

## CHAPTER 24:14

# INFRASTRUCTURE DEVELOPMENT BANK OF ZIMBABWE ACT

*Acts 7/1983, 38/1983, 29/1990, 12/1994, 11/2005.*

## ARRANGEMENT OF SECTIONS

### PART I

#### PRELIMINARY

1. Short title.
2. Interpretation.

### PART II

#### ESTABLISHMENT AND ADMINISTRATION OF THE BANK

3. Establishment.
4. Board of directors.
- 4A. Responsibilities of Board.
5. Declaration of interest.
6. Meetings of the Board.
7. Committees of Board.
- 7A. Validity of decisions and acts of Board and committees.
8. Chief executive officer.
9. Staff of Bank.
- 9A. Policy directions of Minister.

### PART III

#### CAPITAL

10. Authorised share capital.
11. Issue of shares.
12. Allotment of shares.
13. Calls on shares.
14. Prohibition of certain transactions *re* shares.
15. Limitation of liability of shareholders.

### PART IV

#### THE PURPOSES, POWERS AND FUNDS OF THE BANK

16. Objectives of Bank.
17. Powers of Bank.
18. Funds of Bank.
19. Application of funds.
20. Financing of projects by Bank.
21. Procedure and requirements of financing by Bank.
22. Investment of funds.
23. Reserve funds and distribution of income.

### PART V

#### ACCOUNTS AND AUDIT

24. Financial year.
25. Accounts of Bank.
- 25A. Audit committee.
- 25B. Audit of accounts.
26. Annual report.
27. Appropriation of profits.

## PART VI

### GENERAL

28. Shareholders regulations.
  29. Information to be furnished to the Minister and Parliament.
  30. Application of companies Act.
  31. Use of name by Bank.
  32. Winding up of Bank.
- SCHEDULE: Powers of Bank.

**AN ACT to provide for the establishment, constitution, duties and powers of an Infrastructure Development Bank of Zimbabwe to assist in and promote the economic development of Zimbabwe; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement: 1st May, 1984.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Infrastructure Development Bank of Zimbabwe Act [*Chapter 24:14*].

[Short title amended by section 2 of Act 11 of 2005]

#### 2 Interpretation

In this Act—

“Bank” means the Infrastructure Development Bank of Zimbabwe referred to in section *three*;

[Definition amended by section 3 of Act 11 of 2005]

“Board” means the board of directors referred to in section *four*;

“chief executive officer” means the chief executive officer of the Bank appointed in terms of section *eight*;

[Definition inserted by section 3 of Act 11 of 2005]

“director” means a director of the Bank;

“fixed date” ....

[Definition repealed by section 3 of by Act 11 of 2005]

“institutional shareholders” means such national or international institutions or corporations as may be authorised by the Minister to be shareholders;

“Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act.

## PART II

### ESTABLISHMENT AND ADMINISTRATION OF THE BANK

#### 3 Establishment

There is hereby established the Infrastructure Development Bank of Zimbabwe which shall be a body corporate and which shall be capable of suing and being sued and, subject to this Act, of doing or performing all such acts or things as a body corporate may by law do or perform.

[Section amended by section 4 of Act 11 of 2005]

#### 4 Board of directors

(1) There shall be a board of directors of the Bank which shall, subject to any policy directions that may be given to it by the Minister in terms of section *nine A*, be responsible for the policy and administration of the affairs and business of the Bank.

[Section amended by section 5 of Act 11 of 2005]

(2) The Board shall consist of not fewer than twelve and not more than fifteen directors, as may be determined from time to time by the shareholders, who shall be appointed, subject to this Act, by the Minister and the institutional shareholders in the following proportions—

(a) the Minister shall be entitled to appoint the same proportion of the total number of directors as the number of the Bank’s shares held by the State bears to the Bank’s total issued share capital; and

(b) the institutional shareholders shall be entitled to appoint the remaining directors in proportion to their holdings of the Bank’s shares.

[Section amended by section 5 of Act 11 of 2005]

(3) For the purposes of determining the directors to be appointed by institutional shareholders, any such shareholder who holds less than—

(a) one twelfth of the Bank's issued share capital, where the Board consists of twelve directors; or  
(b) one-thirteenth of the Bank's issued share capital, where the Board consists of thirteen directors; or  
(c) one-fourteenth of the Bank's issued share capital, where the Board consists of fourteen directors; or  
(d) one-fifteenth of the Bank's issued share capital, where the Board consists of fifteen directors;

shall not be entitled to appoint or vote in the appointment of a director:

Provided that two or more institutional shareholders may agree that their shareholdings are to be regarded as aggregated together for the purposes of this section.

[Section inserted by section 5 of Act 11 of 2005]

(4) When appointing directors, the Minister and the institutional shareholders shall ensure that at any time a majority of the directors are non-executive directors.

[Section inserted by section 5 of Act 11 of 2005]

(4a) The Minister shall appoint directors for their knowledge of or experience in socio-economic development, development finance, business, banking or administration or for their professional qualifications, and in making any such appointment he shall consult the President and act in accordance with any directions the President may give him.

[Section inserted by section 5 of Act 11 of 2005]

(5) The appointment of a director who—

- (a) has been appointed by the Minister, may at any time be revoked by the Minister;
- (b) has been appointed by the institutional shareholders, may at any time be revoked by the institutional shareholders.

(6) A director may at any time resign his office by giving not less than two months' written notice to the Board which shall immediately after receipt thereof submit a true copy of the notice to the Minister.

(7) No person shall be appointed to or continue to hold office on the Board—

- (a) if he 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 discharged; or
  - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;
- (b) if under the law of any country—
  - (i) he has been convicted of an offence involving fraud or dishonesty; or
  - (ii) he has been convicted of any offence and sentenced to a term of imprisonment exceeding six months, imposed otherwise than as an alternative to or in default of payment of a fine, and has not received a free pardon; or
  - (iii) a competent court has removed him from an office of trust on account of misconduct.

[Paragraph substituted by section 5 of Act 11 of 2005]

(8) A director shall cease to hold office if he is absent from three consecutive meetings of the Board, of which he has had not less than the period of notice prescribed by regulations made in terms of section *twenty-eight* for each such meeting, without leave of the Board.

(9) Subject to subsection (7), a director who has resigned, retired or otherwise ceased to hold office shall be eligible for reappointment.

(10) Where the appointment of a director is revoked in terms of subsection (5) or where he resigns or ceases to hold office in terms of subsection (6) or (8)—

- (a) the Minister, in the case of a director who was appointed by the Minister; or
- (b) the institutional shareholder concerned, in the case of a director who was appointed by an institutional shareholder;

shall appoint a director to hold office for the remainder of the first-mentioned director's terms of office.

(11) Directors shall be appointed at a meeting of shareholders of the Bank and, unless they have earlier resigned or ceased to hold office, they shall hold office for a period of three years:

Provided that, if on the expiry of his term of office a director has not been re-appointed and no other person has been appointed in his place, he shall continue in office for a period not exceeding six months pending his reappointment or the appointment of a successor.

(12) The chairman of the Board shall be appointed by the Minister from among those directors who have been appointed to the Board by the Minister and who are non-executive directors.

[Subsection amended by section 5 of Act 11 of 2005]

(13) Directors shall be paid from the funds of the Bank such remuneration and allowances as the Board with the approval of the Minister may determine.

(14) The Minister shall, as soon as possible, give notice in the *Gazette* of the appointment or revocation or cessation of the appointment of a director, as the case may be.

#### **4A Responsibilities of Board**

Without derogation from subsection (1) of section *four*, the Board shall be responsible for—

- (a) formulating policies to ensure the efficient achievement of the Bank's objectives; and
- (b) supervising all the activities engaged in by the Bank; and
- (c) ensuring that the Bank has adequate control systems to monitor and manage risk; and
- (d) ensuring efficient and economic use of the Bank's resources; and
- (e) formulating and enforcing rules of corporate governance and ethical practice for observance by the Bank's directors and staff.

[Section inserted by section 6 of Act 11 of 2005]

#### **5 Declaration of interest**

(1) In this section—

“associate”, in relation to a director, means a person who is—

- (a) related to the director within the third degree of affinity or consanguinity; or
- (b) a partner, employee or employer of the director; or
- (c) a debtor, mortgagor, creditor or mortgagee of, or otherwise has direct, material or commercial dealings with, the director or any body of persons, whether corporate or unincorporate, of which the director is a director or in which the director holds any office or position other than that of an auditor or in which the director holds a controlling interest.

(2) At the first meeting of the Board after a person has been appointed a director, such director shall declare to the Board the financial or other assistance, if any, being provided by the Bank to him or any of his associates.

(3) A director who is in any way, whether directly or indirectly, interested in any business or proposed business of the Bank shall at the meeting of the Board at which such business or proposed business is first taken into consideration disclose his interest.

(4) If a director becomes interested, whether directly or indirectly, in any business or proposed business of the Bank after it has been taken into consideration by the Board, he shall declare his interest to the Board at the first meeting of the Board which takes place after his interest arises.

(5) A general notice that a director is a member of any particular company or firm and is interested in all transactions by that company or firm shall not be sufficient disclosure for the purposes of this section and whenever any business or proposed business by the Bank with that company or firm is taken into consideration by the Board a declaration of interest in terms of this section shall be required.

#### **6 Meetings of the Board**

(1) The Board may meet together for the dispatch of business and may adjourn and otherwise regulate its meetings in accordance with regulations made for that purpose in terms of section *twenty-eight*.

(2) The quorum of the Board shall be prescribed by regulations made in terms of section *twenty-eight*.

(3) Any matter arising for decision at any meeting of the Board shall be decided by such majority of the members present as may be prescribed by regulations made in terms of section *twenty-eight*.

#### **7 Committees of Board**

(1) For the better exercise of its functions, the Board may establish one or more committees in which it may vest such of its functions as it thinks fit:

Provided that the vesting of a function in a committee shall not prevent the Board from itself exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) Subject to section *twenty-five A*, the Board may appoint persons who are not directors to any of its committees.

(3) The procedure of each committee shall be as fixed from time to time by the Board.

(4) Subsections (7) to (9) of section *four* and section *five* shall apply, with any necessary changes, to members of committees as they apply to directors.

[Section inserted by section 7 of Act 11 of 2005]

#### **7A Validity of decisions and acts of Board and committees**

(1) No decision made or act done by or under the authority of the Board or a committee of the Board shall be invalid solely because there were one or more vacancies on the Board or committee when the decision was taken or the act was done or authorised, as the case may be.

(2) The acts and decisions of a director or a member of a committee shall be valid despite any defect that may afterwards be discovered in his or her appointment or qualification.

[Section inserted by section 7 of Act 11 of 2005]

#### **8 Chief executive officer**

(1) Subject to this section, the shareholders shall appoint, on such terms and conditions as they may fix, a person to be the chief executive officer and legal representative of the Bank, and whenever the office of chief executive officer is vacant the shareholders shall without delay fill the vacancy.

(2) A person shall not be qualified to be appointed or to hold office as chief executive officer if he or she would not be qualified to be appointed or to hold office as a director.

(3) The term of office of the chief executive officer shall be five years, and on the expiry of that term he or she shall be eligible for reappointment:

Provided that this subsection shall not be construed as preventing the retirement, resignation or dismissal of the chief executive officer in accordance with his or her conditions of service.

(4) Subject to the supervision of the Board, the chief executive officer shall be responsible for managing the Bank's staff, activities, funds and property and for exercising any other functions that 'the Board may assign to him or her.

(5) Any assignment of functions in terms of subsection (4)—

(a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;

(b) may be revoked by the Board at any time;

(c) shall not preclude the Board itself from exercising the functions.

(6) The chief executive officer shall be present at all meetings of the Board unless his or her presence at any meeting is excused by the chairperson of the Board.

[Section inserted by section 8 of Act 11 of 2005]

## 9 Staff of Bank

(1) The Board may employ on such terms and conditions as it may determine employees who are necessary for the conduct of the business of the Bank.

(2) The Board may delegate its powers referred to in subsection (1) to the chief executive officer.

[Subsection amended by section 9 of Act 11 of 2005]

## 9A Policy directions of Minister

(1) Subject to subsection (2), the Minister may give the Board general directions regarding the policy it is to observe in the exercise of its functions, and the Board shall take all necessary steps to comply with every such direction.

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

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

[Section inserted by section 10 of Act 11 of 2005]

## PART III

### CAPITAL

## 10 Authorised share capital

(1) Subject to subsection (2), the authorised share capital of the Bank shall be fifteen trillion dollars divided into fifteen million shares of one million dollars each.

(2) If authorised to do so by a resolution passed at a meeting of the Bank's shareholders, and with the approval of the Minister, the Board may by resolution—

(a) increase the authorised share capital of the Bank;

(b) consolidate or divide all or any part of its share capital into shares of larger amount than its existing shares;

(c) convert all or any of its paid-up shares into stock and reconvert such stock into paid-up shares of any denomination;

(d) subdivide all or any of its shares into shares of smaller amount:

Provided that the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived.

(3) Where the Board has taken any action referred to in subsection (2), the Minister shall cause notice of the action to be published in the *Gazette*.

[Section inserted by section 11 of Act 11 of 2005]

## 11 Issue of shares

The unissued shares of the Bank may be issued whenever the Board passes a resolution, which is approved by the Minister, that they should be issued.

[Section amended by section 11 of Act 11 of 2005]

## 12 Allotment of shares

The shares of the Bank shall be allotted to the State and to institutional shareholders in a manner determined by the Minister.

### 13 Calls on shares

With the approval of the Minister, the Board may pass a resolution that the Bank should call up the whole or part of any amount unpaid on the Bank's issued shares, and thereupon the Bank may make a call on the shareholders concerned in accordance with that resolution.

[Section substituted by section 12 of Act 11 of 2005]

### 14 Prohibition of certain transactions re shares

(1) No institutional shareholder shall pledge or encumber in any manner whatsoever any of the Bank's shares held by him if the aggregate of the shares so pledged or encumbered exceeds five *per centum* of the Bank's issued share capital.

(2) Without the approval of the Minister, no institutional shareholder shall transfer or assign any of the bank's shares held by him to any other person if the aggregate of the shares transferred to that person exceed five *per centum* of the Bank's issued share capital.

(3) No institutional shareholder shall sell or otherwise transfer any of the Bank's shares to another person without first offering those shares for sale or transfer, on the same terms and conditions, to each of the other shareholders.

[Subsection inserted by section 13 of Act 11 of 2005]

(4) Any transaction carried out in contravention of subsection (1), (2) or (3) shall be void.

[Subsection inserted by section 13 of Act 11 of 2005]

### 15 Limitation of liability of shareholders

The liability of the Bank's shareholders shall be limited to the amount unpaid on the shares held by them.

## PART IV

### THE PURPOSES, POWERS AND FUNDS OF THE BANK

### 16 Objectives of Bank

The objectives of the Bank shall be—

- (a) to promote economic development and growth, and to improve the living standards of Zimbabweans, through the development of infrastructure including, but not limited to, roads, dams, water reticulation, housing, sewerage, technology, amenities and utilities;
  - (b) to develop institutional capacity in undertakings and enterprises of all kinds in Zimbabwe;
  - (c) to support development projects and programmes in all sectors of the Zimbabwean economy;
- through all or any of the following means—
- (i) providing capital for the expansion or modernisation of existing infrastructure, undertakings and enterprises or the creation or development of new infrastructure, undertakings and enterprises;
  - (ii) mobilising internal and external resources from the public and private sectors;
  - (iii) facilitating the participation of the private sector and community organisations in development projects and programmes;
  - (iv) appraising, planning and monitoring the implementation of development projects and programmes;
  - (v) providing technical assistance with regard to the identification, preparation, evaluation, financing, implementation and management of development projects and programmes;
- whether by itself or in co-operation with international, regional or national organisations or bodies.

[Section inserted by section 14 of Act 11 of 2005]

### 17 Powers of Bank

(1) For the purpose of achieving its objectives the Bank shall have power—

- (a) to lend or advance money to any person or organization proposing to establish or expand or modernize any infrastructure, undertaking or enterprise in any sector of the economy;

[Paragraph inserted by section 15 of Act 11 of 2005]

- (a1) to invest in development projects in all sectors of the economy;
- (a2) to lend or advance money on the security of a mortgage or hypothecation to enable or facilitate the construction of housing, buildings and other infrastructure;

[Paragraph inserted by section 15 of Act 11 of 2005]

- (b) to guarantee where necessary an undertaking given in relation to the financing of development projects;
- (c) to raise loans or borrow moneys subject to such limits as may be prescribed in shareholders regulations made in terms of section *twenty-eight*;

Provided that the approval of the Minister shall be required where such loans or moneys whether in Zimbabwean or any other currency are to be guaranteed by the State; and

[Proviso amended by section 15 of Act 11 of 2005]

- (d) to seek other specialized credit facilities including Euro-dollar credits.

(2) Subject to this Act, the Bank shall, for the better exercise of its functions, have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule, either absolutely or conditionally and either solely or jointly with others.

## 18 Funds of Bank

The funds of the Bank shall consist of—

- (a) such sums of money as may be received by the Bank in terms of Part III;
- (b) such sums of money as the Bank may acquire by virtue of grants or raise by means of loans;
- (c) such sums of money as may be appropriated to the Bank by Act of Parliament;
- (d) such other sums of moneys as may accrue to the Bank in the course of its business.

## 19 Application of funds

The funds of the Bank shall be applied towards—

- (a) the payment of salaries, fees, remuneration, allowances and expenses due and payable to the directors and the employees of the Bank;
- (b) the repayment of sums raised by way of loan by the Bank and the payment of interest thereon;
- (c) providing finance in accordance with this Act;
- (d) the payment of rates, taxes, insurance premiums and other outgoings including the expenses of maintenance of buildings and other property whether movable or immovable which may become vested in the Bank;
- (e) the payment of such dividends as the Board may approve;
- (f) such capital expenditure as the Board may authorize;
- (g) such contributions to charitable or benevolent organizations as the Board may authorize;
- (h) all other expenses necessary for or incidental to the business of the Bank in terms of this Act.

## 20 Financing of projects by bank

(1) Not less than twenty-five *per centum* of the funds applied by the Bank towards providing finance in accordance with this Act shall be applied to financing small-scale and medium-scale enterprises.

(2) .....

[Subsection repealed by section 16 of Act 11 of 2005]

(3) .....

[Subsection repealed by section 16 of Act 11 of 2005]

(4) The Bank shall maintain a minimum holding of liquid assets as set out in subsection (6) which shall not be less than ten *per centum* of its liabilities to the public at the end of each calendar month.

(5) The Bank shall maintain the minimum holding of liquid assets referred to in subsection (4) at the close of each day of the calendar month following that in which a statement is required to be submitted to the Minister in terms of subsection (4) of section *twenty-nine*.

(6) For the purposes of computing the amount of the minimum holding of liquid assets referred to in subsection (4) the following shall qualify—

- (a) notes and coins in the currency of Zimbabwe;
- (b) balances at the Reserve Bank of Zimbabwe;
- (c) balances at any registered commercial bank and any registered accepting house in Zimbabwe;
- (d) money at call with a registered accepting house or registered discount house;
- (e) bills of exchange accepted and payable at any place in Zimbabwe and which have been accepted or endorsed by a registered commercial bank or accepting house;
- (f) local registered securities which—
  - (i) are issued or guaranteed by the State or issued by a municipality; and
  - (ii) have a final maturity date of not more than six years;
- (g) money deposited with the Treasury.

## 21 Procedure and requirements for financing by Bank

(1) The Board shall not provide finance for any undertaking, enterprise, project or programme unless the Board has first considered—

- (a) a written proposal or prospectus relating to the undertaking, enterprise, project or programme; and
- (b) the chief executive officer's comments on the undertaking, enterprise, project or programme and on the desirability or otherwise of the Bank providing finance for it; and
- (c) the extent and value of any security provided or offered by or on behalf of the beneficiary of the finance.

[Subsection substituted by section 17 of Act 11 of 2005]

(2) The terms and conditions of any loan granted by the Bank shall—

- (a) be contained in a written agreement or other document, as the case may be, to be signed by the beneficiary or his duly authorised representative;
- (b) in the case of a loan, include provision—
  - (i) for repayment of principal and payment of interest, commitment fee and other charges; and

- (ii) that the borrower shall draw the loan funds to meet payments on the relevant project only;
- (c) include provision which will—
  - (i) enable the Bank to ensure that the proceeds of the loan or other investment are used solely for the purpose for which the loan was granted or the investment was made; and
  - (ii) require each beneficiary to maintain a proper accounting system;
  - (iii) give the Bank the right to inspect and supervise the operations relating to the project and to require each beneficiary to allow the Bank, through its agents or officers, to inspect the books and records of the beneficiary or to provide such information as the Bank may require at any time while the loan or any part thereof remains unpaid or the Bank retains its investment.

(3) In fixing the terms and conditions of a loan or the details of an investment, the Board shall have regard, *inter alia*, to the financial requirements of the relevant project and to the financial position of the beneficiary.

(4) The Board may require as a term of any loan that the borrower shall provide such form of security as it may approve for the repayment of principal, the payment of interest, fees and charges, or the performance of other terms and conditions of the loan.

(5) The Board shall fix such rates of interest and such fees and charges as is likely to yield to the Bank a good and sound return on the amount of the loan.

## **22 Investment of funds**

The Board may invest all or any part of the funds of the Bank not immediately required for the purposes mentioned in this Act in good and sound investment:

Provided that such funds shall be so invested that they are available within twelve months when required for the purposes mentioned in this Act.

## **23 Reserve funds and distribution of income**

(1) The Board shall determine annually what part of the net income of the Bank, after providing for any reserves, should be allocated to surplus and what part, if any, should be distributed to the shareholders.

[Subsection substituted by section 18 of At 11 of 2005]

(2) .....

[Subsection repealed by section 18 of At 11 of 2005]

(3) Any distribution to shareholders made under subsection (1) shall be in proportion to the number of shares held by each shareholder, and the payment shall be made in such manner as the Board shall determine.

[Subsection amended by section 18 of At 11 of 2005]

## **PART V**

### **ACCOUNTS AND AUDIT**

## **24 Financial year**

The Board shall determine the financial year of the Bank.

## **25 Accounts of bank**

(1) The Board shall keep proper accounts and other records relating thereto giving, in accordance with sound accounting practices applicable to banking institutions, a true and fair view of the Bank's operations and financial position.

(2) The Bank's books of account and other records referred to in subsection (1) shall be kept at the head office of the Bank and shall at all times be open to inspection by any director.

[Section substituted by section 19 of Act 11 of 2005]

## **25A Audit committee**

(1) The Board shall appoint an audit committee consisting of—

- (a) a chairperson, who shall be a non-executive director; and
- (b) at least two other persons, who need not be directors:

Provided that a majority of the members of the audit committee shall be non-executive directors.

(2) The chief executive officer shall not be a member of the Bank's audit committee.

(3) The functions of the Bank's audit committee shall be—

- (a) to establish appropriate accounting procedures and accounting controls in respect of the Bank's business, and to ensure compliance with those procedures; and
- (b) to assist the Board to evaluate the adequacy and efficiency of the internal control systems, accounting practices, information systems and auditing processes applied in the day-to-day management of the Bank's business; and
- (c) to introduce such measures as, in the audit committee's opinion, may enhance the objectivity of financial statements and reports prepared with reference to the Bank's business.

(4) The Bank's audit committee shall meet as often as may be necessary to carry out its functions.

(5) Decisions of the Bank's audit committee shall be decided by a majority vote of the members present:

Provided that no member shall abstain from any vote to be taken.

(6) A member of the Bank's audit committee who votes against any resolution passed by a majority of its members shall without delay provide the Board with a written statement of his or her reasons for voting against the resolution.

(7) Subject to this section, the procedure to be adopted by the Bank's audit committee shall be as prescribed in regulations made in terms of section *twenty-eight* or, in relation to any matter that is not so prescribed, as may be fixed by the Board.

[Section inserted by section 19 of Act 11 of 2005]

## **25B Audit of accounts**

(1) The accounts of the Bank for each financial year shall be audited by a person who is registered as a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] and who is appointed by shareholders.

(2) Except with the Minister's approval, the Bank shall not appoint the same person or partnership as the Bank's auditor for a continuous period of more than five years in any eight-year period.

(3) The Bank's auditor shall be responsible for—

- (a) auditing the Bank's accounts and reporting on them to the Board and the Bank's audit committee; and
- (b) planning and carrying out audit procedures designed to detect irregularities and illegal acts in the conduct of the Bank's business; and communicating to the Bank's audit committee any evidence he or she may have uncovered indicating that irregularities or illegal acts have been committed in the course of the Bank's business, whether or not they may have led to material misstatements in the Bank's accounts or records.

(4) In every report referred to in paragraph (a) of subsection (3), the auditor shall state whether the accounts of the Bank are drawn up in accordance with sound accounting practices applicable to banking institutions.

(5) The Bank's auditor shall comply with his or her obligations under subsections (3) and (4) notwithstanding any duty of confidentiality to the contrary, and he or she shall not be held liable in any proceedings arising out of his or her compliance with any such obligation unless it is proved that he or she acted in bad faith.

(6) The Bank's auditor shall—

- (a) have a right of access at all reasonable times to such of the Bank's books, accounts, vouchers and securities; and
- (b) be entitled to require such information and explanations from any director, officer, employee or agent of the Bank;

as the auditor considers are needed to perform his or her duties as an auditor.

(7) Any person who fails without just cause—

- (a) to permit an auditor the access referred to in paragraph (a) of subsection (6); or
- (b) to comply with a requirement in terms of paragraph (b) of subsection (6);

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Section inserted by section 19 of Act 11 of 2005]

## **26 Annual report**

(1) The Board shall, not later than six months after the end of each financial year, submit to each shareholder a report of its operations, including the annual statement of its accounts for that year certified by the auditor.

(2) The Minister shall, not later than nine months after the end of the Bank's financial year, cause the annual statement of accounts and the report referred to in subsection (1) to be laid before Parliament, and shall cause the annual statement of accounts to be published in the *Gazette*.

## **27 Appropriation of profits**

(1) The Bank may, in general meeting, declare dividends which dividends shall not exceed the amount recommended by the Board.

(2) From time to time interim dividends may be paid to the shareholders if the Board considers such dividends are justified by the profits of the Bank.

(3) No dividend shall be paid otherwise than out of profits.

(4) The Board may, before recommending any dividend, set aside out of the profits of the Bank such sums as it thinks proper as a reserve or reserves which shall at the discretion of the Board be applicable for any purposes to which the profits of the Bank may be properly applied and, pending such application, may at the discretion of the Board either be employed in the business of the Bank or be invested in such development-orientated enterprises as the Board may from time to time think fit.

## PART VI

### GENERAL

#### 28 Shareholders regulations

(1) The shareholders may by resolution at a meeting of shareholders, make regulations providing for all matters which by this Act are required or permitted to be prescribed or which in their opinion are necessary or convenient to be provided for in order to carry out or to give effect to the provisions of the Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the management and operation of the Bank;
- (b) the regulation of the proceedings of the Board;
- (c) subject to section *four*, the appointment of directors by the institutional shareholders, including the calculation of their respective shareholdings for the purposes of such appointment;
- (d) the appointment of alternate directors;
- (e) the sanctions to be imposed on shareholders who fail to pay calls on their shares;
- (f) the regulation of the proceedings of meetings of shareholders;
- (g) all such other matters relating to the internal actions or proceedings of the Bank and the relations between the shareholders of the Bank, as may, in the opinion of the shareholders, be necessary or convenient for those purposes.

#### 29 Information to be furnished to the Minister and Parliament

(1) As soon as practicable after the meeting of shareholders at which the balance sheet and accounts of the Bank are submitted has been held, the Board shall transmit to the Minister in respect of its last preceding financial year copies of—

- (a) a balance sheet and profit and loss account showing separately the financial details in connection with any development undertaking established and conducted by the Bank and duly signed by the auditor of the Bank;
- (b) the report, if any, of the Board submitted at the said meeting or, if no such report was submitted, a full report on the operations of the Bank, during the said financial year.

(2) The Minister shall lay copies of all such balance sheets, accounts and reports before Parliament on one of the fourteen days on which Parliament next sits after their receipt by him.

(3) ....

[Subsection repealed by section 20 of Act 11 of 2005].

(4) The Board shall submit to the Minister statements pertaining to the liquidity position of the Bank as soon as possible at the end of each calendar month, but in any case within 21 days after the end of each month.

#### 30 Application of Companies Act

(1) The Minister, after consultation with the Board, may, by statutory instrument, apply to the Bank any provision of the Companies Act [*Chapter 24:03*] or any amendment thereof which is not inconsistent with this Act, with such modifications as he may think fit, and may withdraw or amend any such notice.

[Subsection amended by section 22 of Act 11 of 2005].

(2) Subject to subsection (1), the Companies Act [*Chapter 24:03*] or any other law relating to companies, shall not apply to the Bank.

#### 31 Use of name by bank

(1) No association or company shall be registered under the Companies Act [*Chapter 24:03*] by a name, and no person shall, for the purposes of business, use any name which

- (a) includes in conjunction with the word "bank" or "banking" any of the words "infrastructure", "development", "Zimbabwe" or "Zimbabwean"; or
- (b) in the opinion of the Registrar of Companies, so nearly resembles the name of the Bank as to be likely to deceive;

unless the Minister has in writing permitted the association or company to use that name.

[Subsection substituted by section 22 of Act 11 of 2005].

(2) If a company through inadvertence or otherwise, is registered, whether originally or by reason of a change of name, by a name which is in conflict with subsection (1), the Minister may, by notice in writing, direct the company to change its name and the company shall do so within a period of six weeks from the date of the direction or within such longer period as the Minister may allow.

#### 32 Winding up of Bank

The Bank shall not be wound up except by or under the authority of an Act.

## SCHEDULE (Section 17 (2))

### POWERS OF BANK

1. To acquire premises necessary or convenient for the exercise of its functions and the performance of its duties and for that purpose to buy, take in exchange/hire or otherwise acquire immovable property and interests therein and rights thereover and 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 and the performance of its duties.
3. To maintain, alter or improve property acquired by it.
4. To mortgage or pledge any property or part thereof and to sell, exchange, lease, dispose of, turn to account or otherwise deal with any property or part thereof which is not required for the exercise of its functions or the performance of its duties for such consideration as it may determine.
5. To acquire, take possession of or dispose of any property in respect of which it has any interest by way of mortgage, pledge or otherwise.
6. To draw, make, accept, endorse, discount, execute and issue for the purposes of its functions or duties promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.
7. To insure against losses, damages, risks and liabilities which it may incur.
8. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions or the performance of its duties and to modify or rescind such contracts or rescind such suretyships or guarantees.
9. With the approval of the Minister, to enter, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or the performance of its duties or any of them and to obtain from such government or authority rights, privileges and concessions which it thinks desirable to obtain and carry out, exercise and comply with such arrangements, rights, privileges and concessions.
10. To employ, upon such terms and conditions as the Board considers fit, such persons as may be necessary for conducting the affairs of the Bank and suspend or discharge any such persons.
11. To pay such remuneration and allowances and grant such leave of absence and to pay such bonuses and the like to its employees as the Board considers fit.
12. To provide pecuniary benefits for its employees 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, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
13. To purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.
14. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken on lease or in exchange or otherwise acquired by the Bank.
15. To sell or let dwellings and land for residential purposes to its employees.
16. To make or guarantee loans to its employees or their spouses in accordance with remuneration policies approved by the Board.  
[Paragraph amended by section 23 of Act 11 of 2005]
17. To provide security in respect of loans such as are described in paragraph 16 by the deposit of securities, in which the Bank may invest such moneys as the Board considers necessary for the purpose.
18. ....  
[Paragraph repealed by section 23 of Act 11 of 2005]
19. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research.
20. To do anything which by this Act is required or permitted to be done by the Bank.
21. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the Bank or the exercise of its powers in terms of this Act or any other law.