion whether or not the importation of the document or other article into Zambia would constitute a contravention of the provisions of regulation 3.

Powers of officers

*(As amended by G.N. No. 1 of 1964)*

5. (1) If the President is of the opinion that the importation of a document or other article forwarded to him by an officer in terms of regulation 4 would constitute a contravention of regulation 3, the document or other article shall be disposed of in accordance with the directions of the President.

Disposal or return of documents

(2) If the President is not of the opinion that the importation of a document or other article forwarded to him by an officer in terms of regulation 4 would constitute a contravention of regulation 3, the President shall cause the document or other article to be returned forthwith to the person from whom the document or other article was taken or to whom the document or other article is addressed, as the case may be.

### **SECTION 3-THE CONTROL OF GOODS (SUPPLY OF INFORMATION) REGULATIONS** ***Regulations by the President***

*Statutory Instrument  
85 of 1971  
Act No.  
13 of 1994*

1. These Regulations may be cited as the Control of Goods (Supply of Information) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"Price Controller" means the person appointed as such under the Control of Goods (Price Control) Regulations.

3. Any person who produces or has produced, manufactures or has manufactured, deals in or has dealt in, handles or has handled, sells

Supply of information

wholesale or retail, any commodity shall supply such information and make available for inspection such books of account within such reasonable period as the Price Controller may require.

**4.** Any person who fails to comply with any requirement made pursuant to regulation 3 shall be guilty of an offence and shall be liable on conviction- Penalty

(a) in the case of a first offence, to a fine not exceeding thirty thousand penalty units or to imprisonment for a period not exceeding six months, or to both and

(b) in the case of a second or subsequent offence, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

*(As amended by Act No. 13 of 1994)*

### **SECTION 3-THE CONTROL OF GOODS (IMPORT DECLARATION FEE) REGULATIONS**

*Statutory  
Instrument  
20 of 1997*

**1.** These Regulations may be cited as the Control of Goods (Import Declaration Fee) Regulations.\*

Title and  
commencement

\* These Regulations are deemed to have come into effect on the 1st February, 1997

**2.** In these regulations, unless the context otherwise requires-

Interpretation

"goods" means goods of a value in excess of five hundred United States dollars, imported for commercial purposes, to which these Regulations apply;

"import" means the releasing of goods from customs control;

"importer" means an importer of goods.

**3.** (1) These Regulations shall apply to all goods ordered on or after the 2nd of October, 1995. Application

(2) All goods imported on or after the 1st November, 1995, shall be

deemed to have been ordered after these regulations came into effect and shall be subject to the provisions of these Regulations.

4. (1) An importer shall, before importing the goods, be required to complete and submit an import declaration form to a commercial bank, which shall determine whether a fee is payable by the importer in respect of the goods.

Value of goods to be calculated in dollars

(2) A commercial bank, to which an import declaration form is submitted shall, so as to determine whether a fee is payable by the importer in respect of the goods, convert the value of the goods to be imported into United States dollars at the rate prevailing at the commercial bank.

5. (1) An importer shall submit, to a commercial bank, a completed import declaration form as set out in the First Schedule, in four copies.

Procedure for payment of fee

(2) A commercial bank shall, upon receipt of an import declaration form, allocate to it a separate reference number.

(3) A copy of the pro-forma invoice or some other document from the supplier of the goods to be imported, describing the goods and their value, shall be attached to one of the copies of the import declaration form submitted to the commercial bank.

(4) A commercial bank shall within, two days of computing the fee, notify the Permanent Secretary of the Ministry responsible for commerce, trade and industry or its designate of the details of the import declaration form submitted to it.

\*These Regulations are deemed to have come into effect on the 1st February, 1997

(5) When a commercial bank has determined the amount of a fee, it shall retain one copy of the import declaration form and the other three copies shall be collected from the bank as follows:

(a) the original and one copy by the importer, and

(b) one copy, with the pro-forma invoice attached to it, by any person designated by the Minister.

**6.** (1) A commercial bank shall compute the value of the transaction in respect of any goods by adding the-

Computing the value of the transaction

- (a) free on board value;
- (b) cost of transportation;
- (c) cost of the insurance policy; and
- (d) cost of freight.

(2) The Free on Board value of the goods shall include the value of-

- (a) export packing and handling; and
- (b) export documentation.

(3) If an import declaration form does not provide for the values of freight and insurance of the goods, such values shall be calculated as follows:

- (a) freight shall be equal to twenty per centum of the Free on Board value of the goods; and
- (b) insurance shall be equal to two per centum of the Free on Board value of the goods.

(4) The fee payable by an importer shall be five per centum of the value of the transaction computed under sub-regulation (1).

**7.** A commercial bank shall, upon the receipt of the fee computed, remit the fee to the Bank of Zambia on the first working day of the following week after the commercial bank's receipt of the fee.

Bank to remit fee within seven days

**8.** (1) Customs officials shall release goods to which these Regulations apply when all applicable customs requirements have been complied with and the importer has submitted-

Requirements for the release of imports by customs official

(a) the import declaration form bearing a reference number from the commercial bank that computed the fee in respect of the goods and received by the bank as evidence of payment of the fee applicable; and

(b) such other applicable documentation as may be required by the customs officials.

(2) The import declaration form shall be submitted to the customs officials under sub-regulation (1) in its original form.

(3) Where there is need to submit a fascimile or photocopy of the original import declaration form, the copy shall be authenticated as a copy of the original by the Manager of the commercial bank that computed the fee.

(4) Where an importer of goods fails to provide the required documentation evidencing payment of a fee, customs officials shall compute the fee payable from the available data and provisionally release the goods upon the payment, by the importer, of a cash surety of not less than twice the amount of the fee owing.

**9.** (1) A commercial bank to which a fee has been paid by an importer may, within a period of twelve months of the date of the computation of the fee, be audited in respect of the fee paid, by an officer authorised by the Minister.

Auditing and assessment of importer

(2) The auditing of a commercial bank referred to under sub-regulation (1) shall be to determine whether-

(a) a fee was remitted to the Bank of Zambia within the time specified under regulation 6; or

(b) the amount of the fee remitted is not understated or otherwise incorrect.

(3) Upon the completion of the audit of a commercial bank under sub-regulation (1), an assessment of the amount of the fee that may be owing shall be made and shall become immediately payable by the commercial bank at the Bank of Zambia.

**10.** (1) An importer of any type of goods may, within a period of two years from the date of the importation, be audited in respect of the goods imported and may have the goods, premises, documents, books and records, relating to the goods, inspected.

Auditing and  
assessment of  
importer

(2) The auditing of an importer referred to under sub-regulation (1) shall be to determine whether-

(a) a fee was required to be paid in respect of any goods imported; or

(b) the correct amount of the fee has been paid in respect of the goods imported.

(3) Upon the completion of the audit of an importer under sub-regulation (1), an assessment of the amount of the fee that may be owing shall be made and shall become immediately payable by importer at the Bank of Zambia.

**11.** Where an importer of goods destined for approved-

Payment of fee by  
exempt importer

(a) duty free stores;

(b) Export Processing zone enterprises; or

(c) Manufacturing under Bond enterprises

subsequently sells the goods or a product of such goods outside the areas specified for the sale of such goods within the Republic, such importer shall be liable to pay the applicable fee.

**12.** (1) An application for the refund of a fee paid shall be addressed to the Permanent Secretary and be made on the form set out in the Second

Refund of fee

Schedule.

(2) In addition to the grounds for the refund of a fee provided under paragraph (a) and (b) of section *three* A of the Act, a fee may be refunded where- Cap. 412

(a) the goods were not imported due to cancellation of the transaction prior to any inspection of the goods or loss of the goods while in transit, before customs release;

(b) the circumstances of the transaction have changed significantly so as to require the completion and submission of another import declaration form;

(c) the goods imported are found, within thirty days of import, to be deficient and are to be returned to the supplier; or

(d) the goods are returned to the supplier from a bonded house under customs control in their original state of export.

(3) A refund of a fee paid shall be made only where the claim is substantiated by-

(a) the importer's copy of the import declaration form;

(b) the relevant customs clearance documents; and

(c) such other applicable documentation as may be required by customs officials.

(4) A refund of a fee shall be paid into the bank account of the successful claimant.

**13.** An importer entitled to a refund may request the Ministry, in writing, to retain the refund due and apply it to the fee of any subsequent import. Refund may be offset by subsequent import

**14.** (1) An importer who wilfully splits or otherwise reduces the value Evasion

of the transaction so as to avoid the payment of the fee, wholly or in part, shall have the goods audited and assessed, by an officer authorised by the Minister, to determine the fee payable.

(2) An importer of goods that have been audited and assessed under sub-regulation (1) shall be required to pay the fee owing and shall be liable to pay an additional five per centum of the value of the transaction as penalty for the evasion.

**15.** (1) An importer may appeal against an assessment made under these regulations to the Permanent Secretary within a period of thirty days of the assessment.

Appeals

(2) An importer aggrieved by the ruling of the Permanent Secretary made under sub-regulation (1), may appeal to the High Court within a period of thirty days of the ruling.

**16.** (1) A commercial bank that contravenes these Regulations shall be required to comply with these Regulations and shall be liable to pay interest on any fee it may have failed to remit, equivalent to the annualized nominal interest rates applicable to treasury bills.

Penalty for  
contravention

(2) An importer who contravenes these Regulations shall be required to comply with these Regulations, and shall be liable to pay an additional five per centum of the value of the transaction.





30. I/We declare that the above particulars are true and correct			
Date:		Name:	Signature:
<b>FOR USE BY REMITTING BANK</b> DATE CIF VALUE IN FOREIGN CURRENCY: FOREIGN CURRENCY AND RATE CIF VALUE IN LOCAL CURRENCY IDF FEE PAID		BRANCH STAMP <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	

### **IDF Guidelines**

An IDF should be completed and registered immediately upon confirmation of the import order. Any delay in Customs clearance resulting from a delay in registering the IDF will be the responsibility of the importer.

IDF's may be presented to any participating commercial bank for registration and for payment of a fee calculated at the exchange rate prevailing on the date of presentation to the bank.

The importer shall submit 4 copies of the IDF, completed in a clear and legible manner. Incomplete or inaccurate IDF's will be rejected. Distribution: Importer-two (2) copies (original to importer, to be presented with the customs entry), commercial bank-one (1) copy, PSI company-one (1) copy. A copy of a proforma invoice is required to be attached to the original and the PSI company copies of the IDF. The commercial bank, once the IDF is registered, will forward the PSI copy and attached proforma invoice to the PSI company.

Changes in details of the IDF such as change in country of supply, sellers name, value, etc., are to be forwarded to the PSI company.

#### Notes on IDF completion

##### Box

1. This box is reserved for participating banks to enter the IDF registration number when processing this form.
2. The legally registered name of your company or other type of business entity or if you are an individual be sure to enter your surname first.
5. The name of the person to be contacted in case of a query.
8. The full name and address of the seller.
9. 10. The general telephone number for the seller's place of business and fax number (if any).
11. The country where the goods are located and available for pre-shipment inspection, where necessary.
12. The Customs port through which goods will enter Zambia.
13. The Customs point where the duties and taxes, if any, will be paid for their

release.

14. Transport Mode: sea; air; road; postal; rail; courier.
15. Estimated time of departure from the country of export to Zambia.
16. Conditions of payment for the transaction.
17. The country where the goods were made or originated from.
18. Indicate in full words: consumption, bonded warehouse, etc.
20. Check the box that indicates whether the goods are entitled Preferential Trade Area treatment.
21. Transaction currency.
25. e.g., export packing and handling, export documentation, etc.
27. Harmonised System Code used by customs for goods classification.
28. As precise quantity as possible.

Please ensure the declaration is signed by an authorised person. An authorised person is a proprietor, partner, or an individual duly authorised by the organization or company.

# SECOND SCHEDULE

## (Regulation 12)

IMPORT DECLARATION FEE REFUND

### A-IDENTIFICATION

VAT Registration Number	Period covered by claim	From	To	
Legal Name of Importer (Last Name if an individual)				
First Name and Initials (Individuals only)				
Mailing Address (P.O. Box No. or Private Bag Number)				
City		Telephone	FAX	
Location of Business Address (Number, street, and Apartment number)				
City		Telephone	FAX	
Contact Person				

### B-REASON FOR REFUND REQUEST

Reason Code	Code	Reason	Code	Reason
<div style="border: 1px solid black; width: 40px; height: 30px; margin: 0 auto;"></div> (Enter appropriate Reason Code)	1	Fee paid by mistake	5	Significant change in circumstances
	2	Goods subject to drawback	6	Goods were exported as not according to order
	3	Cancellation of order	7	Exported in a new and unused condition
	4	Goods lost in transit	8	Other

### C-REFUND COMPUTATION

IDF Registration No.	Seller's Name	Brief description of goods	Fee paid
Amount of fee paid subject to drawback (attach separate calculation) _____			
Total amount claimed _____			
<b>(FOR OFFSET USE)</b>			
Corresponding IDF Registration No. _____		Fee Amount _____	
		Amount approved for refund _____	
		Amount Refundable/Due _____	

### D-CERTIFICATION

1. The information on this application, including accompanying document(s), if any, is correct and complete to the best of my knowledge. 2. The amount claimed has not previously been refunded to me. 3. This claim for refund is subject to verification and any other books, or records as may be required are available for inspection.		
Signature of Applicant	Print Name	Date

### BANK INFORMATION

The net amount after any offset claimed on this application shall be deposited by the Ministry of Finance to the bank

account of the applicant.		
Bank Details		
Name of Bank		
Full Mailing Address of Bank		
Telephone Number	Fax Number	Account Number for refund to be deposited to

**NOTES**

Where applicable attach a detailed calculation used to compute your application for refund.

An application for a refund must be filled within 2 years from the date of the event giving cause for the refund.

Not more than one application for a refund may be made by an importer in a calendar month.

Copies of all documentation relevant to the refund must be attached.

An authorised representative of the importer must sign the application for refund. Unsigned applications will be returned.

In those situations where the importer requests an offset against the fee payable on another IDF for the import of goods, the properly completed IDF and a proforma must be attached along with a brief letter requesting the offset. Every effort will be made to process the refund and offset it against the applicable fee promptly, however, importers must attach all documentation necessary to verify the amount of the fee that is refundable.

**CHAPTER 423**  
**THE NATIONAL SAVINGS AND CREDIT ACT**

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

Section

1. Short title
2. Interpretation

**PART II**

**ESTABLISHMENT AND ADMINISTRATION OF THE BANK**

3. Establishment of Bank
4. Board of Directors
5. Quorum and meetings of Board
6. Establishment of committees
7. Appointment and employment of general manager
8. Employment of staff

**PART III**

**BUSINESS, PURPOSE AND FUNDS OF THE BANK**

9. Business of Bank
10. Power to administer funds on behalf of any person or agency
11. Funds of Bank
12. Application of funds
13. Investment of funds
14. Financial year
15. Accounts and audit
- 15A. Confidentiality
16. Regulations for deposits

17. Appointment of agents

## **PART IV**

### **INSOLVENCY AND DISSOLUTION**

22. Insolvency
23. Effect of dissolution of Bank

(Parts V and VI repealed by Act No. 23 of 2006)

## **PART VII**

### **REPEAL AND TRANSITIONAL PROVISIONS**

32. Winding up of affairs of Savings Bank and its dissolution
33. Vesting of assets and liabilities of Savings Bank in Bank
34. Registration of property to be transferred by Savings Bank
35. Terms of service of employees on transfer to Bank
36. Repeal on or from appointed date
37. Regulations

## **CHAPTER 423**

### **THE NATIONAL SAVINGS AND CREDIT ACT**

24 of 1972  
23 of 2005

**An Act to provide for the establishment and administration of a National Savings and Credit Bank of Zambia in place of the Post Office Savings Bank of Zambia with a view to promoting national savings; and to provide for matters incidental to or connected with the foregoing.**

[1st, April, 1973]

## **PART I**

### **PRELIMINARY**

1. This Act may be cited as the National Savings and Credit Act.\* Short title

\* This Act is deemed to have come into operation on or from the 1st April, 1973 (S.I. No. 84 of 1973)

2. In this Act, unless the context otherwise requires- Interpretation

"Bank" means the National Savings and Credit Bank of Zambia established under section *three*;

"Bank of Zambia" means the Bank of Zambia established under the Bank of Zambia Act; Act No. 43 of 1996

"Board" means the Board of Directors of the Bank appointed under section *four*;

"Chief Executive Officer" means the person for the time being holding the office of general manager under section *seven*;

"depositor" means a person who deposits a sum of money with the Bank under this Act;

"employee" means any person in the service of the Bank or engaged in connection with any business of the Bank;

"financial institution" has the meaning assigned to it by the Banking and Financial Services Act; Cap 387

"Savings Bank" means the Post Office Savings Bank of Zambia. (As amended by Act No. 23 of 2005)

## PART II

### ESTABLISHMENT AND ADMINISTRATION OF THE BANK

3. (1) There is hereby established the National Savings and Credit Bank of Zambia which shall by that name be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and, subject to the provisions of this Act, of doing or performing all such acts or things as a body corporate may by law do or perform. Establishment of Bank

(2) The Bank is a financial institution for purposes of the Banking and Financial Services Act.

Cap. 387

(3) Notwithstanding subsection (2), the Bank shall only conduct



business as authorised under section *nine*.

(4) After the date of the coming into force of this Act, the Bank of Zambia may prescribe such transition periods as are appropriate to permit the Bank to achieve compliance with the licensing and other requirements of the Banking and Financial Services Act.

Cap. 387

(As amended by Act No. 23 of 2005)

**4.** (1) Save as to the appointment of the Chief Executive Officer as a member of the Board under subsection (2) of section *seven*, the Minister may, by statutory order, appoint the members of the Board of Directors. The Board shall be responsible for the policy and administration of the affairs and business of the Bank, and shall consist of-

Board of Directors

\*This Act is deemed to have come into operation on or from the 1st April, 1973 (S.I. No. 84 of 1973)

(a) a Chairman;

(b) the Chief Officer; and

(c) not less than five nor more than nine other members.

(2) The Chairman shall hold office for such period and upon such terms as the Minister may determine:

Provided that the Chairman may at any time resign his office by giving two months' prior written notice to the Minister.

(3) A member of the Board (other than the Chairman and the Chief Executive Officer) shall hold office for such term (being not less than one year nor more than three years) as the Minister may determine at the time of his appointment, and he shall be eligible for reappointment at the expiration of the term for which he is so appointed:

Provided that such member may at any time resign his office by giving two months' prior written notice to the Minister.

(4) The Board shall appoint from among its members (other than the

Chairman and the Chief Executive Officer) a Deputy Chairman who shall hold office for such period and upon such terms as the Board may determine, and who shall, in the absence of the Chairman, exercise the powers and perform the duties of the Chairman.

(5) No person shall be appointed to, or continue to, hold office on the Board of Directors if that person is-

(a) is not a fit and proper person to hold office, as Director in relation to integrity and professional expertise;

(b) is not above the age of twenty-one years;

(c) is an undischarged bankrupt;

(d) has been convicted of a felony or any offence involving dishonesty;

(e) has been declared or otherwise adjudged in any official proceedings to be mentally incompetent to manage one's own affairs;

(f) is under suspension or has been removed from office under the Banking and Financial Services Act;

(g) has been a Director of company which has been adjudged insolvent, entered into a competition with creditors, gone into liquidation, declared bankrupt or has entered into any other arrangement with creditors or taken any other action with similar effect in Zambia or elsewhere unless that person shows that the person was not responsible for the insolvency, liquidation, composition with creditors, bankruptcy, other arrangement with creditors or other action with similar effect in Zambia or elsewhere.

*(As amended by Act No.23 of 2005)*

(6) A member of the Board (other than the Chief Executive Officer) shall cease to be a member if he is absent from three consecutive meetings of the Board without leave of the Chairman.

(7) A member of the Board who is not a public officer shall be paid from the funds of the Bank such remuneration and allowance as the Board may, with the approval of the Minister, determine.

(8) At the first meeting of the Board after a member has been granted a loan, or the terms or conditions of repayment of his outstanding loan

have been varied, such member shall declare to the Board the terms and conditions of the loan or the variation, as the case may be.

(9) Subject to section *thirty-five* of the Banking and Financial Service Act, no member shall, at any meeting of the Board, take part in the discussion of, or vote upon-

(a) an application for a loan made by himself or any person who is related to that member within the third degree of affinity or consanguinity;

(b) an application for a loan made by any person who is a debtor or mortgagor or creditor or mortgagee of that member or in partnership with or in the employment of that member; or

(c) an application for a loan made by any person who is a mortgagor under a mortgage bond with any body of persons, whether incorporated or not, of which that member is a director or in which he holds any office or position other than that of an auditor.

*(As amended by Act No.23 of 2005)*

(10) Notwithstanding anything to the contrary contained in this section, the Minister may at any time remove by written notice any member of the Board mentioned in paragraph (a) or (c) of subsection (1).

*(As amended by Act No.23 of 2005)*

**5.** The quorum of the Board shall be four, which shall include either the Chairman or the Deputy Chairman or both, and, subject to the provisions of this Part, the Board may from time to time prescribe rules governing its meetings.

Quorum and meetings of Board

**6.** The Board may establish one or more committees comprising some or all of its members to carry out such functions as the Board may delegate to any of such committees.

Establishment of committees

**7.** (1) The Board shall, at such remuneration and on such terms and conditions as it may determine, employ a general manager who shall be the Chief Executive Officer of the Bank and who shall perform such duties as may from time to time be prescribed by the Board.

Appointment and employment of general manager

(2) The Chief Executive Officer shall by virtue of his office be a member of the Board and be present at all Board meetings unless his presence at any meeting is excused by the Chairman, or when any matter in which he is directly or indirectly interested is to be considered at such meeting.

(3) Subject to the other provisions of this Act, the Board may delegate any of its powers to the Chief Executive Officer to the same extent as the board of directors of a company incorporated under the Companies Act may confer powers on the managing director of such a company:

Cap. 388

Provided that any delegation of power by the Board to the Chief Executive Officer shall not diminish the responsibility of the Board for the management of the Bank.

(4) The Chief Executive Officer shall in exercising the powers and discharging the duties of the chief executive officer's office -

(a) act honestly and in good faith and in the best interest of the Bank; and

(b) exercise due care, diligence and skill.

(5) In the event of the Chief Executive Officer being absent from duty on account of leave, illness or any other reasonable cause, the Board may appoint another person in his place, and the person so appointed may exercise all the powers and discharge all the duties which may be exercised or performed by his predecessor.

*(As amended by Act No.23 of 2005)*

**8.** (1) The Board may, at such remuneration, on such terms and conditions and in such number as it may determine, engage other employees for the conduct of the business of the Bank.

Employment of staff

(2) The Board may delegate any of its powers contained in subsection (1) to the Chief Executive Officer.

### **PART III**

### **BUSINESS, PURPOSE AND FUNDS OF THE BANK**

**9.** Subject to the provisions of the Banking and Financial Services Act, Business of Bank

the business of the Bank shall be-

- (a) the acceptance of deposits;
- (b) the operation of any savings schemes in Zambia which the Board may approve, including schemes relating to educational programmes on its own or in conjunction with the Minister responsible for education, and employees' savings schemes on its own or in conjunction with the agency responsible for social security and pension schemes;
- (c) the making of loans for such purposes as the Board may approve;
- (d) to carry on such form of banking business, not otherwise expressly authorised in this Act, as may be approved by the Bank of Zambia; and
- (e) doing all other matters and things incidental to or connected with the foregoing.

*(As amended by Act No.23 of 2005)*

**10.** The Bank may, on behalf of any person or agency, administer any funds on such terms and conditions as may be approved by the Board.

Power to administer funds on behalf of any person or agency

**11.** The funds of the Bank shall consist of-

Funds of Bank

- (a) such sums of money as may be appropriated for it by Parliament;
- (b) such sums of money as may be transferred to it by the Savings Bank;
- (c) such sums of money as the Bank may acquire by virtue of grants or raise by means of loans; and
- (d) such other sums of moneys as may accrue to it in the course or on account of its business.

**12.** The funds of the Bank shall be applied towards-

Application of funds

- (a) the payment of salaries, fees, remuneration, allowances and expenses due and payable to the members of the Board and the employees of the Bank;
- (b) the payment of interest due and payable on sums deposited with, or raised by way of loans by, the Bank;
- (c) the making of loans in accordance with the provisions of sections *eighteen* and *nineteen*;
- (d) the payment of rates, taxes, insurance premiums and other

outgoings, including the expenses of maintenance of the buildings which may become vested in the Bank;

(e) such capital expenditure as the Board may authorise;

(f) all other expenses necessary for and incidental to the business of the Bank authorised under this Act.

**13.** Subject to the provisions of the Banking and Financial Services Act, the Board may invest all or a part of the funds of the Bank not immediately required for the purposes mentioned in this Act in good and sound investment, including-

Investment of funds

(a) in any security issued by the Government;

(b) with any bank, including any commercial bank;

(c) with a building society established under the Building Societies Act;

(d) up to a total amount not exceeding ten per centum of the deposits, in equity securities of any type;

Cap. 412

(e) in any other security as may be approved by the Bank of Zambia.  
(As amended by Act No.23 of 2005)

**14.** The Board shall determine the financial year of the Bank.

Financial year

**15.** (1) The Board shall cause true and full accounts and records to be kept of all the transactions with which the Bank is concerned, and the books of account and records shall be kept at the principal place of business of the Bank.

Accounts and audit

(2) The accounts of the Bank for each financial year shall, subject to section *sixty-three* of the Banking and Financial Services Act, be audited by a person who publicly carries on the profession of accountant in Zambia.

(3) The person referred to in subsection (2) shall be appointed by the Board as auditor with the approval of the Bank of Zambia.

(4) For the purpose of audit, the auditor shall at all reasonable times have access to all books and records relating to the assets, liabilities, income and expenditure of the Bank and shall be entitled to require from the members of the Board of Directors, the chief executive officer or any person concerned in the management of the Bank such information and

explanation as the auditor requires to perform the auditor's duties under this Act.

(5) An auditor appointed under this section shall submit a report, written in accordance with subsection (2) of section *sixty-four* of the Banking and Financial Services Act, to the Board.

(6) The Board shall-

(a) within three months from the end of each financial year, submit a copy of the report of the auditor, together with a copy of the annual financial statement to the Bank of Zambia; and

(b) not later than nine months after the end of each financial year, submit to the Minister a report of its operations, including the annual statement of its accounts for that year, certified by the auditor..

(7) The Minister shall, not later than twelve months after the end of the Bank's financial year, cause the annual statement of accounts and the report referred to in in paragraph (b) of subsection (6) to be laid before the National Assembly, and shall cause the annual statement of accounts to be published in the *Gazette*.

*(As amended by Act No.23 of 2005)*

**15A.** The Bank shall in the conduct of its banking business under this Act be subject to the confidentiality requirements of section *fifty* of the Banking and Financial Services Act. Confidentiality

*(As amended by Act No.23 of 2005)*

**16.** The Board shall, with the approval of the Bank of Zambia, make regulations- Regulations for deposits

(a) prescribing the terms and conditions upon which sums of money may be deposited with or withdrawn from the Bank;

(b) fixing the rate of interest payable to the depositors and the minimum sum (if any) on which the interest shall be payable, and prescribing the methods by which, and the periods in respect of which, interest shall be calculated;

(c) prescribing the form of acknowledgment which shall be evidence of a depositor's claim to repayment of his deposit with interest thereon;

(d) prescribing the maximum and minimum amounts (if any) which

may be deposited or held by a depositor at any one time;

(e) regulating the payment of deposits and interest to the depositors or persons lawfully entitled to claim on their accounts;

(f) regulating the remittance of deposits to the principal place of business of the Bank;

(g) prescribing the manner in which the accounts of depositors shall be kept and providing for inspection and supervision thereof;

(h) prescribing forms of declaration to be made by or on behalf of any depositor or of any secretary, treasurer, trustee or other responsible officer of any association, society or club for the purpose of operating accounts of such association, society or club; and

(i) as to the fees (if any) leviable for services performed by or on behalf of the Bank.

*(As amended by Act No.23 of 2005)*

**17.** The Board may, with the approval of the Minister, appoint agents upon such terms and conditions as it may determine to carry out such functions under this Act as may be assigned to them by the Board.

Appointment of agents

## **PART IV**

### **INSOLVENCY AND DISSOLUTION**

**22.** (1) In the event of the Bank becoming insolvent the Bank of Zambia may in accordance with Chapter VII of the Banking and Financial Services Act dissolve and liquidate the Bank.

Insolvency

Cap. 387

(2) In this subsection (1) insolvency has the meaning assigned to it by section *eighty-six* of the Banking and Financial Services Act.

Cap. 387

**23.** Where the Bank is dissolved under section *twenty-two* this Act shall be repealed.

Effect of dissolution of Bank

*(As repealed and replaced by Act No. 23 of 2006)*

*(Parts V and VI repealed by Act No. 23 of 2006)*

## **PART VII**



## REPEAL AND TRANSITIONAL PROVISIONS

**32.** (1) From the commencement of this Act, the Savings Bank shall exist only for the purpose of winding up its affairs, and for no other purpose.

Winding up of affairs of Savings Bank and its dissolution

(2) When the Minister is satisfied that the necessary agreements and arrangements have been made for the winding-up of the affairs of the Savings Bank so that it may be dissolved, he may, by statutory instrument, direct that the Savings Bank shall be dissolved on such date as may be appointed in the statutory instrument (in this Act referred to as "the appointed date").

**33.** (1) On the commencement of this Act, there shall be transferred to, and shall vest in, the Bank by virtue of this Act and without any further assurance all property, rights, liabilities and obligations which immediately before the commencement of this Act were property, rights, liabilities and obligations of the Savings Bank.

Vesting of assets and liabilities of Savings Bank in Bank

(2) The Savings Bank shall, for the purpose of winding up its affairs before the appointed date and notwithstanding anything to the contrary contained in the Post Office Savings Bank and Savings Certificates Act, or any other written law, have power to do anything which is necessary or expedient for that purpose or is incidental thereto, including in particular but without prejudice to the generality of that power, power to enter into and carry out agreements and arrangements for the transfer of its property, rights, liabilities and obligations to any other body or person, including the Government and the Bank.

(3) Every deed, bond and agreement (other than an agreement for personal service) to which the Savings Bank was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its terms or subject-matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the

assignment thereof, as if-

(a) the Bank had been a party thereto;

(b) for any reference to the Savings Bank there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to the Bank; and

(c) for any reference to any employee of the Savings Bank not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such employee of the Bank as the Bank shall designate.

(4) Subject to the provisions of subsection (3), documents other than those referred to therein which refer specifically or generally to the Savings Bank shall be construed in accordance with the said subsection (3) as far as applicable.

**34.** Whenever, in pursuance of this Act, any property, rights, liabilities or obligations of the Savings Bank are transferred by it to the Bank or any person or the Government in respect of the transfer of which any written law provides for registration, it shall be the duty of the Savings Bank to make an application in writing to the proper officer of the appropriate registration authority for the registration of such transfer, and it shall be the duty of such officer to make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, to issue to the transferee concerned a Certificate of Title in respect of the said property or to make necessary amendments to the register, as the case may be, and, if presented therefor, to make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof.

Registration of property to be transferred by Savings Bank

**35.** Where any person who was, whether on secondment or otherwise, in the service of the Savings Bank immediately before the commencement of this Act transfers from that service to the service of the Bank, it shall be the duty of the Bank to ensure that his terms and conditions of service with the Bank shall be no less favourable than those he enjoyed while in the service of the Savings Bank, and that his service with the Savings Bank shall be treated as service with the Bank for the purposes of determining his rights to or eligibility for pension,

Terms of service of employees on transfer to Bank

gratuity, leave or other benefits.

**36.** The Post Office Savings Bank and Savings Certificates Act and regulations made thereunder shall be deemed to have been repealed on or from the appointed date. Repeal on or from appointed date.

**37.** The Board may, with the approval of the Minister, by statutory instrument, make regulations- Regulations

(a) prescribing anything for the purpose of giving effect to and for the better carrying out of the provisions of this Act; and

(b) as to all other matters incidental to the operation of the savings schemes under this Act.

## CHAPTER 424 THE CHEQUES ACT

### ARRANGEMENT OF SECTIONS

#### Section

1. Short title
2. Protection of bankers paying unendorsed or irregularly endorsed cheques, etc.
3. Rights of bankers collecting cheques not endorsed by holders
4. Unendorsed cheques as evidence of payment
5. Protection of bankers collecting payment of cheques, etc.
6. Application of certain provisions of Bills of Exchange Act, 1882, to instruments not being bills of exchange
7. Government to be regarded as a customer of banker
8. Construction, saving and non-application of British Acts

#### SCHEDULE

### CHAPTER 424

## CHEQUES

*Federal Act  
5 of 1959  
Government  
Notices  
441 of 1963  
497 of 1964  
Statutory  
Instrument  
159 of 1965*

An Act to amend the law relating to cheques and certain other instruments.

[1st August, 1959

1. This Act may be cited as the Cheques Act.

Short title

(As amended by G.N. No. 441 of 1963)

2. (1) Where a banker in good faith and in the ordinary course of business pays a cheque drawn on him which is not endorsed or is irregularly endorsed, he does not, in doing so, incur any liability by reason only of the absence of, or irregularity in, endorsement and he is deemed to have paid it in due course.

Protection of  
bankers paying  
unendorsed or  
irregularly  
endorsed  
cheques, etc.

(2) Where a banker in good faith and in the ordinary course of business pays any such instrument as the following, namely:

(a) a document issued by a customer of his which, though not a bill of exchange, is intended to enable a person to obtain payment from him of the sum mentioned in the document;

(b) a draft payable on demand drawn by him upon himself, whether payable at the head office or some other office of his bank;

he does not, in doing so, incur any liability by only of the absence of, or irregularity, in endorsement, and the payment discharges the instrument.

3. A banker who gives value for, or has a lien on, a cheque payable to order which the holder delivers to him for collection without endorsing

Rights of  
bankers

it, has such (if any) rights as he would have had if, upon delivery, the holder had endorsed it in blank.

collecting  
cheques not  
endorsed by  
holders

4. An unendorsed cheque or other instrument to which subsection (2) of section *two* applies which appears to have been paid by the banker on whom it is drawn is evidence of the receipt by the payee of the sum payable by the cheque or other instrument, as the case may be.

Unendorsed  
cheques as  
evidence of  
payment

5. (1) Where a banker, in good faith and without negligence-

Protection of  
bankers  
collecting  
payment of  
cheques, etc.

(a) receives payment for a customer of an instrument to which this section applies; or

(b) having credited a customer's account with the amount of such an instrument, receives payment thereof for himself; and the customer has no title, or a defective title, to the instrument, the banker does not incur any liability to the true owner of the instrument by reason only of having received payment thereof.

(2) This section applies to the following instruments, namely:

(a) cheques;

(b) any document issued by a customer of a banker which, though not a bill of exchange, is intended to enable a person to obtain payment from that banker of the sum mentioned in the document;

(c) any draft payable on demand drawn by a banker upon himself, whether payable at the head office or some other office of his bank.

(3) A banker is not to be treated for the purposes of this section as having been negligent by reason only of his failure to concern himself with absence of, or irregularity in, endorsement of an instrument.

(As amended by G.N. No. 441 of 1963)

**6.** The provisions of the Bills of Exchange Act, 1882, of the United Kingdom, relating to crossed cheques shall, in so far as they are in force in the Republic, have effect in relation to instruments, other than cheques, to which section *five* of this Act applies as they have effect in relation to cheques.

*(As amended by G.N. No. 441 of 1963)*

Application of certain provisions of Bills of Exchange Act, 1882, to instruments not being bills of exchange

**7.** If the Government has an account with a banker, the Government shall, for the purposes of this Act and the Bills of Exchange Act, 1882, of the United Kingdom, in so far as it is in force in the Republic, be regarded as a customer of that banker.

*(S.I. No. 159 of 1965)*

Government to be regarded as a customer of banker

**8.** (1) The provisions of sections *two* to *seven* shall be construed as one with the Bills of Exchange Act, 1882, of the United Kingdom, in so far as it is in force in the Republic.

Construction, saving and non-application of British Acts

(2) The provisions of this Act do not make negotiable any instrument which, apart from them, is not negotiable in terms of the Bills of Exchange Act, 1882, of the United Kingdom, in so far as it is in force in the Republic.

(3) It is hereby declared that the provisions of the British Acts specified in the Schedule shall not on or after the commencement of this Act have effect in the Republic.

*(As amended by G.I. No. 441 of 1963 and S.I. No. 159 of 1965)*

## SCHEDULE

(Section 8)

# PROVISIONS OF BRITISH ACTS NOT APPLYING IN THE REPUBLIC

The Bills of Exchange Act, 1882	Section 82
The Revenue Act, 1883	Section 17
The Bills of Exchange (Crossed Cheques) Act, 1906	The whole Act
The Bills of Exchange Act (1882) Amendment Act, 1932	The whole Act
<i>(As amended by G.N. No. 441 of 1963 and S.I. No. 159 of 1965)</i>	

**CHAPTER 425**  
**THE SMALL ENTERPRISES DEVELOPMENT ACT**

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

Section

1. Short title and commencement
2. Interpretation

**PART II**

**THE SMALL ENTERPRISE DEVELOPMENT BOARD**

3. Establishment of the Small Enterprise Development Board
4. Composition of Board
5. Functions of the Board
6. Prohibition of publication or disclosure of information to unauthorised persons

**PART III**

**REGISTRATION OF MICRO AND SMALL ENTERPRISES**

7. Registration of micro and small enterprises
8. Issue of certificate
9. Appeal against decision of the Board
10. Conditions of certificate
11. Variation of certificate
12. Surrender of certificate
13. Transfer of certificate
14. Amendment of certificate
15. Suspension or cancellation of certificate



16. Re-registration
17. Maintenance of Register

## **PART IV**

### **FINANCIAL SERVICES AND INCENTIVES**

#### Section

18. Financial services
19. Industrial and commercial estates
20. Incentives to micro and small enterprises
21. Letting of buildings or premises by private persons
22. Income tax allowances
23. Incentives to financial lending institutions

## **PART V**

### **THE MICRO AND SMALL ENTERPRISE DEVELOPMENT FUND**

24. Establishment of the Micro and Small Enterprise Development Fund
25. Administration of Fund
26. Auditing of Fund
27. Statements of income and expenditure

## **PART VI**

### **FINANCIAL AND OTHER PROVISIONS**

28. Funds of the Board
29. Financial year
30. Accounts
31. Annual Reports

## **PART VII**

### **MISCELLANEOUS**

32. Offences and penalties
33. Savings and transitional provisions
34. Transfer of staff
35. Regulations
36. Repeal of Small Industries Development Act, 1981

## CHAPTER 425

### SMALL ENTERPRISES DEVELOPMENT

*Act No. 29 of  
1996  
Statutory  
Instrument  
26 of 1997*

An Act to provide, for the establishment of the Small Enterprise Development Board and define its functions; establish the Micro and Small Enterprise Development Fund; provide for the development of the micro and small enterprises; provide for the registration of micro and small enterprises; repeal and replace the Small Industries Development Act, 1981; and provide for matters connected with or incidental to the foregoing.

[12th December, 1996

## **PART I**

### **PRELIMINARY**

**1.** This Act may be cited as the Small Enterprise Development Act, and shall come into operation on such date as the Minister may, by statutory instrument, appoint. Short title and commencement

**2.** In this Act, unless the context otherwise requires- Interpretation

"appointed date" means such date as the Minister may appoint under section *one*;

"Board" means the Board established under section *three*;

"committee" means a committee established under paragraph *four* of the Schedule;

"Chairperson" means the person elected Chairperson under section *four*;

"commercial estate" means any building or premises designated as a commercial estate under section *nineteen*;

"common facility" means any facility which is jointly used by a group of micro and small entrepreneurs;

"Director" means the person appointed under paragraph *seven* of the Schedule;

"enterprise" means an undertaking engaged in the manufacture or provisions of services, or any undertaking carrying on business in the field of manufacturing, construction and trading services but does not include mining or recovery of minerals; and "entrepreneur" shall be construed accordingly;

"financial institution" shall have the meaning assigned to it in Banking and Financial Services Act; Cap. 387

"Fund" means the Micro and Small Enterprise Development Fund established under section *twenty-six*;

"industrial estate" means any premises or building designated as an industrial estate under section *nineteen*;

"manufacturing" means the transforming, on a commercial scale, of raw materials or semi-processed materials into finished or semi-finished products, or the assembling of inputs into finished or semi-finished products, but does not include mining or recovery of minerals;

"member" means a member of the Board appointed under section *four*;

"micro enterprise" means any business enterprise-

(a) whose amount of total investment, excluding land and buildings, does not exceed ten million Kwacha;

(b) whose annual turnover does not exceed twenty million Kwacha;  
and

(c) employing up to ten persons:

Provided that the values under paragraphs (a) and (b) may be varied by the Minister, by statutory instrument;

"Organisation" means the Small Industries Development Organisation established under the repealed Act; Act No. 18 of 1981

"promotional Agency" means any local or international organisation or institution which is engaged in promoting the development of micro or small enterprises;

"repealed Act" means the Small Industries Development Act, 1981; Act No. 18 of 1981

"rural area" shall have the meaning assigned to it in the Local Government Act; Cap. 281

"Secretary" means the person appointed Secretary under paragraph *eight* of the Schedule;

"service" means the provision, by a micro or small enterprise, on a commercial basis, of any activity or utility which satisfies the public needs;

"small enterprise" means any business enterprise-

(a) whose amount of total investment, excluding land and building, does not exceed-

(i) in the case of manufacturing and processing enterprises, fifty million Kwacha in plant and machinery; and

(ii) in the case of trading and service providing enterprises, ten million Kwacha;

(b) whose annual turnover does not exceed eighty million kwacha;

and

- (c) employing up to thirty persons;

Provided that the values under paragraphs (a) and (b) may be varied by the Minister, by statutory instrument;

"Vice-Chairperson" means the person elected Vice-Chairperson under section *four*.

## **PART II**

### **THE SMALL ENTERPRISE DEVELOPMENT BOARD**

**3.** (1) There is hereby established the Small Enterprise Development Board which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such things as a body corporate may by law do or perform.

Establishment  
of Small  
Enterprise  
Development  
Board

(2) The provisions of the Schedule shall apply in respect of the Board and its members.

**4.** (1) The Board shall consist of the following members:

Composition of  
Board

(a) a representative from each of the ministries responsible for-

(i) finance;

(ii) commerce, trade and industry;

(iii) youth, sport and child development;

(iv) local government and housing;

(v) community development and social services; and

- (vi) science, technology and vocational training;
- (b) eight persons, one each from-
  - (i) the Small Scale Industries Association of Zambia;
  - (ii) the Zambia National Farmers Union;
  - (iii) the Trade Unions;
  - (iv) the Bankers Association of Zambia;
  - (v) the Zambia Chambers of Commerce and Industry;
  - (vi) the National Economics Council of Zambia;
  - (vii) an agency promoting women in business; and
  - (viii) the Environmental Council of Zambia; and
- (c) two reputable private businessmen appointed by the Minister.

(2) The members referred to in paragraphs (a) and (b) of subsection (1) shall be nominated by their respective institutions and shall be appointed by the Minister.

(3) The Chairperson and Vice-Chairperson shall be elected by the members from amongst themselves:

Provided that the members appointed under paragraph (a) of sub-section (1) shall not be elected as Chairperson or Vice-Chairperson.

**5.** (1) The functions of the Board shall be to promote and facilitate the development of micro and small enterprises and to create a conducive environment for the attainment of that purpose. Functions of Board

(2) Without prejudice to the generality of subsection (1), the functions of the Board shall be to-

(a) formulate, co-ordinate and implement policies and programmes for promoting and developing micro and small enterprises;

(b) monitor the efficiency and performance of micro and small enterprises having regard to the purpose for which they are established;

(c) establish a data base of facilities and sources of finance, technology, raw materials, machinery, equipment and supplies with a view to promoting accessibility to micro and small enterprises registered under this Act;

(d) provide marketing support services to micro and small enterprises;

(e) register, collect, research and disseminate information relating to micro and small enterprises;

(f) register, monitor and co-ordinate activities and programmes of promotional agencies engaged in micro and small enterprise development;

(g) assist in the development and upgrading of appropriate productive technologies for micro and small enterprises;

(h) Locate and develop industrial estates and common facilities for use by micro and small enterprises;

(i) establish training and processing centres to provide machinery and equipment to micro and small enterprises on a lease-out basis;

(j) develop Zambian entrepreneurship;

(k) arrange for independent training, management and consulting services to small entrepreneurs at such fee as the Board may determine;

(l) provide the financial services specified under section *eighteen*;  
and

(m) make recommendations to the Minister on any legislative reform which may be required for the development of micro and small enterprises.

6. (1) A member of the Board or staff of the Board or any person invited to attend a meeting of the Board or any committee of the Board shall not, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of that person's duties, the contents of any document, communication or information, whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication or disclosure of information to unauthorised persons

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment not exceeding three years, or to both.

(3) If any person having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, that person shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding six months, or to both.

### **PART III**

## **REGISTRATION OF MICRO AND SMALL ENTERPRISES**

7. (1) Any person undertaking a business enterprise may apply for a certificate under this Part.

Registration of micro and small enterprises

(2) An application for a certificate shall be made to the Director in the prescribed form and shall be accompanied by a prescribed fee determined by the Board.



(3) The Director shall, upon receipt of an application for a certificate, submit the application to the Board for its consideration.

**8.** (1) The Board shall, within four weeks of receipt of an application for a certificate, register an enterprise as a micro or small enterprise and issue a certificate, with any incentives, under this Act, if-

Issue of certificate

(a) the application is in accordance with the provisions of this Act; and

(b) the activity or business carried out by the enterprise does not contravene any law or regulation in force.

(2) The decision of the Board in respect of an application for a certificate shall be communicated to the applicant, in writing, within fourteen days of such decision.

**9.** (1) An applicant for a certificate who is aggrieved with the decision of the Board with respect to the application may appeal to the Minister within thirty days of such decision.

Appeal against decision of the Board or Minister

(2) An applicant who is aggrieved with the decision of the Minister may appeal to the High Court within thirty days of the Minister's decision.

**10.** A certificate issued under section *eight* shall-

Conditions of certificate

(a) contain terms and conditions of the certificate and any incentives granted; and

(b) have an unlimited period of validity.

**11.** (1) The holder of a certificate may at any time during the validity of the certificate, apply to the Board for variation of the terms and conditions of the certificate, the incentives granted or any matter relating to the certificate.

Variation of certificate

(2) The Board shall consider the application referred to in subsection (1) and may grant or reject such application and shall give reasons where it rejects the application.

**12.** (1) Where the holder of a certificate decides not to continue with any project to which the certificate relates, the holder shall notify the Board in writing and shall agree with the Board on the terms and conditions of the surrender of the certificate with particular reference to anything done or any benefit obtained under the certificate.

Surrender of certificate

(2) Where a certificate is surrendered under sub-section (1), the certificate shall lapse, and subject to section *fifteen*, be cancelled and the holder of the certificate shall cease to be entitled to any benefits obtainable under the certificate.

**13.** (1) A certificate shall not be transferred to a third party without the prior approval of the Board.

Transfer of certificate

(2) Every application for approval to transfer a certificate shall be made to the Board and the Board may, within thirty days of the application, approve the application in accordance with this Act.

**14.** The Board may amend a certificate where-

Amendment of certificate

(a) some other person has succeeded to the interest in the business enterprise belonging to the holder of the certificate, by substituting for the name of the holder the name of the successor; or

(b) the name of the business has changed, by substituting the name so changed.

**15.** (1) Subject to the other provisions of this Act, the Board may suspend or cancel a certificate if the holder-

Suspension or cancellation of certificate

(a) obtained the certificate by fraud or deliberate or negligent submission of false information or statements; or

(b) contravenes this Act or any terms and conditions of the certificate.

(2) The Board shall, before suspending or cancelling a certificate in accordance with sub-section (1), give its written notice to the holder thereof of its intention to suspend or cancel the certificate and shall give the reasons for the intended suspension or cancellation and require the holder to show cause, within a period of not more than thirty days, why the certificate should not be suspended or cancelled.

(3) The Board shall not suspend or cancel a certificate under this section if the holder takes remedial measures to the satisfaction of the Board within the period of thirty days referred to in subsection (2).

(4) If a holder who is notified under sub-section (2) fails to show cause to the satisfaction of the Board, or does not take any remedial measures to the satisfaction of the Board, within the time specified in that sub-section, the Board may suspend or cancel the certificate.

(5) Where a certificate is suspended, the holder of the certificate shall cease to be entitled to the rights and benefits conferred under this Act for the period of the suspension.

(6) Where a certificate is cancelled, the holder of the certificate shall cease to be entitled to the rights and benefits conferred under this Act with effect from the date of such cancellation and shall return the certificate to the Director.

(7) Any person who is aggrieved with any decision of the Board under this section, may appeal to the Minister, subject to further appeal to the High Court.

**16.** Where the registration of any micro or small enterprise has been cancelled, suspended or incentive withdrawn, the micro or small enterprise affected may apply for re-registration. Re-registration

**17.** (1) The Director shall keep and maintain a register of all micro and Maintenance of

small enterprises registered under this Act, in which the Director shall enter the names and other details relating to the enterprises. Register

(2) The register referred to in sub-section (1), shall be kept at such places as the Board may determine, and shall be open to inspection by the public at such times and on such conditions including the payment of fees for inspection, as may be determined by the Board.

## **PART IV**

### **FINANCIAL SERVICES AND INCENTIVES**

**18.** The Board shall, in order to facilitate the flow of financial resources to the small scale sector- Financial services

(a) on its own or in cooperation with other promotional agencies, identify small entrepreneurs, institutions and projects which require financial assistance;

(b) provide information on sources of finance and promote local investment for micro and small enterprises;

(c) assist micro and small enterprises with the preparation of business plans, project proposals and other loan application documents with a view to promoting accessibility to financial resources;

(d) in conjunction with any financial institution designated by the Minister for the purpose of financing micro and small enterprises, monitor, establish and design standards for loan administration, effective use of loan funds and repayment mechanisms by small entrepreneurs so as to curb misuse of financial resources;

(e) either on its own or with other financial institutions, establish venture capital funds to promote investments registered under this Act; and

(f) secure incentives through relevant authorities for any financial institution which undertakes to finance or develop an enterprise registered under this Act.

**19.** (1) The Board shall, in consultation with relevant Government authorities, and on such terms and conditions as may be agreed upon with the authorities, assist entrepreneurs registered under this Act with the provision of buildings or premises on which the entrepreneurs may undertake specified business activities.

Industrial and commercial estate

(2) The Board may, for the purpose specified in subsection (1), designate-

(a) industrial estates for the location of micro and small entrepreneurs engaged in manufacturing businesses or activities; and

(b) commercial estates for the location of micro and small entrepreneurs engaged in the trading and sale of goods and services.

**20.** (1) An enterprise registered under this Act shall be entitled to the following incentives:

Incentives to micro and small enterprises

(a) exemption from payment of tax on income for-

(i) the first three years of operations for an enterprise operating in an urban area; and

(ii) The first five years of operations for an enterprise in a rural area;

(b) operating of a manufacturing enterprise for the first five years without a manufacturing licence required for such an enterprise under any law;

(c) exemption from the payment of licensing fees required for such an enterprise under any law; and

(d) exemption from the payment of rates on factory premises for the five years.

(2) The Trades Licensing Act shall not apply to an enterprise registered under this Act.

Cap. 393

**21.** The Board may, in consultation with any person, institution, organisation or company, let out any building or premises for use by micro or small enterprises as an industrial or commercial estate, on such terms and conditions as may be agreed upon.

Letting of buildings or premises by private persons

**22.** An owner of any building or premises let out for the purposes specified in section *twenty-one* shall be entitled to-

Income tax allowances

(a) capital allowances which shall be deducted in ascertaining the gains or profits at the following special rates:

(i) any building used as an industrial estate shall qualify for a wear and tear allowance of five per centum per annum of the cost, plus an initial allowance of ten per centum of the cost in the year in which the building is first used; and

(ii) a wear and tear allowance of fifty per centum per year of the cost in each of the first two years for implements, machinery and plant used exclusively for farming and manufacturing;

(b) exemption from payment of tax on income received from rentals on such premises; and

(c) exemption from the payment of rates on factory premises.

**23.** Any financial institution providing loan, or other financial relief or facilities to registered micro and small enterprises shall be entitled to the following incentives:

Incentives to financial institutions

(a) exemption from payment of tax on income or interest payable on and received from loans provided to an enterprise carrying on manufacturing activities;

(b) such institutions shall be allowed to maintain concessionary core liquid asset ratios and reserve requirements as may be permitted by the Bank of Zambia in consultation with the Minister and the Minister responsible for finance; and

(c) expenditure incurred in training staff who specialise in micro and small scale enterprise financing shall be treated as tax deductible for

tax purposes.

## **PART V**

### **THE MICRO AND SMALL ENTERPRISE DEVELOPMENT FUND**

**24.** (1) There is hereby established the Micro and small Enterprise Development Fund for supporting the development of the small scale sector.

Establishment of Micro and Small Enterprises Development Fund

(2) The Fund shall consist of-

(a) such sums as may be appropriated by Parliament for the purposes of the Fund;

(b) moneys received by way of grants or donations for the purposes of the Fund; and

(c) interest accrued from loans and other forms of investment.

**25.** (1) The Fund shall be vested in the Board and shall be managed and administered by the Board, in such manner as the Board may determine.

Administration of Fund

(2) The Minister may, by statutory instrument, and in consultation with the Board, establish a criteria for the application and disbursement of funds from the Fund.

**26.** The Fund shall be audited every year, by auditors appointed under section *thirty*.

Auditing of Fund

**27.** The Board shall cause to be prepared an annual audited statement or income and expenditure with respect to the Fund which shall be laid before the Minister.

Statement of income and expenditure

## **PART VI**

### **FINANCIAL PROVISIONS**

**28.** (1) The funds of the Board shall consist of such moneys as may- Funds of Board

- (a) be appropriated by Parliament for the purposes of the Board;
- (b) be paid to the Board by way of fees, grants or donations; and
- (c) vest in or accrue to the Board.

(2) The Board may-

- (a) subject to the approval of the Minister, accept money by way of grants or donations from any source;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
- (c) Charge and collect fees in respect of programmes, publications, seminars, consultancy services and other services provided by the Boards.

(3) There shall be paid from the funds of the Board-

- (a) the salaries, allowances and loans of the staff of the board;
- (b) such reasonable travelling, transport and subsistence allowances for members of the Board or of any committee of the Board when engaged on the business of the Board at such rates as the Board may determine; and
- (c) any other expenses incurred by the Board in the performance of its functions.



(4) The Board may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

**29.** The financial year of the Board shall be a period of twelve months ending on 31st December of every year. Financial year

**30.** (1) The Board shall cause to be kept proper books of account and other records in relation to the account of the Board. Accounts

(2) The accounts of the Board shall be audited annually by independent auditors appointed by the Board with the approval of the Minister.

(3) The auditors' fees shall be paid by the Board.

**31.** (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during that financial year. Annual Reports

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly.

## **PART VII**

## MISCELLANEOUS

**32.** Any person who-

Offences and penalties

(a) furnishes the Minister, a member of the Board or any committee of the Board, or the Director with any information or explanation knowing it to be false in any material particular;

(b) fails to comply with any order or demand lawfully made under this Act;

(c) obstructs a member of the Board, a member of a committee of the Board, or a member of staff of the Board in the exercise of that person's functions under this Act; or

(d) contravenes any provision of this Act;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

**33.** (1) Subject to the other provisions of this Act, a person who immediately before the appointed date held office as a member or Director of the Organisation established under the repealed Act, shall continue to hold such office as a member or Director of the Board for a period of three months.

Savings and transitional provisions  
Act No. 18 of 1981

(2) After the period referred to in subsection (1) members of the Board and the Director shall be appointed in accordance with this Act.

(3) Nothing in this Act affects the rights of any person employed by the Organisation immediately before the appointed date.

(4) Notwithstanding section *thirty-six*, all the property, assets, rights, liabilities and obligations of the Organisation existing immediately before the commencement of this Act, shall vest and continue to vest in, or subsist against, the Board, together with the rights, liabilities and

obligations arising out of any contract or otherwise as if this Act had not come into force.

(5) Any proceedings or cause of action instituted or pending by or against the Organisation immediately prior to the appointed date. shall continue against the Board as if instituted under this Act.

(6) An entrepreneur who, immediately prior to the commencement of this Act, holds a certificate of incentives or certificate of registration issued under the repealed Act, shall give notice to that effect to the Board within six months after the commencement of this Act, attaching a certified copy of the certificate, and the rights and benefits accruing to the holder thereof, shall continue in accordance with this Act. Act No. 18 of 1981

**34.** (1) The employees of the Organisation shall be deemed to be transferred to the Board from the commencement of this Act Transfer of staff

(2) The service of the employees referred to in subsection (1) shall be treated as continuous service.

**35.** The Minister may, by statutory instrument, and in consultation with the Board, make regulations prescribing- Regulations

(a) all matters which by this Act are required or permitted to be prescribed;

(b) any forms for the purposes of this Act;

(c) any fees payable in respect of any service provided by the Board; or

(d) Any other matters which are necessary or expedient for the proper carrying out of the provisions of this Act.

**36.** The Small Industries Development Act, 1981, is hereby repealed. Repeal of Act No. 18 of 1981

## **SCHEDULE** **(Section 3)**

**1.** (1) The members referred to in subsection (1) of section *four* shall hold office for a period of three years from the date of appointment and shall be eligible for re-appointment after the expiration of such term for a further period of three years.

Tenure of  
office and  
vacancy

(2) A member may resign upon giving one month's notice in writing to the Board and to the Minister.

(3) The office of a member shall become vacant-

(a) upon the member's death;

(b) if the member is absent without reasonable excuse from three consecutive meetings of the Board of which the member has had notice;

(c) on ceasing to be a representative of the organisation which nominated that member;  
or

(d) if the member is an undischarged bankrupt.

**2.** (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of  
Board

(2) The affixing of the seal shall be authenticated by the Chairperson or the Secretary or one other person authorised in that behalf by a resolution of the Board.

(3) Any document purporting to be a document duly executed or issued under the seal of the Board or on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**3.** (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Proceedings  
of Board

(2) The Board shall meet for the transaction of business at least once in every three months at such place and such times as the Chairperson may determine.

(3) A meeting of the Board may be called by the Chairperson upon giving notice of not less than fourteen days and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Seven members of the Board shall constitute a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board-

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson or the Vice-Chairperson, such member as the members present and voting may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any matter shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) Where any member referred to in paragraphs (a) and (b) of subsection (1) or section *four* is for any reason unable to attend any meeting of the Board, that member's organisation, as the case may be, may, in writing, nominate another person to attend such meeting and such person shall be deemed to be a member for the purpose of such meeting.

(8) The Board may invite any person whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board, but such person shall not be entitled to vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of its meetings and of every meeting of any committee established by the Board.

**4.** (1) The Board may establish committees for the purpose of performing any of its functions under this Act, and may delegate to any such committee such of its functions as it thinks fit.

Committees  
of the  
Board

(2) The Board may appoint as members of a committee established under sub-paragraph (1), persons who are or are not members of the Board, and such persons shall hold office for such period and on such terms and conditions as the Board may determine.

(3) Subject to any specific or general direction of the Board, any committee established under sub-paragraph (1) may regulate its own procedure.

**5.** (1) If any person is present at a meeting of the Board or of any committee of the Board at which any matter is the subject of consideration and in which that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on any question touching, such matter.

Disclosure  
of interest

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

**6.** A member of the Board or any committee of the Board shall be paid such remuneration and allowances as the Board may determine with the approval of the Minister. Remuneration and allowances

**7.** (1) The Board shall appoint, on such terms and conditions as it may determine, a Director who shall be the chief executive officer of the Board and who shall be responsible for the administration and implementation of the decisions of the Board. Director

(2) The Director shall attend meetings of the Board and may address such meetings, but shall not vote on any matter.

**8.** (1) There shall be a Secretary of the Board appointed by the Board on such terms and conditions as the Board may determine. Secretary and other staff

(2) The Board may, on such terms and conditions as it shall determine, appoint such other staff as it considers necessary.

**CHAPTER 426**  
**THE NATIONAL SAVINGS AND CREDIT BANK OF**  
**ZAMBIA (DISSOLUTION) ACT**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Short title and commencement
2. Interpretation
3. Winding-up of affairs of Credit Bank and its dissolution
4. Vesting of assets and liabilities of Credit Bank in Bank
5. Registration of property to be transferred by Credit Bank
6. Employees
7. Legal proceedings
8. Repeal

**CHAPTER 426**

*7 of 1991*

**NATIONAL SAVINGS AND CREDIT BANK OF ZAMBIA**  
**(DISSOLUTION)**

An Act to provide for the winding-up and dissolution of the National Savings and Credit Bank of Zambia; to provide for the vesting of the undertaking of the National Savings and Credit Bank of Zambia in the Post Bank Limited; to repeal the National Savings and Credit Act; and to provide for matters connected with or incidental to the foregoing.

[6th September, 1991]

**1.** This Act may be cited as the National Savings and Credit Bank of Zambia (Dissolution) Act, and shall come into operation on such date as the Minister may, by statutory instrument, prescribe. Short title and commencement

**2.** In this Act, unless the context otherwise requires- Interpretation

"appointed date" means such date as the Minister shall appoint in

pursuance of section *three*;

"Bank" means the Post Bank Limited, a registered commercial bank under the Banking Act;

"Credit Bank" means the National Savings and Credit Bank of Zambia established by section *three* of the National Savings and Credit Act. Cap. 700 of the 1971 edition  
Cap. 423

**3.** (1) From the commencement of this Act the Credit Bank shall exist only for the purpose of winding-up its affairs and for no other purpose: Winding-up of affairs of Credit Bank and its dissolution

Provided that the Minister shall ensure that a proper record of the Credit Bank's assets and liabilities is published for the information of the public.

(2) Notwithstanding anything to the contrary contained in the National Savings and Credit Act; or in any other written law, the Credit Bank shall have, for the purpose of winding-up its affairs, power to do anything which is necessary or expedient for that purpose or which is incidental thereto, including in particular, but without prejudice to the generality of that power, power to enter into and carry out agreements and arrangements for the transfer of its property, rights, liabilities and obligations to any person or the Government. Cap. 423

(3) When the Minister is satisfied that all necessary agreements and arrangements have been made for the winding-up of the affairs of the Credit Bank so that it may be dissolved, he shall, by statutory instrument, order that the Credit Bank shall be dissolved on such date as may be appointed in the statutory instrument.

**4.** (1) On the appointed date there shall be transferred to, and vest in the Bank by virtue of this Act and without further assurance- Vesting of assets and liabilities of Credit Bank in Bank

(a) the undertaking of the Credit Bank; and

(b) subject to the provisions of this Act, all property rights, liabilities and obligations which immediately before the appointed date were property, rights, liabilities and obligations of the Credit Bank.



(2) Subject to the approval of the Bank and as hereinafter provided, every deed, bond and agreement (other than an agreement for personal service) to which the Credit Bank was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if-

(a) the Bank had been a party thereto;

(b) for any reference to the Credit Bank there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to the Bank; and

(c) for any reference to any other officer of the Credit Bank not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Bank as the Bank shall designate.

(3) Subject to subsection (2), documents, other than those referred to in that subsection, which refer specifically or generally to the Credit Bank shall be construed in accordance with that subsection as far as applicable.

**5. (1)** Whenever in pursuance of this Act, any property, rights, liabilities and obligations of the Credit Bank are deemed transferred in respect of which transfer any written law provides for registration, the Credit Bank shall make an application in writing to the proper officer of the appropriate registration authority for the registration of such transfer.

Registration of property to be transferred by Credit Bank

(2) The officer to whom an application is made under subsection (1) shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue to the transferee concerned a certificate of title in respect of the said property or make necessary amendments to the register, as the case may be, and if presented therefor, make endorsement on the deeds relating to the title, right or obligation concerned and no registration fees, stamp duty or other duties shall be payable in respect thereof.

**6.** (1) Any person who, immediately before the commencement of this Act, was in the service of the Credit Bank may voluntarily transfer from the Credit Bank to the Bank. Employees

(2) Any person who is eligible to transfer his service under subsection (1) shall be deemed to have voluntarily transferred to the Bank unless within six months after the commencement of this Act he gives notice in writing to the Credit Bank of his intention not to transfer from the service of the Credit Bank to the service of the Bank.

(3) Any person to whom subsections (1) and (2) apply and who does not voluntarily transfer to the service of the Bank under subsection (1) and (2) shall be deemed to have voluntarily retired from the service of the Credit Bank from the date of his notification to the Credit Bank of his intention not to transfer.

(4) Any person who is deemed to have retired under subsection (3) shall be entitled to be paid all retirement benefits which he would have been paid if he had voluntarily retired in accordance with the relevant rules and conditions of the Credit Bank.

(5) The terms and conditions of an employee transferred to the service of the Bank in accordance with subsections (1) and (2), shall be no less favourable than those which were applicable to him immediately before the transfer; and for the purpose of determining any right to gratuity or any other superannuation benefit, the service of the employee with the Bank shall be regarded as continuous with the service immediately before the transfer.

**7.** (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Bank by virtue of this Act, the Bank and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the institution or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Bank. Legal proceedings

(2) Any legal proceedings or application to any authority pending immediately before the appointed date by or against the Credit Bank may be continued by or against the Bank.

(3) After the appointed date proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the Credit Bank may be instituted by or against the Bank.

**8.** The National Savings and Credit Act shall stand repealed on the appointed date.\*

Repeal of Cap.  
423

\*At the time of preparation of this edition, no date had been appointed for the repeal of the National Savings and Credit Act.

