



## ZIMBABWE

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# ACT

To amend the Administration of Estates Act [*Chapter 6:01*]; the Sovereign Wealth Fund of Zimbabwe Act [*Chapter 22:20*] (No. 7 of 2014); and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

### PART I PRELIMINARY

#### **1 Short title and commencement**

(1) This Act may be cited as the Administration of Estates Amendment Act, 2024.

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

#### **2 Amendment of section 2 of Cap. 6:01**

The Administration of Estates Act [*Chapter 6:01*] (hereinafter called “the principal Act”) is amended in section 2 (“Interpretation”) by the insertion of the following definitions—

““appointed member” means a member of the Board appointed in terms of section 4A(1) or (3);

“Board” means the Master’s Office Board established in terms of section 4A;

“fixed date” means the date fixed in terms of section 1(2) as the date of commencement of the Administration of Estates Amendment Act, 2024;

“member” means a member of the Board or the holder of a public office in the Office, as the context requires;

“Office of the Master” or “Master’s Office” or “Office” means the Office of the Master of the High Court referred to in section 3(1);”.

### **3 Substitution of Part II of Cap. 6:01**

The principal Act is amended by the repeal of Part II and the substitution of the following Part—

#### **“PART II**

##### **OFFICE OF MASTER OF HIGH COURT**

### **3 Master’s Office, Master and other officers**

(1) The Office of the Master of the High Court which existed before the commencement of this Act shall continue to operate and shall be deemed to have been established in terms of this section.

(2) The Office of the Master of the High Court shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

(3) There shall be—

- (a) a Master of the High Court; and
- (b) a Deputy Master of the High Court; and
- (c) Additional Masters of the High Court; and
- (d) an Assistant Master of the High Court referred to in section 4 (“Office of Record”)(1); and
- (e) such further Assistant Masters of the High Court and other officers as may be necessary for the proper administration of this Act;

whose offices shall be public offices but shall not form part of the Public Service.

(2) Subject to this Act and any directions the Master may give them, the officers referred to in paragraphs (b), (c), (d) and (e) of subsection (1) shall perform such of the Master’s functions, whether under this Act or any other enactment, as the Master may assign to them.

### **4 Office of Record**

(1) The Office of the Master shall be an office of record for that part of Zimbabwe defined in the First Schedule and the office of the Assistant Master shall be an office of record for the remainder of Zimbabwe:

Provided that such of the records filed in the office of the Assistant Master as the Master may specify shall, if the Master so directs in writing, be transferred for safekeeping to the office of the Master or such other central office of record as he or she may specify.

(2) Any provision of this Act or any other enactment which requires any document to be lodged with the Master shall—

- (a) if such document relates to a death which occurred outside the area defined in the First Schedule or to the death of a person who at the time of his or her death was ordinarily residing outside such area; or
- (b) if such document is required to be lodged by a person residing outside such area;

be read and construed as requiring such document to be lodged with the Assistant Master.

#### 4A Establishment and composition of Master's Office Board

(1) There is hereby established a Board, to be known as the Master's Office Board, which shall consist of—

- (a) a chairperson of the Board, being a person appointed by the Minister who is qualified to be appointed as Judge of the High Court; and
- (b) subject to subsection (4), the Master, who shall be an ex officio member; and
- (c) not more than seven members appointed, subject to subsection (2), by the Minister of whom—
  - (i) one shall be appointed for his or her qualifications, ability or experience in deceased and insolvent estates matters; and
  - (ii) one shall be a legal practitioner registered as such in terms of the Legal Practitioners Act [*Chapter 27:07*]; and
  - (iii) one shall be appointed for his or her ability and experience in the keeping or audit of accounts; and
  - (iv) one shall be a person appointed for his or her ability and experience in human resources management and development; and
  - (v) one shall be a person appointed for his or her qualifications, ability or experience in information technology; and
  - (vi) one shall be an employee of the Ministry responsible for administering this Act;
  - (vii) one shall be an employee of the Ministry of Finance nominated by the Minister responsible for Finance.

(2) In appointing members of the Board in terms of subsection (1)(c) regard must be had to the provisions of section 17 and 18 of the Constitution.

(3) The Fourth Schedule applies—

- (a) to the qualifications, terms and conditions of office, vacation of office, suspension and dismissal of members of the Board appointed in terms of subsection (1)(c); and
- (b) to the procedure to be followed by the Board at its meetings.

(3) The Deputy Master shall represent the Master whenever the Master is not available for any reason to attend a meeting of the Board.

(5) The Master may give instructions on how to vote on any matter to any Deputy Master standing in for him or her under subsection (4).

#### 4B Functions of Board

(1) The Board shall have the following functions—

- (a) determining the policies and principles on the basis of which the Master's Office will be administered and supervised; and
- (b) employing members and persons to staff the Master's Office, whether as permanent members on pensionable conditions of service or on contract or otherwise, and assigning and promoting them to offices, posts and grades in the Office, and fixing their conditions of service; and
- (c) inquiring into and dealing with complaints and grievances made by or against members and employees of the Office; and
- (d) exercising disciplinary powers in relation to members and employees of the Office; and
- (e) exercising any other functions that may be imposed or conferred upon it in terms of this Act or any other enactment.

(2) The Board shall exercise its functions under this Act so as to ensure the well-being of the members and employees of the Office, the good administration of the Office, and its maintenance in a high state of efficiency.

(3) Subject to section 4D ("Policy directions as to exercise of Board's functions"), in the exercise of its functions the Board shall not be subject to the control or direction of any person or authority, other than for the purpose of audit by the Auditor-General of those funds of the Office—

- (a) that are voted by Parliament; or
- (b) charged on the Consolidated Revenue Fund by this Act or any other law.

(4) In the discharge of its functions the Board has the powers referred to in the Fifth Schedule.

#### 4C Reports of Board

(1) The Board shall, as soon as possible after the end of each financial year, submit an annual report to the Minister.

(2) In addition to the report referred to in subsection (1), the Board—

- (a) shall submit to the Minister any other report, and provide him or her with any other information, that he or she may require in regard to the operation of the Office; and
- (b) may submit to the Minister any other report that the Board considers desirable.

(3) The Minister—

- (a) shall lay before Parliament every annual report submitted to him or her by the Board in terms of subsection (1); and

- (b) may lay before Parliament any report submitted to him or her by the Board in terms of subsection (2).

#### 4D Policy directions as to exercise of Board's functions

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

- (a) not be inconsistent with any provision of this Act; and
- (b) be issued in good faith, apply prospectively and not retrospectively, and be of general applicability; and
- (c) clearly delimit the scope of their application and otherwise not be vague or ambiguous in their terms; and
- (d) clearly express the national interest at stake; and
- (e) must be clear (whether expressly or by necessary implication) that they apply or are in force for a fixed or indefinite period, or that they expire on the happening of any event.

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

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

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

#### 4E Divisions and Departments of Master's Office

(1) The Office shall have such Divisions as the Board may establish from time to time, each headed by an Additional Master of such grade and designation as the Board shall determine.

(2) The Office may have such administrative or financial departments as the Board may deem necessary to enable the Office or any Division of the Office to perform its functions, and the Board shall assign such staff as may be necessary to carry out each department's functions.

(3) Members and staff of the Office shall be classified in such a manner as may be prescribed.

#### 4F Funds of Master's Office

(1) The funds of the Master's Office shall consist of—

- (a) fees and charges payable to the Masters' Office in terms of this Act; and
- (b) any moneys that may be payable to the Master's Office from monies appropriated for this purpose by Act of Parliament, including for grants initially provided by Treasury for purposes of maintenance of infrastructure and capital projects; and

- (c) any moneys that the Master's Office may obtain, by way of donations, grants, bequests and loans made by any persons or organisation, or the government of any country, to the Office and (subject to any direction of the Minister made under section 4D concerning the acceptance of such moneys) accepted by the Board; and
- (d) any other moneys that may vest in or accrue to the Master's Office, whether in terms of the Act or otherwise; and

(2) The Board shall apply the funds referred to in subsection (1) to the fulfilment of its objects.

#### 4G Accounts of Master's Office

(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the activities, funds and property of the Master's Office, including such particular accounts and records as the Minister or the Minister responsible for finance may direct.

(2) As soon as possible after the end of each financial year, the Board shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

#### 4H Audit of Master's Office accounts

(1) Subject to the Audit Office Act [*Chapter 22:18*], the Master's Office shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts kept by the Master's office in terms of section 4G(1) shall be examined by the auditors appointed in terms of subsection (1).

(3) The auditors shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of section 4G(2), and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the financial affairs of the Master's Office.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors such other reports, statements or explanations in connection with the activities of the Master's Office, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors—

- (a) they have not obtained any information or explanation they require; or
- (b) any accounts or records relating to any accounts have not been properly kept by the Master's Office; or
- (c) the Master's Office has not complied with any provision of this Part;

the auditors shall include in their report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.

(6) When in terms of the Audit Office Act [*Chapter 22:18*] the accounts of the Master's Office are required to be audited by the Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Auditor-General.

#### 4I Powers of auditors

(1) An auditor shall be entitled at all reasonable times to require to be produced to him or her all accounts and other records relating to such accounts which are kept by the Master's Office or its agents and to require from any member of the Board or member, employee or agent of the Master's Office such information and explanation as in the auditor's opinion are necessary for the purpose of his or her audit.

(2) Any member of the Board or member, employee or agent of the Master's Office who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 4 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

#### 4J Investment of moneys not immediately required by Office

Moneys not immediately required by the Office may be invested in such a manner as the Board (subject to any direction of the Minister made under section 4D concerning the investment of such moneys) considers appropriate.”.

### 4 New section substituted for section 26 of Cap 6:01

Section 26 of the principal Act is repealed and substituted by—

#### “26 Competition for the office of executor dative

(1) Subject to subsection (2), in every case in which a competition takes place for the office of executor dative the surviving spouse, or failing him or her the next or some of the next of kin, or failing him or them a creditor or creditors, or failing him or them a legatee or legatees, shall be preferred by the Master to the office of executor.

(2) The appointment of every executor dative by the Master under this section must be approved by the High Court in accordance with this section.

(3) The Master shall, on notice of motion to every person having an interest in such estate, apply to the High Court for a provisional order appointing one or more executor datives for the deceased estate concerned, supported by an affidavit of the Master setting forth that there is competition for the office of executive dative (which competition has not been resolved on the date of the lodging of the application), together with such of the following affirmations as may be relevant to the case, namely that—

- (a) the Master proposes to make an appointment of any one or more of the above-mentioned persons or classes of persons, as executor or executors, giving particulars of the name or names and address or addresses of the person or persons so nominated for appointment by the Master, and the capacity in which they are so appointed; or
- (b) there exists any good reason (which the Master shall specify in the affidavit) against the appointment of all or any of the



above-mentioned persons or classes of persons, as executor or executors, with the result that the Master proposes to make an appointment of a professional estate administrator or some other fit and proper person, giving particulars of the name and address of the professional estate administrator or person so nominated for appointment by the Master, and the capacity in which he or she is so appointed.

(4) At the hearing of the application, if it appears to the judge that no good reason exists against the appointment of the executor dative nominated by the Master, the judge shall grant the provisional order, whereupon the Master shall proceed in terms of subsection (5):

Provided that if the application is opposed, the judge shall not refuse to grant the provisional order unless there is produced before the judge an affidavit in which all the persons having an interest in such estate jointly depose that the deponents have agreed that some other person or persons nominated by them be appointed as the executor or executors dative, giving particulars of the name or names and address or addresses of the person or persons so nominated for appointment by the deponents, and the capacity in which he, she or they are so appointed (in which event the judge shall decline to grant the provisional order and direct the Master to appoint as executor or executors dative the person or persons nominated by the deponents).

(5) When granted, the Master shall cause the provisional order to be enrolled in the motion roll for confirmation at the earliest motion court after the date on which the judge grants the provisional order.

(6) On the return day for the confirmation of the provisional order the motion court shall confirm the provisional order unless there is produced before the court an affidavit jointly deposed by all the persons having an interest in the estate in question to the effect that the deponents have agreed that some other person or persons nominated by them be appointed as the executor or executors dative, giving particulars of the name or names and address or addresses of the person or persons so nominated for appointment by the deponents, and the capacity in which he, she or they are so appointed, in which event the motion court shall direct the Master to appoint as executor or executors dative the person or persons nominated by the deponents.”.

## **5 New section substituted for section 97 of Cap 6:01**

Section 97 of the principal Act is repealed and substituted by—

### **“97 The Guardian’s Fund**

(1) The Guardian’s Fund established under the operation of Ordinance No. 105 (1833) of the Cape of Good Hope shall be continued under and subject to this Act.

(2) The Guardian’s Fund shall be administered by the Master on behalf of the Office, for which purpose the Minister may (for the better administration of the Fund or the safeguarding of its moneys) give any policy direction to the Board in terms of section 4D.

(3) All moneys received by the Master under section 51, 61, 80, 82 and 93 or otherwise received by him or her in terms of this Act on behalf of persons who are legally incapable or do not have the capacity



to manage their own affairs, shall form and become part of the said Guardian's Fund and due and proper accounts shall be opened in respect thereto.”.

#### **6 Amendment of section 105 of Cap. 6:01**

Section 105 (“Prescription of claims to moneys in Guardian’s Fund”) (b) of the principal Act is amended by the deletion of the resuming words (before the proviso thereto) and the substitution of “and on the expiration of that period the debt shall be extinguished by prescription and the moneys concerned paid in equal shares into the Consolidated Revenue Fund and (subject to section 18 of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009)) into the funds of the Master’s Office.”.

#### **7 Amendment of section 106 of Cap. 6:01**

Section 106 (“Investment of moneys to credit of Guardian’s Fund”) of the principal Act is amended by the repeal of subsection (2) and the insertion of the following:

“(2) No such investment shall be made by the Master without approval from the Board, which may, for this purpose, establish a committee (to be called the “Investment Committee”) in terms of paragraph 6 of the Fourth Schedule.”.

#### **8 New section substituted for section 108 of Cap 6:01**

Section 108 of the principal Act is repealed and substituted by—

##### **“108 Audit of books and security of Guardian’s Fund**

(1) The books and securities of the Guardian’s Fund shall be audited by the Auditor-General or (at the request of Office) by a person registered as a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] and contracted by the Auditor-General in terms of section 9 of the Audit Office Act [*Chapter 22:18*] (and if a person is so contracted, references in this section to the Auditor-General shall be taken to refer to such person).

(2) The Auditor-General shall without derogation from his or her duties as such or from the generality of the duties imposed upon him or her by this section—

- (a) examine such books and securities at such intervals as will ensure that a continuous check is maintained upon all transactions involving the Guardian’s Fund;
- (b) report to the Master any error, omission or irregularity and, if such error, omission or irregularity is not corrected to his satisfaction, report thereon to the Minister.

(3) There shall be paid from the Guardian’s Fund—

- (a) such fees and other charges for audit and related services provided by the Audit Office or by a person contracted by the Auditor-General in terms of subsection (1);
- (b) to the funds of the Office such charges and expenses as have been incurred by the Office in the administration of the Guardian’s Fund.”.

**9 New section substituted for section 117 of Cap 6:01**

Section 117 of the principal Act is repealed and substituted by—

**“117 Removal of executor, tutor or curator from office**

(1) This section does not deprive any interested party of the right under the common law to initiate action for the removal of an executor, tutor or curator on the ground that his or her continuance in office is prejudicial to the interests of the estate in respect of which the executor, tutor or curator was appointed.

(2) If the Master, on his or her own motion, and after making due inquiry in terms of section 116, is of the opinion that the an executor, tutor or curator ought to be removed from his or her office on the ground—

- (a) that he or she was not qualified for appointment to such office or that his or her appointment was for any other reason illegal; or
- (b) that he or she has failed to perform satisfactorily any duty or requirement imposed upon him or her by or in terms of any law; or
- (c) that he or she is mentally or physically incapable of performing satisfactorily his duties; or
- (d) that such person is no longer suitable to hold such office;

then the Master shall proceed in accordance with this section.

(3) The Master shall, on notice to every person having an interest in the matter, apply to the High Court for an order removing the executor, tutor or curator concerned from his or her office, supported by an affidavit of the Master justifying such removal by reference to subsection (1)(a), (b), (c) or (d).

(4) As soon as an executor, tutor or curator receives notice of an application under section 2(2) the executor, tutor or curator shall vacate the office until the application is determined and the Master shall be deemed to act in his or her place until the application is determined.

(5) At the hearing of the application, if it appears to the judge that no good reason exists against the removal of the executor, tutor or curator concerned from his or her office, the judge shall dismiss the executor, tutor or curator concerned from his or her office:

Provided that the judge shall refuse to grant the order if there is produced to him or her an affidavit by any person having an interest in the matter showing that (in the judge’s opinion) there is good reason not to remove the executor, tutor or curator concerned from his or her office.

(6) Where an executor, tutor or curator has been removed from his or her office the Master shall revoke any letters of administration or confirmation, as the case may be, which have been granted to such person.

**10 New section substituted for section 120 of Cap 6:01**

Section 120 of the principal Act is repealed and substituted by—

**“120 Sale of property otherwise than by auction**

(1) If, on written application by the executor to the Master—

- (a) the executor produces to the Master an affidavit jointly sworn by all the persons having an interest in an estate supporting

the application of the executor to sell specified property of the estate (being property in respect of which the will of the deceased contains no provisions to the contrary) otherwise than by public auction, and the Master is of the opinion that no good grounds exist for not granting the application, the Master shall give the executor the necessary written authority for the executor to proceed accordingly; or

- (b) the Master, after due inquiry, is of opinion that—
  - (i) it would be to the advantage of persons interested in the estate to sell any property belonging to such estate otherwise than by public auction; or
  - (ii) all claims of creditors against the deceased estate as have been lodged with the executor will be better met if any property belonging to such estate were sold otherwise than by public auction;

the Master may, depose to the affidavit referred to in subsection (2) in support of an application for the executor to be granted the necessary authority so to act.

(2) The executor shall, on notice of motion to every person having an interest in such estate, apply to the High Court for a provisional order to grant to the executor the authority to sell any specified property belonging to such estate by private treaty, supported by an affidavit of the Master setting forth the basis on which the application is being made (by reference to subsection (1)(b)(i) or (ii), together with adequate particulars of the property that will be the subject matter of the authority).

(3) At the hearing of the application, if it appears to the judge that no good reason exists against the grant to the executor of the authority concerned, the judge shall grant the provisional order, whereupon the executor shall proceed in terms of subsection (4):

Provided that the judge shall refuse to grant the provisional order if there is produced to him or her an affidavit by any person having an interest in the estate showing that (in the judge's opinion) there is good reason not to grant to the executor the authority concerned.

(4) When granted, the executor shall cause the provisional order to be enrolled in the motion roll for confirmation at the earliest motion court after the date on which the judge grants the provisional order.

(5) On the return day for the confirmation of the provisional order, the motion court shall confirm the provisional order, unless there is produced to the court an affidavit by any person having an interest in the estate showing that (in the court's opinion) there is good reason not to grant to the executor the authority concerned, and if no such affidavit is produced, or the affidavit does not, in the court's opinion, disclose good reasons for the refusal to grant the order, the court shall confirm the provisional order (which confirmation has effect as if the Master had issued the authority to the executor to proceed to sell the property by private treaty).”.

## **11 New section substituted for section 132 of Cap 6:01**

Section 132 of the principal Act is repealed and substituted by—

**“132 Regulatory powers of Master’s Office**

(1) The Master’s Office may make regulations providing for any matter which by this Act is required or permitted to be prescribed or which, in its opinion, is necessary or convenient to be prescribed for the better carrying into effect of this Act and generally for the management and good conduct of the business of the Master’s Office.

(2) Without derogating from the generality of subsection (1) regulations may provide for —

- (a) the custody and preservation of the records, securities and valuable effects of the Master’s office;
- (b) the payment of money into and out of the Guardian’s Fund;
- (c) the fees which shall be payable in respect of the administration of the estates of deceased persons or of estates under curatorship or tutorship;
- (d) the fees which shall be payable in respect of any act, matter or thing done or caused to be done by the Master or in the Master’s office;
- (e) the manner in which any fees referred to in paragraph (c) or (d) shall be paid;
- (f) the functions of estate administrators and insolvency practitioners in their dealings with the Master’s Office, subject to such modifications as may be specified, of the provisions of this Act or any relevant Act relating to estate administrators and insolvency practitioners;
- (g) the conditions of service of members and employees of the Master’s Office; or
- (h) penalties for contraventions of any such regulations, not exceeding a fine of level 10 or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

(3) Regulations made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.”.

**12 New section inserted in Cap 6:01**

The principal Act is amended by the insertion after section 132 of the following section—

**“133 Transitional Provisions**

(1) In this section—

“transferred person” means a person who is transferred from an office or employment in the Judicial Service Commission to an office or employment in the Master’s Office in terms of subsection (2).

(2) Every holder of a public office or other person employed by the Judicial Service Commission who, immediately before the fixed date, held a public office or was employed in the Master’s Office shall, on the fixed date—

- (a) be deemed to have been transferred in a like capacity to the Master’s Office, unless such member chooses to hold office

in or be employed in any capacity in the Judicial Service Commission:

Provided that where a person chooses to hold office in or be employed in any capacity in the Judicial Service Commission, he or she shall in writing notify the Office and the Judicial Service Commission accordingly within thirty days from the fixed date; and

- (b) be engaged for employment with the Master's Office on terms and conditions not less favourable than those that were applicable to him or her immediately before his or her engagement.

(3) Any regulations regarding the negotiation of terms and conditions of service by or on behalf of transferred persons which, immediately before the fixed date were in force under the Judicial Service Act [*Chapter 7:18*] shall continue in force until an employment council for the Master's Office is registered in terms of section 59 of the Labour Act [*Chapter 28:01*].

(4) Any regulations and circulars governing the terms and conditions of service of transferred persons which, immediately before the fixed date, were in force under the Judicial Service Act [*Chapter 7:18*] shall continue in force until amended, varied or repealed by regulations made in terms of section 24 or a collective bargaining agreement, and in the event of any inconsistency between such regulations and circulars and any law governing the terms and conditions of employees generally, the former shall prevail.

(5) Any reference to the Judicial Service Commission or Public Service Commission in any regulation, notice, circular or other document referred to in subsections (3) and (4) shall be construed, with such changes as may be necessary, as a reference to the Master's Office Board.

(6) The assets and rights of the State which—

- (a) before the fixed date, were used by or otherwise connected with the Ministry responsible for administering this Act and the Master's Office; and
- (b) are specified by the Minister by notice in a statutory instrument;

together with any liabilities or obligations attaching to them, shall be transferred with effect from the date specified in the notice, in any one or more of the following ways—

- (i) exclusively to the Master's Office; or
- (ii) exclusively to the Ministry responsible for this Act or exclusively to the Judicial Service constituted by the Judicial Service Act [*Chapter 7:18*]; or
- (iii) in joint and undivided shares to the Judicial Service, the Ministry responsible for this Act and the Master's Office, in which event the accounting officer of the Ministry responsible for this Act shall continue to be the accounting officer in respect of those assets.

(8) If on the fixed date—

- (a) there were any disciplinary proceedings in terms of the Judicial Service Act [*Chapter 7:18*] or Public Service Act

[Chapter 16:04] (as the case may be) pending against a person who, but for this subsection, would be a transferred person, such proceedings shall continue after the fixed date in all respects as if such person is a member of the Judicial Service or the Public Service (as the case may be) and, if the proceedings result in the dismissal of that person, that person shall not be transferred to the Master's Office;

- (b) any promotion or advancement was being processed in terms of the the Judicial Service Act [Chapter 7:18] or Public Service Act [Chapter 16:04] (as the case may be) in relation to any transferred member, such promotion or advancement shall be processed and completed after the fixed date in all respects as if such transferred member is a member of the Judicial Service or the Public Service (as the case may be) and, if the promotion or advancement proceedings result in the promotion or advancement of that transferred person, that person shall be transferred to the Office at the equivalent grade or post;
- (c) any civil proceedings that on the fixed date, were pending against any transferred person in his or her official capacity shall continue and be completed after the fixed date in all respects as if such transferred member is a member of the Public Service.”.

### 13 New Schedules inserted in Cap 6:01

The principal Act is amended by the insertion of new Fourth and Fifth Schedules after the Third Schedule as follows—

#### “FOURTH SCHEDULE (Section 4A (3))

##### PROVISIONS APPLICABLE TO BOARD

###### Paragraph

1. Disqualifications for appointment to Board.
2. Terms of office and conditions of service of members of Board.
3. Vacation of office by members of Board.
4. Filling of vacancies on Board.
5. Procedure of Board.
6. Committees of Board.
7. Minutes of Proceedings.
8. Reports of Board.
9. Validity of decisions and acts of Board.

###### *Disqualifications for appointment to Board*

1. (1) Subject to this Act, a person shall not be qualified for appointment as a member of the Board, nor shall he or she hold office as an appointed member, if—
  - (a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
  - (b) he or she is a member of two or more other statutory bodies; or
  - (c) he or she is a member of Parliament; or

- (d) he or she is a member of a local authority or is in the full-time employment of a local authority; or
  - (e) he or she is a public auditor contracted by the Auditor-General to carry out certain audits on his or her behalf; or
  - (f) in terms of a law in force in any country—
    - (i) he or she has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
    - (ii) he or she has made an assignment or composition with his or her creditors which has not been rescinded or set aside;or
  - (g) within the period of five years immediately preceding his or her proposed appointment, he or she has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion thereof has been suspended, and has not received a free pardon.
- (2) For the purposes of subparagraph (1)(b)—
- (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 Board established by the Constitution; or
    - (ii) any body 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 Board established by the Constitution.

*Terms of office and conditions of service of members of Board*

2. (1) Subject to this Schedule, the term of office of an appointed member of the Board shall be such period, not exceeding four years, as the Minister may fix on his or her appointment.

(2) On the expiry of any appointed member’s term of office, he or she shall be eligible for re-appointment:

Provided that no appointed member may be re-appointed more than twice.

(3) Appointed members shall be paid such allowances for attending meetings as shall be fixed by the Minister either at the time of the member’s appointment or anytime thereafter.

(4) Notwithstanding anything to the contrary contained in this Act and notwithstanding the payment of allowances to a member, a member shall not merely by reason thereof be deemed to hold an office of profit in the service of the Office.

*Vacation of office by members of Board*

3. (1) An appointed member may resign his or her office at any time by giving the Minister and the Board thirty days’ notice of his or her intention to resign, or such other period of notice as he or she and the Minister may agree.

(2) An appointed member shall be deemed to have resigned his or her office and his or her office shall become vacant—

- (a) if he or she becomes disqualified for appointment to the Board in terms of paragraph 2(1)(a), (b), (c), (d), (e) or (f);



- (b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion was 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.

*Filling of vacancies on Board*

5. On the death of, or the vacation of office by, an appointed member, the Minister shall fill the vacancy within three months.

*Procedure of meetings of Board*

6. (1) Subject to subparagraph (2), the Board shall meet at such dates, times and places as may be fixed by the Chairperson:

Provided that the Board shall meet at least once in every three months.

(2) The Chairperson—

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

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

Provided that a failure by a member to receive such a notice, or an inadvertent failure to send such a notice to a member, shall not invalidate the meeting.

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

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

(5) The Chairperson or, in his or her absence, member designated by him or her, shall preside at all meetings of the Board.

(6) At any meeting of the Board, five of the members of the Board shall form a quorum.

(7) The Board will endeavour to make decisions by consensus among the members present at a meeting of the Board at which a quorum is present, failing which anything authorised or required to be done by the Board shall be decided by a majority vote of the members at the meeting.

(8) At all meetings of the Board each member present shall have one vote on each question before the Board:

Provided that, in the event of an equality of votes, the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(9) With the approval of the Board, the Chairperson may invite any person to attend a meeting of the Board, where the Chairperson considers that the person has special knowledge or experience in any matter to be considered at that meeting.

(10) A person invited to attend a meeting of the Board in terms of subparagraph (9) may take part in the meeting as if he or she were a member of the Board, but he or she shall not have a vote on any question before the meeting.

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

Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subparagraph shall not apply to the proposal.

(12) Except as otherwise provided in this paragraph, the procedure for the convening and conduct of meetings of the Board shall be as fixed from time to time by the Board.

#### *Committees of Board*

6. (1) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate.

(2) The vesting of a function in a committee in terms of subparagraph (1)—

- (a) may be made absolutely or subject to conditions and may be amended or withdrawn at any time; and
- (b) shall not divest the Board of that function;

and the Board may amend or rescind any decision of the committee in the exercise of that function.

(3) On the establishment of a committee under subparagraph (1) the Board—

- (a) shall appoint at least one of its members as a member of the committee, and that member or one of those members, as the case may be, shall be chairperson of the committee; and
- (b) may appoint as members of the committee persons who are not members of the Board and may fix the terms and conditions of their appointment.

(4) Meetings of a committee may be convened at any time and at any place by the Chairperson of the Board or of the committee concerned.

(5) If the chairperson of a committee is absent from a meeting of the committee, the members present may elect one of their number to preside at that meeting as chairperson.

(6) A majority of members of a committee shall form a quorum at any meeting of a committee.

(7) Anything authorised to or required to be done by a committee may be decided by a majority vote at a meeting of the committee at which a quorum is present.

(8) At all meetings of a committee each member present shall have one vote on each question before the committee:

Provided that, in the event of an equality of votes, the chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(9) Subject to this paragraph, the procedure to be followed at any meeting of a committee shall be as fixed by the Board.

*Minutes of proceedings*

7. (1) The Board shall cause minutes to be taken at its meetings and the meetings of its committees and enter them in books kept for the purpose.

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

(3) The Board and any committee of the Board shall cause copies of all minutes that have been signed as provided in subparagraph (2) to be sent to the Minister for his or her information.

*Validity of decisions and acts of Board*

8. (1) No decision or act of the Board or act done under the authority of the Board shall be invalid solely because there were one or more vacancies on the Board when the decision was taken or the act was done or authorised.

(2) If any decision or other act of the Board is rendered invalid through a procedural irregularity, the Board may at a duly convened meeting ratify the decision or act, and any decision or act so ratified shall be valid in all respects with effect from the date of its ratification.

*Fees and allowances for Members of the Board and Committees*

9. (1) Subject to subsection (2), a member of the Board or any committee shall be paid from the funds of the Master's Office—

- (a) such remuneration, if any, as the Minister may fix; and
- (b) such allowance as the Minister may fix to meet any reasonable expenses incurred by him or her in connection with the business of the Master's Office.

(2) No remuneration or allowance may be paid in terms of subsection (1) to a member of the Board or of a committee who is in the full-time employment of the Master's Office.

## FIFTH SCHEDULE (Section 4B)

## POWERS OF BOARD

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and any interest therein and any rights concessions, grants, powers and privileges in respect thereof.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets, or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.
5. To open bank accounts in the name of the Master's Office and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.

7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify and rescind such contracts or rescind such suretyships or guarantees.
8. With the approval of Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Board considers appropriate or necessary for the proper exercise of the functions of the Master's Office.
9. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to members of the Master's Office as it considers fit.
10. To provide pecuniary benefits for members of the Master's Office on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, provident funds or make such other provision as may be necessary to secure for its members and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
11. To purchase, take on lease or in exchange or otherwise acquire land for residential purposes or dwellings-houses for use or occupation by members of the Master's Office.
12. To construct dwellings, outbuildings or improvements for use or occupation by members of the Master's Office.
13. To provide or guarantee loans made to members of the Master's Office for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling houses or land which are the property of its members, subject to any conditions that may be imposed by the Board from time to time.
14. To provide security in respect of loans by the deposit of securities, in which the Master's Office may invest such money as the Board may consider necessary for the purpose.
15. Subject to any conditions that may be imposed by the Board from time to time, to provide loans to any members of the Master's Office—
  - (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the members in carrying out their duties; or
  - (b) not exceeding six months' salary or wages payable to the members concerned, for any purpose on such security as the Board thinks adequate.
16. To do anything for the purpose of improving the skill, knowledge or usefulness of members of the Master's Office, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training.
17. To provide such services as the Master's Office considers appropriate and to charge for such services such fees as the Board, may from time to time determine.
18. To engage in any activity, either alone or in conjunction with other organisations or international agencies, to promote better understanding of productivity management issues.
19. To provide technical advice or assistance, including training facilities, to stakeholders.
20. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the Master's Office in terms of this Act or any other enactment.”.

**14 Repeal of section 22 of Cap. 22:20**

Section 22 of the Sovereign Wealth Fund of Zimbabwe Act [*Chapter 22:20*] (No. 7 of 2014), is repealed.