

**TRAFFICKING IN PERSONS ACT, 2014**

## ARRANGEMENT OF SECTIONS

## PART I

## PRELIMINARY

*Section*

1. Short title and commencement of sections 8 and 9.
2. Interpretation.

## PART II

## PROHIBITION OF TRAFFICKING IN PERSONS

3. Crime of trafficking in persons.
4. Powers of law enforcement agents.
5. Protection and compensation of victims.
6. Forfeiture of trafficking proceeds and property.
7. Extraterritorial jurisdiction of Zimbabwean courts in cases of trafficking in persons.

## PART III

## ADMINISTRATIVE, GENERAL PROVISIONS AND AMENDMENT OF OTHER ACTS

8. Centres for victims.
9. Establishment and functions of Anti- trafficking Inter-Ministerial Committee.
10. Regulations.
11. New Part inserted after Part VI of Chapter IV of Cap 9:23.
12. Amendment of Cap 9:24.

FIRST SCHEDULE: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

SECOND SCHEDULE: Tenure of Office of Members of Committee and Meetings and Procedure Thereof.

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## ZIMBABWE

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# ACT

To provide for the prohibition, prevention and prosecution of the crime of trafficking in persons and the protection of victims of trafficking; to establish an Anti-Trafficking Inter-Ministerial Committee and provide for its composition and functions; to establish centres for victims of trafficking in persons; to amend the Criminal Law Code and the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013); and to provide for matters connected with or incidental to the foregoing.

WHEREAS section 327(2) of the Constitution provides as follows:

*“An international treaty which has been concluded or executed by the President or under the President’s authority—*

- (a) does not bind Zimbabwe until it has been approved by Parliament; and*
- (b) does not form part of the law of Zimbabwe unless it has been incorporated into the law through an Act of Parliament.”*

AND WHEREAS Zimbabwe signed both the United Nations Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children against Transnational Organised Crime, both of which were concluded on 15 November 2000.

AND WHEREAS Article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children further provides as follows:

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*“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses the conduct set forth in Article 3 of this Protocol were committed intentionally.”*

NOW, THEREFORE, be it enacted by the Parliament and the President of Zimbabwe as follows:—

## PART I

### PRELIMINARY

#### 1 Title and commencement of sections 8 and 9

- (1) This Act may be cited as the Trafficking in Persons Act [*Chapter 9:25*].
- (2) Sections 8 and 9 of this Act shall come into operation on a date to be fixed by the President by statutory instrument.

#### 2 Interpretation

In this Act—

- “adult pornography” means pornography involving an adult;
- “child” means any person below the age of eighteen years;
- “child pornography” means pornography involving a child;
- “Committee” means the Anti-Trafficking Inter-Ministerial Committee established under section 9;
- “Criminal Law Code” means the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] (Act No. 23 of 2004);
- “debt bondage” means a pledge by a debtor of his or her personal services or labour, or those of a person under his or her control, as security or payment for a debt;
- “disabled person” means a person with a physical, mental or sensory disability including visual, hearing, or speech functional disability, which gives rise to physical, cultural or social barriers inhibiting him or her from participating at an equal level with other members of society in activities, undertakings or fields of employment that are open to other members of society;
- “illegal labour” means child labour or labour that is practised in conditions below the minimum standards required by the labour laws of a country or territory, or labour that is unregistered, unnotified or otherwise not permitted by the labour, social security or immigration laws of a country or territory;
- “identity or travel document” means—
  - (a) a document issued to a person in terms of the national registration laws of a country or territory; or
  - (b) a passport or driver’s license issued by or on behalf of the government of a country or territory; or
  - (c) any visa or other entry or exit permit issued in terms of the immigration laws of a country or territory.
- “involuntary transportation” in relation to a victim, bears the meaning in section 3(1);
- “law enforcement agency” means the police force, immigration service, customs service and any other agency lawfully appointed to enforce the law in Zimbabwe or in any other country or territory, and “law enforcement agent” shall be construed accordingly;

- “Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time assign the administration of this Act;
- “organised criminal group” means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious offences in order to obtain, directly or indirectly, a financial or other material benefit;
- “pornography” includes any representation, through publication, exhibition, cinematography, electronic means or any other means whatsoever, of a person engaged in real or simulated explicit sexual activities, or any representation of the sexual parts of a person for primarily sexual purposes;
- “Protocol”, means the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the terms of which are set forth in the First Schedule;
- “prostitution” means any activity punishable as a crime in terms of Division E (“Crimes relating to prostitution or the facilitation of sexual crimes”) of Part III (“Sexual Crimes and Crimes Against Morality”) of Chapter V (“Crimes Against the Person”) of the Criminal Law Code;
- “serious offence” has the meaning given to it by the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013);
- “social worker” means a person registered in terms of the Social Workers Act [*Chapter 27:21*] (No. 9 of 2001);
- “trafficker” means a person who commits or attempts to commit or is suspected of committing the crime of trafficking in persons;
- “trafficking in persons” or “trafficking” means the crime referred to in section 3;
- “transportation”, in relation to an individual, means the conveyance of that individual by any motor vehicle, aircraft, vessel or other means by which that individual is conveyed by air, land or water;
- “unlawful purpose” means for the purposes of prostitution, child or adult pornography, the unlawful removal of organs, forced marriage, debt bondage, illegal labour, forced labour or other forms of servitude;
- “victim” means a person who is subjected to trafficking.

## PART II

### PROHIBITION OF TRAFFICKING IN PERSON

#### 3 Crime of trafficking in persons

- (1) Any person who—
- (a) trafficks any individual by transporting him or her into, outside or within Zimbabwe—
- (i) involuntarily, that is to say by any of the following means—
- A. force, violence or threats thereof; or
  - B. administering drugs to subdue the victim or causing the victim to be addicted to drugs; or
  - C. abduction or detention of the victim; or
  - D. fraud, extortion or deception; or
  - E. the abuse of power or trust over the victim; or
  - F. the giving of inducements to the victim or a person having control over the victim for the purpose of facilitating the transportation of the victim; or
- (ii) voluntarily, for an unlawful purpose;
- or

- (b) knowingly does any of the following acts—
- (i) recruits, transfers, harbours or receives another person that he or she knows or suspects is being or is likely to be trafficked; or
  - (ii) attempts, assists, abets, conceals, procures, incites, solicits, connives at, or conspires with others for, the commission of the crime of trafficking; or
  - (iii) leases or subleases or allows the use of any premises or land which belongs to him or her or over which he or she has control for the purpose of trafficking; or
  - (iv) advertises or assists in the advertising, printing, publication, broadcasting or distribution by any means, any material that promotes trafficking in persons; or
  - (v) being an internet service provider operating in Zimbabwe, is aware of any site on its server that contains information in contravention of subparagraph (iv); or
  - (vi) for the purpose of trafficking assists any other person to obtain false identity or travel documents or tampers with identity or travel documents; or
  - (vii) facilitates in any way the cross-border transportation of victims in contravention of paragraph (a); or
  - (viii) benefits either directly or indirectly from the proceeds of trafficking; or
  - (ix) for the purpose of trafficking confiscates, destroys or conceals the identity or travel documents of an individual in order to unlawfully deny such individual his or her freedom of movement, or access to any public services;

shall be guilty of the crime of trafficking in persons.

(2) Any person who commits the crime of trafficking in persons—

- (a) in a case described in—
  - (i) subsection (1)(a); or
  - (ii) subsection (1)(b) that is committed in any of the aggravating circumstances described in subsection (3);
 shall be liable to imprisonment for life or any definite period of imprisonment of not less than ten years;
 

or
- (b) in a case described in—
  - (i) subsection (1)(a) where special circumstances in terms of subsection (5) are found to apply; or
  - (ii) subsection (1)(b) that is not committed in any of the aggravating circumstances described in subsection (3) or, if committed in such circumstances, where special circumstances in terms of subsection (5) are found to apply;

shall be liable to a fine not exceeding level fourteen or imprisonment not exceeding ten years or both such fine and such imprisonment.

(3) The crime of trafficking in persons shall be considered to be committed in aggravating circumstances if—

- (a) the trafficked person is a child or disabled person; or
- (b) the child adoption laws of any country or territory are abused to facilitate the trafficking of a child; or
- (c) the crime is committed by an organized criminal group; or

- (d) the offender is an ascendant, parent, sibling, guardian or a person who exercises parental authority over the victim; or
- (e) the offender is a member of a law enforcement agency or the leader of a religious body or group that purports to be a religious body; or
- (f) by reason or on the occasion of the act of trafficking, the victim dies, becomes insane, suffers mutilation or is infected with the Human Immune Virus (HIV), Acquired Immuno-Deficiency Syndrome (AIDS), a sexually transmitted infection (STI) or any other disease; or
- (g) the transportation of the victim was, to the knowledge of the offender, procured by any of the means specified in subsection (1)(a).

(4) If a victim was trafficked for the purposes of adult or child pornography or prostitution, or for any purpose or in any circumstances involving the breach of the immigration or labour laws of Zimbabwe or of any country or territory, that victim shall not be charged with any crime whose essential elements include adult or child pornography, prostitution or the breach of the immigration or labour laws in question.

(5) If the person accused of trafficking in persons in contravention of subsection (2)(a) satisfies the court that there are special circumstances in the case, which circumstances shall be recorded by the court, why the penalty provided under subsection (2)(a) should not be imposed, the person on conviction shall be liable to the penalty provided under subsection (2)(b).

(6) No portion of a sentence imposed in terms of subsection (2)(a) shall be suspended by the court if the effect of such suspension is that the convicted person will serve less than ten years imprisonment.

(7) It shall not be a defence to a charge of trafficking in persons for an offender to prove that—

- (a) a victim consented to any act constituting the offence; or
- (b) the victim had previously engaged in prostitution or pornography or has been convicted of any criminal offence; or
- (c) where the victim is a child, that the victim, or the parent, guardian or other person who has parental authority over the victim, consented to any act constituting the offence; or
- (d) the purpose for which the offence was committed was not fulfilled; or
- (e) any act constituting an essential element of the crime of trafficking in persons is a customary or religious practice.

#### 4 Powers of law enforcement agents

(1) A law enforcement agent, acting in good faith in the course of investigating or preventing the crime of trafficking in persons, or upon reasonable suspicion that that offence is being or may be about to be committed, or that any individual is or may be a trafficker or victim, has the following powers—

- (a) to question any individual who has arrived in or is seeking leave to enter Zimbabwe, or is leaving Zimbabwe; and
- (b) to search and examine the individual referred to in paragraph (a), and search any property in the possession or control of such individual:

Provided that any bodily search or examination must be conducted with strict regard for decency; in particular the search and examination of a female person, unless conducted by a medical practitioner, must be undertaken only by a female law enforcement agent or other woman authorised by a law enforcement agent;

and

- (c) to detain for further questioning or examination the individual referred to in paragraph (a), or to remove or authorise the removal of the individual from any motor vehicle, aircraft, vessel or other means by which that individual is conveyed by air, land or water:

Provided that an individual so detained shall, unless detained under any other lawful power, be released not later than the end of the period of forty-eight hours beginning with the time when the detention begins;

and

- (d) to stop, detain, remove and search any motor vehicle, aircraft, vessel or other means by which the individual referred to in paragraph (a) is conveyed by air, land or water, or any article, document or other property found therein or found in the possession or control of such individual:

Provided that the law enforcement agent concerned shall—

- (i) give a full receipt for any motor vehicle, aircraft, vessel, article, document or other property that is removed to the owner or person in control thereof; and

- (ii) not retain any such motor vehicle, aircraft, vessel, article, document or other property for longer than is necessary for the purposes of his or her investigation or any trial or inquiry arising out of his or her investigation;

and

- (e) to proceed to any premises indicated by the individual referred to in paragraph (a), or disclosed by any indications obtained by the law enforcement agent under any of the foregoing paragraphs, as affording evidence that may be required for the prosecution of the crime of trafficking in persons, and there to exercise any of the powers under any of the foregoing paragraphs in relation to any persons, motor vehicles, aircraft, vessels, articles, documents or other property found about, within or upon those premises.

(2) An individual who is questioned under subsection (1) shall on being required to do so by the law enforcement agent do any or all the following—

- (a) answer all questions put to him or her by the agent fully and truthfully;
- (b) give the agent any article, document or other property in the individual's possession which the agent requests for the purpose of his or her investigation;
- (c) produce to the agent a valid passport or other identity or travel document which establishes the individual's identity and citizenship;
- (d) make and sign such declaration, whether sworn or not, as the agent may request for the purpose of his or her investigation.

(3) An individual referred to in subsection (1)(a) or any other person referred to in subsection (1)(e) who contravenes any of the provisions of subsection (1) or (2) shall be guilty of any of the following crimes in the Criminal Law Code as may be appropriate to the case and be liable to be punished accordingly:

Section 176 ("Assaulting or resisting peace officer"), 178 ("Obstruction of public official"), 180 ("Deliberately supplying false information to public authority"), 183 ("Perjury") or 184 ("Defeating or obstructing the course of justice").

## 5 Protection and compensation of victims

(1) For the avoidance of doubt, it is declared that, in appropriate cases, a victim shall benefit from the provisions of Part XIVA ("Protection of vulnerable witnesses") of the Criminal Procedure and Evidence Act [*Chapter 9:07*] protecting vulnerable witnesses.



(2) Where a court before which a crime of trafficking in persons is being prosecuted considers it appropriate in order to protect the privacy, reputation and other rights of the victim, the court shall make an order in terms of the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*].

(3) Subject to Part XIX (“Compensation and restitution”) of the Criminal Procedure and Evidence Act [*Chapter 9:07*], a court which has convicted any trafficker shall forthwith order the trafficker to compensate the victim for any—

- (a) damage to, or loss of, property, including money, suffered by the victim; or
- (b) physical, psychological or other injury suffered by the victim, and any medical expenses incurred in connection therewith; or
- (c) loss of income or support suffered by the victim.

## **6 Forfeiture of trafficking proceeds and property**

(1) The Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013) applies to the crime of trafficking in persons as if it is a serious offence as defined in that Act, and as if any proceeds from or instrumentalities of the crime of trafficking in persons, or property which has been, is being, or is intended to be used to commit the crime, or property which belongs to or is controlled by any organised criminal group responsible for or involved in the commission of the crime, is “tainted property” as defined in that Act.

(2) In addition to any other penalty provided for under this Act, where the Prosecutor-General makes no application for a confiscation order or benefit recovery order under the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013) in relation to the property of the trafficker at the time of the prosecution or conviction of the trafficker, the convicting court may, on its own motion, upon conviction of a trafficker, order the confiscation or forfeiture to the State of all the proceeds and properties of the trafficker which have been identified in the course of the prosecution as having been used in or derived from the crime of trafficking in persons.

(3) Proceeds and properties ordered to be forfeited by a court pursuant to subsection (2) shall form part of or be administered for the benefit of the Recovered Assets Fund established under the Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013).

## **7 Extraterritorial jurisdiction of Zimbabwean courts in cases of trafficking in persons**

(1) The crime of trafficking in persons may be committed outside Zimbabwe and, in that event, a court in Zimbabwe has jurisdiction to try the alleged offender if—

- (a) he or she is a citizen of, or ordinarily resident in Zimbabwe; or
- (b) he or she is arrested in Zimbabwe, or at its borders; or
- (c) it is a corporate body registered or incorporated in Zimbabwe; or
- (d) the victim is a citizen of, or ordinarily resident in Zimbabwe.

(2) The Prosecutor-General may, in the absence of a treaty of extradition between Zimbabwe and the country or territory where the crime of trafficking in persons was committed in any of the circumstances specified in subsection (1), request the expatriation of the offender to Zimbabwe by virtue of this section and the applicable provisions of the Protocol.

### **PART III**

#### **ADMINISTRATIVE AND GENERAL PROVISIONS; AMENDMENT OF OTHER ACTS**

## **8 Centres for victims**

(1) The Minister responsible for social services shall—

- (a) from monies appropriated by Parliament for that purpose, establish and operate centres for victims of trafficking; and
  - (b) ensure that at least one such centre is established in each province; and
- (2) Every centre for victims of trafficking—
- (a) shall, in respect of their professional operations, be staffed by persons who are social workers or training to be social workers or any appropriately trained personnel; and
  - (b) shall be so constructed and organised that (except under conditions of monitored supervision) children are segregated from adults, and women from men, with adequate and appropriate provision being made for each such group; and
  - (c) shall secure the safety of victims from any harm by their traffickers or alleged traffickers; and
  - (d) shall offer a programme for—
    - (i) the provision of counselling to victims;
    - (ii) the provision of rehabilitation services to victims;
    - (iii) the reintegration of adult victims into their families and communities;
    - (iv) the reception, care, development of children and adult victims;
 and
  - (e) may offer a programme for—
    - (i) the provision of education to victims, in co-operation with the Ministry responsible for education;
    - (ii) the provision of skills development training for adult victims;
 and
  - (f) shall, in the case of child victims, ensure that the best interests of the child are paramount in the rendering of any assistance.
- (3) A social worker employed at a centre shall be assisted by the police in tracing the family of a victim.
- (4) Every centre shall comply with the prescribed standards set for the operation of such centres.
- (5) Upon admission of a victim to a centre for victims of trafficking an assessment shall be made by a social worker to determine—
- (a) the risks to the safety of the victim;
  - (b) the immediate needs of the victim;
  - (c) the long term needs of the victim.

## **9 Establishment and functions of Anti- trafficking Inter-Ministerial Committee**

- (1) There is hereby established an Anti-Trafficking Inter-Ministerial Committee (in this section called “the Committee”).
- (2) The Committee shall consist of—
- (a) a member of the Civil Service employed at the level of Director or above in the Ministry of Home Affairs who shall be appointed as the chairperson of the Committee by the Minister;
  - (b) a representative of the Ministry responsible for—
    - (i) labour and social services; and
    - (ii) women ; and
    - (iii) home affairs; and

- (iv) health and child welfare; and
  - (v) information and publicity; and
  - (vi) education; and
  - (vii) local government; and
  - (viii) foreign affairs;
  - and
  - (c) a professional employee of the National Prosecuting Authority of or above the rank of principal law officer; and
  - (d) a member of the Civil Service employed in the Registrar General's Department; and
  - (e) a representative of—
    - (i) the Department of Immigration established under the Immigration Act [*Chapter 4:02*];
    - (ii) the Zimbabwe Republic Police established under the Police Act [*Chapter 11:10*];
    - (iii) the Financial Intelligence Unit of the Reserve Bank of Zimbabwe; and
  - (f) such other persons appointed by the Minister as may be prescribed.
- (3) The Committee with the approval of the Minister shall—
- (a) formulate a national plan of action against trafficking in persons for any period of one year or more as it deems fit, and monitor and report on the implementation of the national plan of action; and
  - (b) liaise with appropriate Government agencies to promote the rehabilitation and reintegration of victims; and
  - (c) take note of and implement appropriate measures to adopt or comply with international and regional developments and standards in the prevention and combating of trafficking in persons; and
  - (d) do anything which it is mandated to do by this Act and the national plan of action against trafficking in persons, and by the Minister in pursuance of this Act; and
  - (e) propose and promote strategies to prevent and combat trafficking in persons; and
  - (f) provide advice on the investigation and prosecution of cases of trafficking; and
  - (g) introduce and implement public awareness programmes or other measures designed to inform and educate the public on issues relating to trafficking in persons including—
    - (i) the causes that foster trafficking in persons, especially women and children;
    - (ii) common methods used by traffickers to entice or coerce victims for purposes of trafficking or to keep victims captive;
    - (iii) the forms of abuse to which victims may be subjected;
    - (iv) informing the public of institutions or law enforcement agencies or other national, regional or international organisations that may be approached for assistance or information;
    - (v) making victims aware of their rights and the legal and other measures in place to ensure their safety, recovery and repatriation where necessary.

(5) All matters regarding the tenure of office of members of the Committee and the meetings and procedure of the Committee are specified in the Second Schedule.

## 10 Regulations

The Minister may make regulations prescribing anything which under this Act needs to be prescribed or which in his or her opinion is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## 11 New Part inserted after Part VI of Chapter VI of Cap 9:23

The Criminal Law Code is amended by the insertion in Chapter VI ("Property Crimes") of the following Part after Part VI ("Hijacking and Other Crimes Involving Aircraft")—

### "PART VII

#### PIRACY OR INTERFERENCE WITH SAFE OPERATION OF VESSELS

#### 154A Piracy or interfering with safe operation of vessel

(1) In this Part—

"inland waters" means any dam, lake or river or part of a dam, lake or river or any such water as may be declared to be such by the President under the Inland Waters Shipping Act [Chapter 13:06];

"master", in relation to a vessel, means the person having command or charge of the vessel;

"vessel" includes every description of water craft, including a hovercraft, used or capable of being used as a means of transportation on water.

(2) Any person who, in relation to a vessel travelling at sea or in any inland waters—

- (a) boards the vessel without the master's consent and with intent to deal with the vessel, or a person on the vessel, or the equipment of the vessel, in a way that would be likely to endanger the safe operation of the vessel or the safety of the person concerned; or
- (b) having boarded or being upon a vessel with or without the master's consent, engages in any act on the vessel which would constitute the crime of robbery; or
- (c) steals the vessel, or directly or indirectly takes control of the vessel without the master's consent; or
- (d) confines the vessel's master, or the pilot or any of the crew of the vessel, against the will of any person so confined; or
- (e) boards the vessel without the master's consent or knowledge; or
- (f) having boarded the vessel with the master's consent, interferes with the safe operation of the vessel without the master's consent;

shall be guilty of—

- (g) the crime of piracy in a case referred to paragraph (a), (b), (c), or (d), and be liable to be imprisoned for life or to any definite period of imprisonment of not less than ten years; or
- (h) the crime of interfering with the safe operation of a vessel in a case referred to in paragraph (e) or (f), and be liable to a fine not exceeding level fourteen or imprisonment for a period not exceeding fifteen years.

(3) If the person accused of piracy satisfies the court that there are special circumstances in the case, which circumstances shall be recorded by the court, why the penalty provided under subsection (2)(g) should not be imposed, the person on conviction shall be liable to the penalty provided under subsection (2)(h).

(4) No portion of a sentence imposed in terms of subsection (2) (g) shall be suspended by the court if the effect of such suspension is that the convicted person will serve less than ten years imprisonment.

(5) A court in Zimbabwe has jurisdiction to try a person arrested in Zimbabwe or otherwise amenable to its jurisdiction for any act committed outside Zimbabwe which, if it had been committed within Zimbabwe would have constituted the crime of piracy or interfering with the safe operation of a vessel.”.

## 12 Amendment of Cap 9:24

The Money Laundering and Proceeds of Crime Act [*Chapter 9:24*] (No. 4 of 2013) is amended—

- (a) in section 2 (“Interpretation”) (1) by the insertion of the following definition:
 

““Director” means the Director of the Unit appointed in terms of the Bank Use Promotion Act [*Chapter 24:24*].”;
- (b) in section 4 (“Power of Director to issue directives for purposes of this Act”) (4) by the deletion of “not exceeding level eight for each day” and the substitution of “not exceeding five hundred dollars (US\$500) for each day”;
- (c) in section 5 (“Directives may specify civil infringements and impose civil penalties and other sanctions”) (2)(d)—
  - (i) by the deletion in subparagraph (i)(A) of “a fixed penalty of level ten” and the substitution of “a fixed penalty not exceeding two hundred and fifty thousand dollars (US \$250 000)”;
  - (ii) by the deletion in subparagraph (d)(i)(B) of “a penalty of level three per day” and the substitution of “a fixed penalty not exceeding five hundred dollars (US\$ 500) per day”;
  - (iii) by the deletion in paragraph (d)(ii)(A) of “a fixed penalty of level five” and the substitution of “a fixed penalty not exceeding fifty thousand dollars (US\$ 50 000)”;
  - (iv) by the deletion in paragraph (d)(ii)(C) of “a penalty of level per day” and the substitution of “a fixed penalty not exceeding five hundred dollars (US\$ 500) per day”;
  - (v) by the deletion in paragraph (d)(iii)(A) of “a penalty of level one” and the substitution of “a fixed penalty not exceeding five hundred dollars (US\$ 500) per day”;
  - (vi) by the deletion in paragraph (d)(iv)(A) of “a fixed penalty of level ten” and the substitution of “a fixed penalty not exceeding two hundred and fifty thousand dollars (US \$250 000)”;
  - (vii) by the deletion in paragraph (d)(iv)(C) of “a penalty of level two per day” and the substitution of “a fixed penalty not exceeding five hundred dollars (US\$ 500) per day”;
- (d) in section 8 (“Money laundering offences”)—
  - (i) in subsection (1), by the repeal of paragraph (a) and the substitution of—

- “(a) that he or she has acquired through unlawful activity or knowing, believing or suspecting that it is the proceeds of crime; and”;
- (ii) in subsection (8), by the repeal of paragraph (a) and the substitution of—
- “(a) by a fine not exceeding five hundred thousand dollars (US\$500 000) or not exceeding twice the value of the property involved or the gain derived by the offender, whichever is greater; or”;
- (e) in section 9 (“Terrorist financing offences”)—
- (i) in subsection (1), by the deletion in paragraph (b) of “to facilitate that person’s activities related to terrorist acts or membership in a terrorist organization”;
- (ii) in subsection (4), by the deletion of “not exceeding level fourteen” and the substitution of “not exceeding five hundred thousand dollars (US \$500 000)”;
- (f) in section 11 (“Obligation to disclose physical cross-border transportation of currency, bearer negotiable instruments and precious metals or stones”) (3) by the deletion of “not exceeding level eight” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
- (g) in section 14 (“Anonymous accounts and shell banks prohibited”) (6) by the deletion of “not exceeding level fourteen” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
- (h) in section 15 (“Customer identification requirements”) (2) by the insertion after paragraph (b) of the following paragraph—
- “(b1) every legal practitioner involved in any of the following transactions for his or her client—
- (i) the buying or selling of immovable property or any interest in immovable property;
- (ii) the management of money, securities or other assets;
- (iii) the management of bank, savings or securities accounts;
- (iv) the organisation of contributions for the creation, operation or management of companies;
- (v) the creation, operation or management of legal persons or arrangement, and buying and selling of business entities;”;
- (i) in section 23 (“Failure to comply with Part I of Chapter III”) by the deletion of “not exceeding level ten” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
- (j) in section 28 (“Failure to comply with Part II of Chapter III”)—
- (i) by the deletion in subsection (1) of “not exceeding level ten” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
- (ii) by the deletion in subsection (2) of “not exceeding level ten” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
- (k) in section 30 (“Obligation to report suspicious transactions”)—
- (i) by the repeal of subsection (1) and the substitution of—
- “(1) Subject to subsections (2) and (3), financial institutions, designated non-financial businesses and professions, and their respective directors, principals, officers, partners, professionals, agents and employees, that suspect or have reasonable grounds to suspect that any property or any transaction or attempt to effect a transaction—

- (a) involves or is the proceeds of crime; or
  - (b) is related or linked to, or is to be used for, terrorism, terrorist acts or by terrorist organisations or those who finance terrorism;
- shall submit promptly, but not later than three working days after forming the suspicion, a report setting forth the suspicion to the Unit.”;
- (ii) in subsection (2), by the deletion in paragraph (a) of “section 15(2)(a) or (b)” and the substitution of “section 15(2)(a), (b) or (b1)”;
  - (iii) by the repeal of subsection (6) and the substitution of—
    - “(6) The Unit may supplement the foregoing directive with written guidelines issued from time to time as it sees fit to assist financial institutions and designated non-financial businesses and professions to fulfil their obligations under this section and such directives may require the submission of threshold-based cash transaction reports.”;
  - (l) in section 34 (“Failure to comply with Part III of Chapter III”) by the deletion of “not exceeding level ten” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
  - (m) in section 35 (“Action regarding reports and other information received by Unit”) is repealed and substituted by—
    - “35 Action regarding reports and other information received by Unit
    - The Unit shall receive, analyse and disseminate suspicious transactions and shall on the basis of reports or other information received by it under Part I, II or III, or otherwise, where it has reasonable grounds to suspect that any transaction is suspicious or that any property is proceeds of crime, or is related to or intended for the financing of terrorism, or is terrorist property, promptly communicate its suspicion, together with the relevant report or information to the police for investigation.”;
  - (n) in section 46 (“Contravention of interdict”) (1), by the deletion in paragraph (a) of “not exceeding level eight” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
  - (o) in section 74 (“Failure to comply with production order”)(2)—
    - (i) by the deletion in paragraph (a) of “a fine of level ten” and the substitution of “a fine of one hundred thousand dollars (US \$100 000)”;
    - (ii) by the deletion in paragraph (b)(i) of “not exceeding level fourteen” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
    - (iii) by the deletion in paragraph (b)(ii) of “a fine of level ten” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;
  - (p) in section 76 (“Customer information orders”) (9)—
    - (i) in paragraph (a) by the deletion of “a fine of level ten” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;
    - (ii) in paragraph (b)(i) by the deletion of “not exceeding level fourteen” and the substitution of “not exceeding one hundred thousand dollars (US \$100 000)”;
    - (iii) in paragraph (b)(ii) by the deletion of “a fine of level ten” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;

- (q) in section 77 (“Monitoring orders”)(7)—
  - (i) in paragraph (a) by the deletion of “a fine of level ten” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;
  - (ii) in paragraph (b)—
    - A. by the deletion in subparagraph (i) of “a fine not exceeding level fourteen” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;
    - B. by the deletion in subparagraph (ii) of “a fine of level ten” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”;
- (r) in section 103 (“Regulations”) (2) (d) by the deletion of “a fine of level fourteen” and the substitution of “a fine not exceeding one hundred thousand dollars (US \$100 000)”.

### FIRST SCHEDULE (Section 3)

#### PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

##### PREAMBLE

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

*Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

*Concerned* that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

*Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, *inter alia*, an international instrument addressing trafficking in women and children,

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

*Have agreed as follows:*

#### I. GENERAL PROVISIONS

##### Article 1

##### *Relation with the United Nations Convention against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.



2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

#### *Article 2*

##### *Statement of purpose*

The purposes of this Protocol are:

- (a) to prevent and combat trafficking in persons, paying particular attention to women and children; and
- (b) to protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) to promote cooperation among States Parties in order to meet those objectives.

#### *Article 3*

##### *Use of terms*

For the purposes of this Protocol:

- (a) “trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “child” shall mean any person under eighteen years of age.

#### *Article 4*

##### *Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

#### *Article 5*

##### *Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

- (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article; and
- (b) participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
- (c) organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

## II. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

### Article 6

#### *Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
  - (a) information on relevant court and administrative proceedings;
  - (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
  - (a) appropriate housing; and
  - (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; and
  - (c) medical, psychological and material assistance; and
  - (d) employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

### Article 7

#### *Status of victims of trafficking in persons in receiving States*

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

*Article 8**Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

## III. PREVENTION, COOPERATION AND OTHER MEASURES

*Article 9**Prevention of trafficking in persons*

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) to prevent and combat trafficking in persons; and
- (b) to protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

*Article 10**Information exchange and training*

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

- (a) whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons; and
- (b) the types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) the means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

*Article 11**Border measures*

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

*Article 12**Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

- (a) to ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) to ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

*Article 13**Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

## IV. FINAL PROVISIONS

*Article 14**Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

*Article 15**Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 16**Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 17**Entry into force*

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

*Article 18**Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

#### *Article 19*

##### *Denunciation*

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

### **SECOND SCHEDULE (Section 9(3))**

#### TENURE OF OFFICE OF MEMBERS OF COMMITTEE AND MEETINGS AND PROCEDURE THEREOF

##### *Paragraph*

1. Terms and conditions of office members.
2. Disqualifications for appointment as member.
3. Vacation of office by appointed members.
4. Filing of vacancies on Committee.
5. Meetings and procedure of Committee.
6. Remuneration and allowances of members of Committees.
7. Minutes of proceedings of Committees.
8. Validity of decisions and acts of Committees.

##### *Terms and conditions of office of members*

1. (1) A member shall hold office for a period not exceeding five years or for such period as the Ministry may fix at the time of his or her appointment.

(2) On the expiry of the period for which a member has been appointed the member shall continue to hold office until he or she has been reappointed or the member's successor has been appointed:

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

(3) A retiring member shall be eligible for reappointment as a member.

(4) Members shall hold office on such terms and conditions as the Ministry may fix.

*Disqualifications for appointment as member*

2. (1) Subject to this Act, a person shall not be qualified for appointment as a member if—

- (a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he or she has, in terms of a law in force in any country—
  - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated; or
  - (ii) made an assignment or composition with his or her creditors which has not been rescinded or set aside; or
- (c) he or she has been convicted in Zimbabwe or in any other country—
  - (i) of any offence involving dishonesty; or
  - (ii) of any other offence, in the period of five years before his or her appointment;
 

for which a term of imprisonment without the option of a fine has been imposed, whether or not any portion of that sentence has been suspended.

(2) A person shall not be qualified for appointment as a member, nor shall the person hold office as an appointed member, if—

- (a) he or she is a member of two or more other statutory bodies; or
- (b) he or she is a member of Parliament.

(3) For the purposes of paragraph (a) of subsection (2)—

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body, shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
  - (i) any commission established by the Constitution; or
  - (ii) anybody corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice President, a Minister or any other statutory body or by a Commission established by the Constitution.

*Vacation of office by appointed members*

3. (1) Where a member of the Committee vacates his or her office, the member’s office shall become vacant—

- (a) one month after the date he or she gives notice in writing to the Minister, of his or her intention to resign his or her office or after the date he or she gives notice in writing to the Minister, of his intention to resign his or her office or after the expiry of such other period of notice as the member and the Minister and the Minister may agree; or
- (b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
  - (i) in Zimbabwe, in respect of an offence; or
  - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence; or
- (c) if he or she becomes disqualified in terms of subparagraph (1) or (2) of paragraph 2 to hold office as a member; or
- (d) if he or she is required in terms of subparagraph (2) or (3) to vacate his or her office as a member.



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

- (a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any condition of his or her office fixed in terms of paragraph 1; or is mentally or physically incapable of efficiently executing his or her functions as a member; or
- (c) the member has ceased to possess any qualification by reason of which he or she was appointed; or
- (d) the member contravenes paragraph 9; or
- (e) the member, or his or her spouse engages in any occupation, service or employment, or holds any asset, which in the Minister's opinion is inconsistent with the duties of a member.

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

#### *Filling of vacancies on Committees*

4. (1) Subject to this Part, within three months after an appointed member's death or his or her vacation of office in terms of paragraph 3, the Minister shall appoint a person to fill the vacancy.

(2) Within one month after dismissing all the appointed members in terms of paragraph 4, the Minister shall, subject to this Part, appoint persons to fill the vacancies.

#### *Meetings and procedure of Committee*

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

(2) The chairperson may himself or herself at any time and shall, at the request in writing of not fewer than two members, convene a special meeting of the Committee which meeting shall be convened for a date not sooner than seven days or later than thirty days after receipt of such request.

(3) The chairperson or, in his or her absence, the vice-chairperson, shall preside at meetings for the Committee.

(4) A majority of members shall form a quorum at any meeting of the Committee.

(5) All acts, matters or things authorised or required to be done by the Committee may be decided by a majority vote at a meeting of the Committee at which a quorum is present.

(6) Subject to paragraph 9, at all meetings of the Committee each member present shall have one vote on each question before the Committee:

Provided that—

- (a) in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to his or her deliberative vote;
- (b) no member shall take part in the consideration of, or vote on, any question before the Committee which relates to his or her relevant vacation of office as a member.

(7) Any proposal circulated among all members of the Committee and agreed to by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the Committee and shall be incorporated in the minutes of the next succeeding meeting of the Committee:

Provided that, if a member requires that any such proposal be placed before the Committee, this subsection shall not apply to the proposal.

(8) With approval of the Minister, the Committee may co-opt any person to the Committee, but a co-opted person shall have no vote in any decision by the Committee.

*Remuneration and allowances of members of the Committee*

6. (1) Members of the Committee shall be paid---

- (a) such remuneration, if any; and
- (b) such allowances to meet reasonable expenses incurred by them in connection with the business of committee, as the Minister may fix.

(2) Remuneration payable to a member of the Committee shall not be reduced during his or her tenure of office.

*Minutes of proceedings of the Committee*

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

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

*Validity of decisions and acts of the Committee*

8. No decision or act of the Committee or act that is authorised by the Committee shall be invalid solely because there was a vacancy in the membership of the Committee or because a disqualified person purported to act as a member of the Committee, as the case may be, at the time the decision was taken or the act was done or authorised.