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2004

LAND ACQUISITION AMENDMENT

NO 1

ZIMBABWE

ACT

To amend the Land Acquisition Act [*Chapter 20:10*]; to repeal Hippo Valley Agreement Act [*Chapter 20:08*]; to make certain declaratory provisions respecting the Land Reform Programme; and to provide for matters incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Land Acquisition Amendment Act, 2004.

2 Amendment of section 5 of Cap. 20:10

(1) Section 5 (“Preliminary notice of compulsory acquisition”) of the Land Acquisition Act [*Chapter 20:10*] (hereinafter called “the principal Act”) is amended—

(a) in subsection (1) by the insertion of the following proviso to paragraph (b)—

“Provided that in respect of agricultural land required for resettlement purposes the publication of a preliminary notice in the *Gazette* and once a week for two consecutive weeks (commencing on the day on which the notice in the *Gazette* is published) in a newspaper circulating in the area in which the land to be acquired is situated, shall be deemed to constitute service of notice in writing on the owner of the land to be acquired and the holder of any other registered real right in that land.”;

(b) the repeal of paragraphs (a) and (b) of subsection (8) and the substitution of —

“(a) a fine—

- (i) equivalent to so much of the amount of the prejudice caused to the land in relation to the purpose for which it is to be acquired as is ascertainable in monetary terms; or
- (ii) not exceeding level ten;

whichever is the greater amount; or

- (b) imprisonment for a period not exceeding two years;

or to both such fine and such imprisonment.”.

(2) Section 5 of the principal Act, as amended by paragraph (a) of subsection (1), shall be deemed to have come into operation on the 23rd May, 2000.

3 Repeal of sections 6A and 6B of Cap. 20:10

(1) Sections 6A (“Circumstances under which owner may offer land in substitution for, or in lieu of the acquisition of, land to be acquired for resettlement purposes”) and 6B (“Circumstances under which owner may subdivide land to be acquired for resettlement purposes”) of the principal Act are repealed.

(2) The repeal of sections 6A and 6B of the principal Act by subsection (1) shall have the effect of cancelling the acceptance of every offer of the whole or any portion of agricultural land required for resettlement purposes as defined in the principal Act.

(3) The fact that -

- (a) any land was offered in substitution for agricultural land required for resettlement purposes, whether in terms of section 6A or 6B of the principal Act or otherwise ; or
- (b) any portion of agricultural land required for resettlement purposes was offered in substitution for the whole of such land, whether in terms of section 6A or 6B of the principal Act or otherwise ;
- (c) the offer of any land or portion of agricultural land was accepted in terms of section 6A or 6B of the principal Act and, before the commencement of this Act, was confirmed by the Administrative Court after the owner had initially objected to the proposed acquisition in terms of section 5 of the principal Act

shall not constitute valid grounds for an objection to the compulsory acquisition of the whole or part (as the case may be) of the agricultural land required for resettlement purposes, nor shall it form the basis of any claim or right in law.

4 Amendment of section 7 of Cap. 20:10

Section 7 (“Application for authorising or confirming order where acquisition contested”) of the principal Act is amended—

- (a) in subsection (3) by the insertion of the following proviso—

“Provided that in respect of agricultural land required for resettlement purposes—

- (a) the publication in the *Gazette* of a notice of the application and particulars of where and the time within which any related documentation may be collected by the owner of the land to be acquired and the holder of any other registered real right in that land shall be deemed to constitute sufficient service of the notice of the application upon the owner and any other party concerned in the application;
 - (b) it shall not be necessary for the purposes of proviso (a) to identify by name the holder of any registered real right in the land who is not the owner of the land.”;
- (b) by the insertion after subsection (3) of the following subsection—

“(3a) The Administrative Court shall have jurisdiction in the first instance to hear and determine any application (whether or not made at the same time as the application for an order referred to in subsection (1)) to review the proceedings and decisions of the acquiring authority on any of the grounds specified in section 27 of the High Court Act [*Chapter 7:06*], and may exercise in relation to such application the same powers that the High Court has on review of civil proceedings or decisions.”.

5 Amendment of section 8 of Cap. 20:10

Section 8 (“Vesting of land, taking of materials and exercise of rights over land”) of the principal Act is amended in subsection (1) by the repeal of proviso (iii) and the substitution of—

- “(iii) in the case of agricultural land required for resettlement purposes, the acquiring authority shall acquire the land concerned by notice in the *Gazette* specifying—
- (a) the land that is being acquired; and
 - (b) the name of the registered owner of such land.”.

6 Amendments of penalties in and minor amendments to Cap. 20:10

The provisions of the principal Act specified in the first column of the Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

7 Repeal of S.I. 346 of 2001

The Land Acquisition (Offers of Land in Substitution for Land to be Acquired for Resettlement Purposes and Related Matters) Regulations, 2001, published in Statutory Instrument 346 of 2001, are repealed.

8 Repeal of Cap. 20:08

(1) The Hippo Valley Agreement Act [*Cap. 20:08*] (hereafter in this section referred to as “the repealed Act”) is repealed.

(2) Notwithstanding any condition contained in any agreement of lease, or sale or other disposition between the Hippo Valley Estates Limited or its successors in title and any person in respect of land transferred to it or under its control in terms of the agreement set out in the Schedule to the repealed Act, or contained in any title deed in respect of such land, the State may,

in terms of the principal Act, compulsorily acquire as agricultural land required for resettlement purposes any such land.

(3) Any word or expression to which a meaning has been assigned in any provision of the principal Act shall have the same meaning when used in subsection (2).

9 Declaratory provisions respecting application of the Land Reform Programme

(1) In this section—

- (a) the term “Land Reform Programme” means the Land Reform and Resettlement Programme and Implementation Plan (Phase 2), published in April, 2001 (as re-issued and amended from time to time), in connection with the programme of acquiring agricultural land for resettlement purposes which commenced under the terms of the principal Act on the 23rd May, 2000;
- (b) any word or expression to which a meaning has been assigned in any provision of the principal Act shall have the same meaning when used in this section.

(2) For the avoidance of doubt it is declared that—

- (a) the criteria listed in the Land Reform Programme for the acquisition of agricultural land required for resettlement purposes are not binding on the acquiring authority; accordingly the fact that the land to be acquired—
 - (i) is a plantation farm engaged in large-scale production of tea, coffee, timber, citrus fruit, sugar cane or other plantation crops;
 - (ii) is an agro-industrial property involved in the integrated production, processing or marketing of poultry, beef and dairy products and seed-multiplication;
 - (iii) is within an export processing zone or operates under a permit issued by the Zimbabwe Investment Centre;
 - (iv) is an approved conservancy;
 - (iii) is the only piece of land belonging to the owner;

shall not constitute valid grounds for any objection to the compulsory acquisition of the land nor shall such criteria form the basis of any claim or right in law;

- (b) the total hectareage of land required for resettlement purposes specified in the Land Reform Programme is indicative only of the minimum hectareage of such land; accordingly, the acquiring authority is not prevented by that Programme from acquiring land in excess of the hectareage so specified.

(3) For public information it is declared that the State intends to acquire not less than eleven million hectares of agricultural land for resettlement purposes in terms of the Land Reform Programme.

SCHEDULE (Section 6)

AMENDMENT OF PENALTIES AND MINOR AMENDMENTS

<i>Provision</i>	<i>Extent of amendment</i>
Section 8 (7)	By the deletion of “twenty thousand dollars” and the substitution of “level eight”.
Section 9 (1) (b) and proviso (ii) thereto and (2)	By the deletion of “one hundred thousand dollars” and the substitution of “level eight”.
Section 10 (1) (a)	By the deletion of “or, where no such order was required in terms of proviso (iii) to that subsection, written confirmation to that effect”.
Paragraph 9 of Part I of the Schedule	By the deletion of “trailers” and the substitution of “trailers”.