

## CHAPTER 24:22

# PEOPLE'S OWN SAVINGS BANK OF ZIMBABWE ACT

Act 18/1999, 22/2001 (s. 4).

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Powers of Savings Bank.

**AN ACT to establish the People's Own Savings Bank of Zimbabwe and to provide for its functions and administration; to repeal the Post Office Savings Bank Act [Chapter 24:10]; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement: 1st April, 2001.]

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the People's Own Savings Bank of Zimbabwe Act [Chapter 24:22].

#### 2 Interpretation

In this Act—

“appointed member” means a member referred to in paragraph (a) or (d) of subsection (1) of section *five*;

“Board” means the People's Own Savings Bank Board established in terms of section *five*;

“Chief Accounting Officer” means the person appointed as Chief Accounting Officer of the Savings Bank in terms of section *twenty-two*;

“Chief Executive Officer” means the person appointed as Chief Executive Officer of the Savings Bank in terms of section *twenty-one*;

“committee” means a committee of the Board;

“curator”, in relation to a person who is mentally disordered or intellectually handicapped or is otherwise incapable of managing his own affairs, includes anyone who, in the Chief Executive Officer's opinion, is responsible for managing or administering that person's property;

“depositor” means a person by whom or on whose behalf a deposit has been made with the Savings Bank;

“member” means a member of the Board, including the chairman and vice-chairman of the Board;

“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;

“Savings Bank” means the People's Own Savings Bank of Zimbabwe established by section *three*.

## PART II

### PEOPLE'S OWN SAVINGS BANK OF ZIMBABWE AND PEOPLE'S OWN SAVINGS BANK BOARD

#### 3 Establishment of People's Own Savings Bank of Zimbabwe

There is hereby established a body corporate to be known as the People's Own Savings Bank of Zimbabwe, which shall be capable of suing and being sued in its own name and, subject to this Act, of doing anything that bodies corporate may do by law.

#### **4 Functions and powers of Savings Bank**

(1) The functions of the Savings Bank shall be—

- (a) to carry on the business of a savings bank, that is to say, the acceptance of deposits that are repayable, with interest, to or for the benefit of the depositors concerned; and
- (b) to provide banking and financial services for the people of Zimbabwe; and
- (c) to encourage saving by the people of Zimbabwe; and
- (d) to grant loans and advances secured by investments held by the Savings Bank.

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

#### **5 People's Own Savings Bank Board**

(1) Subject to this Act, the operations of the Savings Bank shall be controlled by a board, to be known as the People's Own Savings Bank Board, consisting of—

- (a) a chairman, who shall be appointed by the Minister; and
- (b) the Chief Executive Officer; and
- (c) the Chief Accounting Officer; and
- (d) not fewer than four and not more than six other members appointed by the Minister.

(2) Members referred to in paragraph (a) or (d) of subsection (1) shall be appointed by the Minister after consultation with the President and in accordance with such directions as the President may give him, and shall be chosen for their ability and experience in finance or for their suitability otherwise for appointment.

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

(1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as an appointed member if—

- (a) he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (c) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (d) within the period of five years immediately preceding his proposed appointment, he has been sentenced—
  - (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;

to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

- (e) he has been convicted—
  - (i) in Zimbabwe, of—
    - A. an offence under this Act or the Act repealed by this Act; or
    - B. an offence involving dishonesty;
  - or
  - (ii) outside Zimbabwe, in respect of any conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty;

and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two or more other statutory bodies; or
- (c) in the full-time employment of the Savings Bank or of any institution registered in terms of the Banking Act [Chapter 24:20] or the Building Societies Act [Chapter 24:02];

shall not be appointed as a member, nor shall he be qualified to hold office as an appointed member.

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

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
  - (i) any commission established by the Constitution; or
  - (ii) 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 or a Minister or by another statutory body or by a commission established by the Constitution.

- (4) Any person who, knowing that he is disqualified in terms of this section to hold office as a member—
- (a) attends any meeting of the Board as a member; or
  - (b) performs any other act as a member;

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.

[Subsection as amended by section 4 of Act 22 of 2001]

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

(1) An appointed member shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his appointment.

(2) On the expiry of the period for which an appointed member has been appointed, he shall continue to hold office until he has been re-appointed or his successor has been appointed.

(3) The Chief Executive Officer and Chief Accounting Officer shall be members for so long as they hold office as Chief Executive Officer or Chief Accounting Officer, as the case may be.

(4) A person who ceases to be a member shall be eligible for re-appointment.

(5) Members shall hold office on such conditions as the Minister may fix.

## **8 Vacation of office by appointed member**

(1) An appointed member shall vacate his office and his office shall become vacant—

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period of notice as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
  - (i) in Zimbabwe, in respect of any offence; or
  - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

- (c) if he becomes disqualified in terms of paragraph (a), (b), (c) or (e) of subsection (1) of section *six*, or in terms of subsection (2) of that section, to hold office as a member; or
- (d) if he is required in terms of subsection (2) or (3) to vacate his office as a member.

(2) The Minister may require a member to vacate his office if—

- (a) the member has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or
- (b) the member has failed to comply with any condition of his office fixed in terms of section *seven*; or
- (c) the member is mentally or physically incapable of efficiently performing his duties as a member; or
- (d) the member contravenes section *fifteen*; or
- (e) the member or his spouse engages in any occupation, service or employment, or holds any asset, which in the Minister's opinion is inconsistent with his duties as a member.

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

## **9 Suspension of member**

(1) The Minister—

- (a) may suspend from office a member against whom criminal proceedings are instituted for an offence involving dishonesty; and
- (b) may suspend a member from office if he has reasonable grounds to believe that the member's office has become vacant in terms of subsection (1) of section *eight* but the member has not relinquished his office; and
- (c) shall suspend from office a member who has been sentenced by a court to imprisonment without the option of a fine, whether or not any portion has been suspended, pending determination of the question whether the member is to vacate his office;

and, whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as a member.

(2) If the Chief Executive Officer or Chief Accounting Officer is suspended from office as such, his membership of the Board shall be suspended for so long as his suspension from office remains in effect.

## **10 Dismissal of Board**

(1) Subject to subsection (2), if the Minister is satisfied on reasonable grounds that—

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or
- (b) the Board has failed to comply with a direction in terms of section *eighteen*; or
- (c) whether through disagreements amongst its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act;

and that it is in the national interest to do so, the Minister may, by written notice to the chairman of the Board and the Chief Executive Officer, dismiss all the appointed members of the Board, and their offices shall become vacant as soon as the Chief Executive Officer receives the notice.

(2) Before dismissing all the members in terms of subsection (1), the Minister shall consult the President and act in accordance with any directions the President may give him.

### **11 Filling of vacancies on Board**

(1) Within three months after an appointed member's death or vacation of office, the Minister shall, subject to this Part, appoint a person to fill the vacancy.

(2) Within one month after dismissing all the appointed members of the Board in terms of section *ten*, the Minister shall, subject to this Part, appoint a new Board.

### **12 Vice-chairman of Board**

(1) The Board shall elect from amongst its appointed members a vice-chairman, who shall hold office at the pleasure of the Board.

(2) Whenever the office of vice-chairman of the Board falls vacant, the Board shall without delay elect one of its appointed members to fill the vacancy.

(3) The vice-chairman of the Board shall perform the chairman's functions whenever the chairman is unable to perform them or whenever the office of chairman is vacant.

### **13 Meetings and procedure of Board**

(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least four times in each financial year.

(2) The chairman of the Board—

- (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 the Minister or 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 chairman's receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (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.

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

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

(5) The chairman of the Board or, in his absence, the vice-chairman shall preside at all meetings of the Board:

Provided that, if the chairman and vice-chairman are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

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

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

(8) A person invited to attend a meeting of the Board in terms of subsection (7) may take part in the proceedings of the Board, in so far as those proceedings are concerned with the matter for which he was invited, but he shall not have a vote on any question before the Board.

(9) Subject to subsection (11), anything authorised or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(10) Subject to section *fifteen*, at all meetings of the Board each member present shall have one vote on any question before the Board:

Provided that—

- (i) in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote;

- (ii) no member shall take part in the consideration or discussion of, or vote on, any question before the Board which relates to his vacation of office as a member.

(11) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board 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 subsection shall not apply to the proposal.

#### **14 Committees of Board**

(1) For the better exercise of its functions, the Board may establish one or more committees in which, with the consent of the Minister, 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) On the establishment of a committee the Board may appoint to the committee persons who are not members of the Board.

(3) The chairman of the Board or of a committee may at any reasonable time and place convene a meeting of that committee.

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

(5) Subject to this section, subsections (2) to (11) of section *thirteen* shall apply, *mutatis mutandis*, to committees and their members as they apply to the Board and its members.

#### **15 Members of Board and committees to disclose certain connections and interests**

(1) In this section—

“relative”, in relation to a member of the Board or a committee, means the member’s spouse, child, parent, brother or sister.

(2) If—

(a) a member of the Board or of a committee—

(i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

(ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his functions as a member; or

(iii) knows or has reason to believe that a relative of his—

A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board or the committee; or

B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his functions as a member;

or

(b) for any other reason, the private interests of a member of the Board or of a committee come into conflict with his functions as a member;

the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(3) A member referred to in subsection (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any interest, property or right referred to in that subsection.

(4) Any person who contravenes subsection (2) or (3) 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.

[Subsection as amended by section 4 of Act 22 of 2001]

#### **16 Minutes of proceedings of Board and of committees**

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

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

(3) The Board shall ensure that copies of all minutes referred to in subsection (1) are sent without delay to the Minister.

#### **17 Remuneration and allowances of members of Board and of committees**

Members of the Board and of committees of the Board shall be paid—

- (a) such remuneration, if any, as the Minister may fix for members of the Board or members of committees, as the case may be, generally; and
- (b) such allowances, if any, as the Minister may fix to meet any reasonable expenses incurred by the members in connection with the business of the Board or the committee, as the case may be:

Provided that a person in the full-time employment of the Savings Bank shall not be entitled to any such remuneration or allowance.

### **18 Policy directions to Board**

(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 under this Act as the Minister considers to be necessary in the national interest.

(2) Before giving the Board 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 such further period as the Minister may allow, submit to the Minister, in writing, its views 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.

### **19 Reports of Board**

(1) The Board—

- (a) shall, as soon as possible after the end of each financial year, submit to the Minister—
  - (i) an annual report on its activities during that year, and
  - (ii) the statement of accounts prepared in terms of section *thirty-three* in respect of that year;
- (b) may at any time submit to the Minister a special report on any matter upon which the Board considers it desirable to report.

(2) The Minister shall lay before Parliament on one of the fourteen days on which Parliament next sits after the report is received by him—

- (a) the annual report and statement of accounts submitted to him in terms of paragraph (a) of subsection (1); and
- (b) any special report submitted to him in terms of paragraph (b) of subsection (1) which the Board requests be laid before Parliament.

### **20 Validity of decisions and acts of Board**

No decision made or act done by or under the authority of the Board shall be invalid solely because—

- (a) there were one or more vacancies on the Board; or
- (b) an unqualified person acted as a member of the Board;

when the decision was taken or the act was done or authorised, as the case may be.

## **PART III**

### **STAFF OF SAVINGS BANK**

### **21 Chief Executive Officer**

(1) Subject to this Act, the Board shall appoint, on such terms and conditions as the Board may fix, a person approved by the Minister to be the Chief Executive Officer of the Savings Bank.

(2) Without the authority of the Minister, no person shall be appointed as Chief Executive Officer and no person shall be qualified to hold office as Chief Executive Officer if he is neither a citizen of Zimbabwe nor ordinarily resident in Zimbabwe.

(3) The appointment of the Chief Executive Officer shall terminate if he would be required in terms of paragraph (b), (c) or (d) of subsection (1) of section *eight* to vacate his office had that section, and paragraph (a) of subsection (2) of section *six*, applied to him:

Provided that his appointment shall not terminate on the ground that he has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority under subsection (2).

(4) Subject to the Board's directions, the Chief Executive Officer shall supervise and manage the Savings Bank's staff, activities, funds and property and perform such other functions as the Board may assign to him.

(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.

## **22 Chief Accounting Officer**

(1) Subject to this Act, the Board shall appoint, on such terms and conditions as the Board may fix in consultation with the Chief Executive Officer, a person to be the Chief Accounting Officer of the Savings Bank.

(2) Subject to the Chief Executive Officer's directions, the Chief Accounting Officer shall be responsible for—

- (a) preparing and maintaining the Savings Bank's books of account and other financial records; and
- (b) ensuring that the Savings Bank has systems of internal financial control that comply with this Act and any other enactment; and
- (c) performing any other function that may be assigned to him by the Board.

## **23 Other staff of Savings Bank**

Subject to any other law, the Savings Bank may employ, on such terms and conditions as the Board may fix in consultation with the Chief Executive Officer, such persons as the Board considers necessary for conducting the Savings Bank's operations, and may promote, suspend or discharge any such employee:

Provided that—

- (i) the Board shall consult the Chief Executive Officer before appointing, promoting, suspending or discharging any such employee or fixing such an employee's conditions of service;
- (ii) the Board shall obtain the Minister's approval before appointing or promoting any person to a post of such class or grade as the Minister, by written notice to the Board, may designate.

## **PART IV**

### **ISSUE OF SHARES AND DEBENTURES BY SAVINGS BANK**

## **24 Authorised share capital of Savings Bank**

(1) The authorised share capital of the Savings Bank shall be such number of shares of such value as the Board may fix by resolution with the approval of the Minister.

(2) With the approval of the Minister, the Board may by resolution increase or reduce the authorised share capital of the Savings Bank:

Provided that no resolution for the reduction of the Savings Bank's capital shall be effective unless the Board has applied for and obtained an order of the High Court confirming the reduction in terms of sections 93 and 94 of the Companies Act [*Chapter 24:03*].

(3) Where the Board has fixed or increased the authorised share capital of the Savings Bank in terms of this section, the Minister shall cause notice thereof to be published in the *Gazette*.

## **25 Issue, allotment and transfer of shares of Savings Bank**

(1) The Savings Bank's first issue of shares shall be made at such time and in such amount as the Minister may direct after consultation with the Board, and subsequent share issues may be made at such times and subject to such terms and conditions as the Board may determine with the approval of the Minister.

(2) All the shares in the Savings Bank's first share issue shall be allotted to the State, or to nominees to be held on behalf of the State, on such terms and conditions as the Minister may determine in consultation with the Board.

(3) Subject to subsection (5), the shares in any subsequent share issue by the Savings Bank may be allotted to the State and additionally, or alternatively, to persons other than the State in such circumstances and subject to such terms and conditions as the Board may determine with the approval of the Minister.

(4) Subject to subsection (5), the Savings Bank's shares may be transferred by the holders subject to such terms and conditions as may be prescribed or as may be determined by the Minister in consultation with the Board:

Provided that no fresh restrictions shall be imposed on the transferability of any share while it is held by a person other than the State.

(5) At all times at least fifty-one *per centum* of the Savings Bank's issued share capital shall be held by the State or by nominees on behalf of the State.

## **26 Liability of shareholders**

The liability of the holder of a share issued by the Savings Bank shall be limited to the amount, if any, unpaid on the share.

## **27 Issue of debentures**

(1) The Savings Bank may issue debentures, which may be taken up in such circumstances and under such terms and conditions as the Minister may determine.

(2) Debentures may be issued by the Savings Bank to the State in respect of any loan previously granted by the State to the Savings Bank.

(3) Subject to subsection (2), debentures taken up by the State shall be paid for out of moneys appropriated for the purpose by Act of Parliament.

(4) The Savings Bank's debentures may be transferred subject to such terms and conditions as may be determined by the Minister in consultation with the Board:

Provided that no fresh restrictions shall be imposed on the transferability of any debenture while it is held by a person other than the State.

## PART V

### FINANCIAL PROVISIONS RELATING TO SAVINGS BANK

#### **28 Funds of Savings Bank**

The funds of the Savings Bank shall consist of—

- (a) deposits and any interest and profit accruing therefrom; and
- (b) any other moneys that may vest in or accrue to the Savings Bank in the course of its activities, whether in terms of this Act or otherwise.

#### **29 Investment of funds of Savings Bank**

The Chief Executive Officer shall invest the funds of the Savings Bank, subject to the directions of the Board, in any one or more of the following ways—

- (a) in any security issued by the State;
- (b) on deposit with the State;
- (c) with any institution registered under the Banking Act [*Chapter 24:20*];
- (d) in any other security approved by the Board;

and, subject to the directions of the Board, may realise or otherwise deal in any such investments on behalf of the Savings Bank.

#### **30 Financial year of Savings Bank**

The financial year of the Savings Bank shall be the period of twelve months ending on the 31st December in each year.

#### **31 Reserve fund**

(1) The Savings Bank shall maintain a reserve fund to which, subject to this Part, the Chief Executive Officer shall appropriate from a surplus of income over expenditure at the end of any financial year such sums as the Board considers necessary or desirable.

(2) Subject to this Part, moneys in the reserve fund established in terms of subsection (2) may be used for such purposes as the Board considers expedient for the proper exercise of the Savings Bank's functions, including the development of its assets.

#### **32 Application of profits of Savings Bank**

Where in any financial year the revenues of the Savings Bank are more than sufficient—

- (a) to meet the Savings Bank's expenditure properly chargeable to revenue in that year; and
- (b) to enable the Savings Bank to make provision for any taxes, duties or rates for which it is liable; and
- (c) to permit the redemption on due date of the Savings Bank's debentures and other loan capital; and
- (d) to enable the Savings Bank to make such appropriations to its reserve fund in terms of section *thirty-one* as are necessary or desirable;

the Savings Bank shall pay out of the surplus—

- (i) such amount to the Consolidated Revenue Fund as the Minister, in consultation with the Board, may direct; and
- (ii) any remaining balance to its shareholders in the form of dividends.

#### **33 Accounts of Savings Bank and statement of accounts**

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

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

#### **34 Audit of Savings Bank's accounts**

(1) The accounts of the Savings Bank shall be audited by the Comptroller and Auditor-General, who for the purpose shall have all the functions conferred on him by sections 8 and 9 of the Audit and Exchequer Act [*Chapter 22:03*] as though the Savings Bank's assets were public moneys and the Savings Bank's members, employees and agents were officers as defined in that Act.

(2) Any member, employee or agent of the Savings Bank who—

- (a) fails or refuses to provide the Comptroller and Auditor-General with any explanation or information required by him for the purpose of an audit in terms of subsection (1); or
- (b) hinders or obstructs the Comptroller and Auditor-General in the conduct of an audit in terms of subsection (1);

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.

[Subsection as amended by section 4 of Act 22 of 2001]

(3) Notwithstanding subsection (1), the Comptroller and Auditor-General may appoint a suitably qualified person to audit the accounts of Savings Bank and, if he does so—

- (a) subsections (1) and (2) shall apply in respect of the person so appointed as if he were the Comptroller and Auditor-General; and
- (b) any expenses incurred by the person so appointed in carrying out his audit shall be met from the funds of the Savings Bank.

### **35 Internal auditor**

Section 19 of the Audit and Exchequer Act [Chapter 22:03] shall apply, *mutatis mutandis*, to the appointment of an internal auditor to the Savings Bank in all respects as if the Savings Bank were a department of the Ministry for which the Minister is responsible.

## **PART VI**

### **DEPOSITS**

### **36 Security of deposits**

(1) Deposits made in the Savings Bank shall have the security of the public revenues of Zimbabwe.

(2) If at any time the Board considers that the funds of the Savings Bank are insufficient to meet the anticipated claims of depositors, the Minister shall, on such terms and conditions as he may determine, advance the amount of the anticipated deficiency from the Consolidated Revenue Fund, which is hereby appropriated for that purpose.

### **37 Persons by whom deposits may be made**

(1) Subject to subsection (2), the Savings Bank may accept deposits up to a prescribed amount from or on behalf of—

- (a) any person or association in the name of that person or association; or
- (b) a trustee on behalf of another person in the joint names of the trustee and that other person.

(2) The Savings Bank shall not accept deposits from or on behalf of such class of persons or associations as may be prescribed.

### **38 Entitlement to repayment of deposits**

Where a depositor, or a person to whom a deposit is repayable in terms of section *thirty-nine*, as the case may be, applies in the prescribed form for the repayment of his deposit or any part of it, the depositor or that person shall be absolutely entitled to such repayment, together with any interest thereon, within six months or such shorter period as may be prescribed.

### **39 Persons to whom deposits may be repaid**

(1) Subject to this section and section *forty*, deposits, together with any interest thereon, shall be repaid only to the depositor.

(2) Where a depositor is an association, its deposit and any interest thereon shall be repaid only to the association's secretary, treasurer, trustee or other officer whom the association notifies the Savings Bank as being the person to whom such deposits shall be repaid.

(3) Subject to subsections (5) and (6), where a depositor is an individual who has not attained the prescribed age, his deposit and any interest thereon shall be repaid to his legal guardian.

(4) Subject to subsections (5), (6) and (7), where a deposit is made by a trustee on behalf of another person in the joint names of the trustee and that other person, the deposit shall be repaid only to that other person with the consent of the trustee.

(5) If a depositor becomes mentally disordered or intellectually handicapped or otherwise incapable of managing his affairs, his deposit and any interest thereon may be repaid, during his lifetime, to such person as appears to the Chief Executive Officer to be the proper person to receive the money concerned:

Provided that, if the deposit exceeds such amount as may be prescribed, the excess shall be repaid only to the depositor's curator.

(6) On the death of a depositor, his deposit and any interest thereon may be repaid to such person as appears to the Chief Executive Officer, after consultation with the Master of the High Court, to be the proper person to receive the money concerned:

Provided that, if the deposit exceeds such amount as may be prescribed, the excess shall be repaid—

- (a) to the legal representative of the depositor's estate; or
- (b) where letters of administration or documents of similar legal effect are not produced to the Chief Executive Officer within six months after the depositor died, to such person or persons and in such proportions as the Master of the High Court may specify.

(7) Where a deposit has been made by a trustee on behalf of another person in the joint names of the trustee and that other person, and the trustee dies, the deposit and any interest thereon may be repaid to that other person with the consent of any person lawfully appointed as the trustee's successor or, failing such appointment, with the consent of such person as the Chief Executive Officer may determine.

(8) Before making any repayment in terms of subsection (5), (6) or (7), the Chief Executive Officer shall require proof to his satisfaction that—

- (a) the depositor concerned has become mentally disordered or intellectually handicapped or incapable of managing his affairs; or
- (b) the depositor or trustee concerned has died;

as the case may be, and that the person to whom the repayment is to be made is the proper person to receive the money concerned.

(9) Where the Chief Executive Officer has made a payment in terms of subsection (6), he shall forward to the Master of the High Court without delay a statement showing the amount standing to the credit of the deceased depositor's account and the manner in which it has been paid.

#### **40 Certain deposits of deceased depositors to be transferred to Guardian's Fund**

Without derogation from section 100 of the Administration of Estates Act [*Chapter 6:01*], if no repayment is made in terms of subsection (6) of section *thirty-nine* within one year after the death of the depositor concerned, his deposit and any interest thereon shall be paid into the Guardian's Fund, to be dealt with as if the money had been paid into the Fund by an executor.

#### **41 Remittances to and from other savings banks**

(1) With the consent of the Minister, the Board may enter into an arrangement with any other savings bank, whether governmental or otherwise, in any country for the transfer of money—

- (a) from that other savings bank to a depositor's account with the Savings Bank, and any money so transferred shall be placed to the depositor's credit, even if the amount would cause the depositor's account to exceed the maximum amount which may be accepted from a depositor;
- (b) from a depositor's account with the Savings Bank to that other savings bank, and, notwithstanding section *thirty-nine*, any money standing to the credit of the depositor may be transferred to the other savings bank:

Provided that no money shall be so transferred without the consent of the depositor concerned or in compliance with an order of a court.

(2) Transfers in terms of subsection (1) shall be made on such terms and conditions as may be prescribed or as may be fixed by the Chief Executive Officer, and on payment of the prescribed fee.

### **PART VII**

#### **GENERAL**

#### **42 Determination of disputes**

(1) Subject to subsection (4), if a dispute arises between the Savings Bank and any person in connection with the repayment of a deposit or any interest thereon, whatever the amount in dispute, the matter shall be referred to a magistrate of the province in which the person concerned resides, carries on business or is employed.

(2) A magistrate to whom a dispute is referred in terms of subsection (1) shall take all steps necessary to resolve it in the simplest, speediest and most economical way consistent with real and substantial justice, and for the purpose shall have all the powers conferred on him by or under the Magistrates Court Act [*Chapter 7:10*] to cause persons to be summoned to give evidence, to be examined on oath or to produce any document or thing.

(3) A decision of a magistrate on a dispute referred to him in terms of subsection (1) may be appealed against as if it were a judgment in a civil action.

(4) If the parties consent thereto, a dispute referred to in subsection (1) may be submitted to arbitration and in that event, notwithstanding subsections (1), (2) and (3), the Arbitration Act, 1996 (No. 6 of 1996), shall apply to the resolution of the dispute.

#### **43 Preservation of secrecy**

(1) No member or employee or agent of the Savings Bank shall disclose to any person, except in the performance of his functions under this Act or when required to do so by any law, any information that he may have acquired in the course of his duties regarding the identity or transactions of a depositor.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001]

#### **44 Non-liability of Savings Bank for lawful acts**

(1) No liability shall attach to the Savings Bank or to a member or employee or agent of the Savings Bank for loss or damage sustained by any person as a result of the exercise by any such member, employee or agent of any function conferred or imposed upon him by or in terms of this Act, where the function was exercised *bona fide* and not negligently or in breach of a contract.

(2) Notwithstanding subsection (1), where the exercise of a function referred to in that subsection occasions loss to a depositor without any fault or negligence on his part, the Board, with the Minister's consent, may authorise the payment to or in respect of the depositor of the amount of his loss.

#### **45 Execution of contracts and instruments by Savings Bank**

An agreement, contract or instrument approved by the Board may be entered into or executed on the Savings Bank's behalf by any person generally or specially authorised by the Board for that purpose.

#### **46 Regulations**

(1) The Minister, in consultation with the Board, may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in the Minister's opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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

- (a) different classes of deposit accounts that may be opened;
- (b) the opening and closing of accounts, including the number of accounts that any person may open;
- (c) the maximum and minimum amount that may be deposited or held in an account at any one time;
- (d) interest payable in respect of deposits and the terms and conditions subject to which such interest is payable;
- (e) the repayment of deposits;
- (f) the transfer of money from one depositor's account to another account;
- (g) the rights and obligations of depositors;
- (h) the application to the Savings Bank and its agents, subject to such modifications and conditions as may be specified in the regulations, of any of the provisions of the Banking Act [Chapter 24:20] relating to the financial regulation, supervision or inspection of institutions registered under that Act;
- (i) the reduction of the share capital of the Savings Bank;
- (j) the application, subject to such modification as may be prescribed, of any of the provisions of the Companies Act [Chapter 24:03] in relation to the Savings Bank's shares and debentures.

#### **47 Destruction or alteration of documents**

Any person who, without lawful excuse, destroys, defaces or alters any pass-book, card or other document whatsoever which is used or issued for the purpose of this Act shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section as amended by section 4 of Act 22 of 2001]

#### **48 Repeal of Cap. 24:10 and savings**

(1) In this section—

“Corporation” means the Posts and Telecommunications Corporation established by section 3 of the Posts and Telecommunications Corporation Act [Chapter 12:03];

“former Savings Bank” means the Post Office Savings Bank referred to in section 3 of the repealed Act;

“repealed Act” means the Post Office Savings Bank Act [Chapter 24:10].

(2) Subject to this section, the Post Office Savings Bank Act [Chapter 24:10] is repealed.

(3) Subject to this section, the Savings Bank shall be the successor in title to all the rights and obligations of the former Savings Bank.

(4) As soon as possible after the promulgation of this Act, the Corporation shall transfer to the Board—

- (a) all accounts, records and documents kept or held by it in relation to the operations of the former Savings Bank; and
- (b) all equipment and other assets which are the property of the former Savings Bank and which are held by the Corporation.

(5) It shall not be necessary for a registrar of deeds to make any endorsement in his registers or upon any deed or document which is recorded in his registers for the purpose of altering any reference to the former Savings Bank to the Savings Bank established in terms of this Act, but a registrar of deeds, when so requested in writing

by the Chief Executive Officer, shall make the appropriate endorsement, free of charge, to any particular deed, document or register.

(6) The Savings Bank Reserve Fund established by section 7 of the repealed Act shall be deemed to have been established in terms of section *thirty-one* and shall continue in existence accordingly.

(7) Any regulations made in terms of the repealed Act and in force immediately before the date of commencement of this Act shall continue in force as if they had been made in terms of section *forty-six* and may be amended or repealed accordingly.

(8) Any decision taken or other thing made, done or commenced under the repealed Act by—

(a) the Savings Bank Board established by section 4 of the repealed Act; or

(b) the Postmaster-General appointed in terms of section 2 of the Posts and Telecommunications Corporation Act [*Chapter 12:03*];

which had effect immediately before that date shall be continue to have, or to be capable of acquiring, the same effect as if it had been made, done or commenced by the Board or the Chief Executive Officer, as the case may be, under the corresponding provision of this Act.

## **SCHEDULE (Section 4)**

### **POWERS OF SAVINGS BANK**

1. To acquire premises necessary or convenient for the exercise of its functions and, for that purpose, to buy, take in exchange, hire or otherwise acquire immovable property and interests in and rights over such property.
2. To buy, take in exchange, hire or otherwise acquire movable property.
3. To maintain, alter and improve any of its property.
4. To mortgage or pledge any of its assets and, with the Minister's approval, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets which are not required for the exercise of its functions, for such consideration as the Board may determine.
5. To draw, make, accept, indorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, 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, and to modify or rescind such contracts or rescind such suretyships or guarantees.
8. To establish branches and agencies at such places, whether inside or outside Zimbabwe, as the Board thinks fit.
9. To enter into, renew, cancel or abandon arrangements with any person or authority to act as the agent of the Savings Bank in any place, whether inside or outside Zimbabwe.
10. To act as the agent of any bank, building society or similar institution.
11. With the Minister's approval, to establish and administer funds and reserves.
12. With the Minister's approval, to pay such remuneration and allowances and grant such leave of absence and to make such gifts and bonuses and the like to its employees as the Board thinks fit.
13. 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 the pecuniary benefits to which this paragraph relates.
14. With the Minister's approval, to purchase, take in exchange, hire or otherwise acquire land or dwellings for use or occupation by its employees.
15. To construct buildings and other improvements for use or occupation by its employees on land which it has purchased, taken in exchange, hired or otherwise acquired.
16. To sell or let land or dwellings for residential purposes to its employees.
17. With the Minister's approval, to make or guarantee loans to its employees or their spouses for—
  - (a) the purchase of dwellings or land for residential purposes; or
  - (b) the construction or improvement of dwellings on land which is the property of its employees or their spouses.
18. To provide security in respect of loans such as are described in paragraph 17 by the deposit of securities, in which it may invest such moneys as the Board considers necessary for the purpose.
19. With the Minister's approval, to make loans to its employees—
  - (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the employees in carrying out their duties; or
  - (b) not exceeding three months' salary or wages payable to the employees concerned, for any purpose on such security as the Board thinks adequate.

20. 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.
21. With the Minister's approval, to provide such services as the Board considers could properly be provided by the Savings Bank, and, subject to regulations made in terms of section *forty-six*, to charge for those services such fees as the Board may determine from time to time.
22. With the Minister's approval, to promote, establish or acquire companies, partnerships or other undertakings and, in connection with any such company, partnership or undertaking—
  - (a) to manage it and act as its secretary;
  - (b) to appoint any person to act on behalf of the Savings Bank as a director or partner, as the case may be, or in any other capacity in relation thereto.
23. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the performance of its functions under this Act or any other enactment.