

H.B. 9, 2025.]

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BIOLOGICAL AND TOXIN WEAPONS CRIMES BILL, 2025

EXPLANATORY MEMORANDUM

This Bill will prohibit the development, production, manufacture, possession, stockpiling, other acquisition or retention, importation, exportation, re-exportation, transportation, transit, trans-shipment, transfer or use of certain biological agents and toxins and of biological weapons, and will implement in Zimbabwe the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (of 10 April, 1972) (the Convention), under the auspices of the United Nations, and the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare of 17 June, 1925, under the auspices of the League of Nations, (the texts of which are set out in First and Second Schedules to this Act) as amended from time to time.

Preamble

The Preamble to the Bill quotes section 327(2) of the Constitution which provides that any convention, treaty or agreement acceded to, concluded or executed by or under the authority of the President with one or more foreign states or governments or international organisations shall, except as otherwise provided by the Constitution or by or under an Act of Parliament, not form part of the law of Zimbabwe unless it has been incorporated into the law by or under an Act of Parliament.

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause contains the definitions of terms used in the Bill.

Clause 3

This clause incorporates the Convention to be part of the law of Zimbabwe and binds the State to the provisions of the Bill.

Clause 4

This clause prohibits the use in any way of biological agents, toxins or weapons. It further creates an offence for any person who encourages assists, counsels, procures, incites, facilitates or finances the commission of, or attempts or conspires to commit, an offence under this clause.

Clause 5

This clause identifies the Secretary for Defence as the responsible authority for the purposes of this Bill. The purpose of designating the Secretary as the responsible authority is to ensure that the Bill's administrative provisions are implemented, monitored, and enforced as necessary. In discharging the functions of the responsible authority, the Secretary will be assisted and advised by the National Authority Advisory Committee as constituted in the Second Schedule to the Chemical Weapons (Prohibition) Act [Chapter 11:18].

Clause 6

This clause provides for the licensing of biological agents or toxins for prophylactic, protective or other peaceful purposes. Failure to comply with the conditions of the issued licence will constitute an offence.

Clause 7

This clause provides for the general and statutory conditions attaching to every licence in addition to any conditions that may be specified in each particular licence. A licence may permit the possession, use, manufacture, etc. of biological agents or toxins for prophylactic, protective or other peaceful purposes, but under no circumstances will a licence be issued for the possession, use, manufacture, etc. of biological weapons.

Clause 8

This clause provides for the issuance, duration, surrender and renewal of licences.

Clause 9

This clause provides for the suspension and cancellation of licences.

Clause 10

This clause provides for the amendment and replacement of licences.

Clause 11

This clause provides that persons licensed under the Medicines and Allied Substances Control Act [*Chapter 15:03*] to manufacture any medicine involving the use or possession of a biological agent or toxin, will be deemed to be licensed under this Bill.

Clause 12

This clause provides for the establishment and maintenance up to date of the Register of General and Premises Licences for the Possession of Biological Agents and Toxins, which will be open to public inspection.

Clause 13

This clause provides for offences by licensed persons.

Clause 14

This clause provides for the appointment of inspectors and analysts who are required for the purpose of the Bill. To begin with, these persons will be drawn almost exclusively from the inspectorate and staff of the Environmental Management Agency and the Medicines Control Authority of Zimbabwe. However, provision is made for the employment in the Ministry of Defence of civilian and military personnel as analysts and inspectors.

Clause 15

This clause deals with the powers of inspectors. In terms of this clause every inspector must be issued with a certificate of appointment signed by the Minister. Inspectors are given the power to enter and inspect any place in which they believe on reasonable grounds that an offence is being committed.

Clause 16

This clause prohibits the obstruction and giving of false statements to an inspector or analyst engaged in carrying out his or her duties and further enjoins every person to assist the inspector or analyst to perform his or her duties on request by the inspector or analyst.

Clause 17

This clause deals with directions requiring security measures that an inspector may give to a licensee. These directions must be given in writing.

Clause 18

This clause extends the criminal jurisdiction of Zimbabwean courts over certain extra-territorial acts constituting offences against this Bill where the alleged offender is not a resident or citizen of Zimbabwe.

Clause 19

This clause enjoins every licensee or applicant for a licence to provide such information and keep such documents as may be prescribed.

Clause 20

This clause provides for the keeping of confidential information.

Clause 21

This clause provides for the admissibility of evidence tendered by an analyst. A certificate signed by an analyst setting out, in relation to a biological agent or toxin, one or more of a list of affirmations will be admissible in any proceedings for the prosecution of an offence against this Bill.

Clause 22

This clause provides for appeals against the refusal of licence applications made in terms of this Bill.

Clause 23

This clause provides for the powers of the Minister to make regulations in terms of the Bill.

Clause 24

This clause provides for the publication of any amendments to the Convention. The Minister is required to make appropriate amendments when the Convention is amended and publish such amendment through a notice in a Statutory Instrument.

Clause 25

This clause provides for transitional matters. In particular, persons who are, at the date of commencement of this Bill when it becomes an Act, already licensed under the Medicines and Allied Substances Control Act [*Chapter 15:03*] to manufacture any medicine involving the use or possession of a biological agent or toxin, will be deemed to be licensed under this Bill.

Clause 26

This clause will make consequential amendments to the Chemicals Weapons (Prohibition) Act [*Chapter 11:18*] (No. 9 of 1998) with regard to the composition and functions of National Authority Advisory Committee for the implementation of the Chemical Weapons Convention. This committee will also serve as the advisory committee to the responsible authority under this Bill.

BIOLOGICAL AND TOXIN WEAPONS CRIMES BILL, 2025

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FIRST SCHEDULE: 1972 Convention on the Prohibition, Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction.

SECOND SCHEDULE: 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

BILL

An Act to prohibit the development, production, manufacture, possession, stockpiling, other acquisition or retention, importation, exportation, re-exportation, transportation, transit, trans-shipment, transfer or use
5 of certain biological agents and toxins and of biological weapons; to implement in Zimbabwe the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April, 1972, under the auspices of the United Nations, and the Protocol for
10 the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare of 17 June 1925 under the auspices of the League of Nations (the texts of which are set out in the First and Second Schedules to this Act) as amended from time to time; to amend the Chemicals Weapons (Prohibition) Act [*Chapter*
15 *11:18*] (No. 9 of 1998); and to provide for matters connected with or incidental to the foregoing.

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

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

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

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AND WHEREAS, accordingly, for Zimbabwe to fulfil its international obligations arising from its ratification of a given treaty it must incorporate it into the domestic law by means of or under the authority an Act of Parliament.

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

5

PART I

PRELIMINARY

1 Short title and commencement

(1) This Act may be cited as the Biological and Toxin Weapons Crimes Act [Chapter...].

10

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

2 Interpretation

In this Act—

“Agency” means the Environmental Management Agency established under the Environmental Management Act [Chapter 20:27] (No.13 of 2002);

15

“analyst” means analyst referred to in section 14;

“biological agent or toxin” means any microbial or other biological agent or toxin whatever its origin or method of production, and includes any substance suspected to be a biological agent or toxin;

20

“biological weapon” means any equipment or instrumentality designed for the delivery or other use of a biological agent or toxin for hostile purposes or in armed conflict;

“Convention” means the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction as set out in the First Schedule;

25

“inspector” means inspector referred to in section 14;

“licence” means a general or premises licence issued in terms of section 6 or deemed to have been issued in terms of section 11, and “licensee”, “licensed” and “unlicensed” shall be construed accordingly;

30

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

“National Authority Advisory Committee” means the National Authority Advisory Committee referred to in section 5(2);

35

“possess”, in relation to a biological agent or toxin or a biological weapon—

(a) means to keep, store or have in custody or under control or supervision the biological agent or toxin or the biological weapon;

(b) includes to develop, produce, manufacture, stockpile, acquire, retain, import, export, re-export, transport, transit, trans-ship, transfer to any recipient directly or indirectly, or use the biological agent or toxin or the biological weapon;

40

“Protocol” means the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, as set out in the Second Schedule;

5 “Register” means the Register of General and Premises Licences for the Possession of Biological Agents and Toxins referred to in section 12;

“responsible authority” means the Secretary of the Ministry for which the Minister is responsible.

PART II

IMPLEMENTATION OF PROTOCOL AND CONVENTION

10 **3 Protocol and Convention to have effect in Zimbabwe**

(1) Subject to this Act, the Protocol and Convention shall have the force of law in Zimbabwe.

(2) This Act shall bind the State.

4 Offences in relation to biological agents, toxins and weapons

15 (1) Subject to this and any other enactment, any person who—
 (a) without being licensed to do so under section 6, possesses any biological agent or toxin; or
 (b) possesses any biological weapon; or
 (c) encourages, assists, counsels, procures, incites, facilitates or finances—
 20 (i) the unlicensed possession of any biological agent or toxin; or
 (ii) the possession of any biological weapon;

shall, subject to subsection (2) or (3), be guilty of an offence and liable—

(d) in the case of an individual—
 (i) to imprisonment for a period of not less than ten years; and
 25 (ii) additionally, at the option of the court, to a fine of not more than level fourteen;
 or to both such fine and such imprisonment;
 (e) in the case of any corporate body, whether registered or incorporated within or outside Zimbabwe, to a fine of not less than five times the maximum fine in level fourteen;
 30 (f) in the case of every director or member of the governing body of a corporate body referred to in paragraph (e)—
 (i) to imprisonment for a period of not less than ten years; and
 (ii) additionally, at the option of the court, to a fine of not more than
 35 level fourteen;
 or to both such fine and such imprisonment.

(2) If a person accused of contravening subsection (1)(a) or (c)(i) proves on a balance of probabilities that—

40 (a) the quantity of the biological agent or toxin found in his or her possession (or whose possession he or she is alleged to have encouraged, assisted, counselled, procured, facilitated or financed) is not in excess of the

quantity that is strictly necessary for prophylactic, protective or other peaceful purposes; and

- (b) he or she intended or believed that the biological agent or toxin would be possessed for prophylactic, protective or other peaceful purposes; and
- (c) the biological agent or toxin was in fact being possessed for prophylactic, protective or other peaceful purposes;

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

(3) No portion of a sentence imposed in terms of subsection (1)(d)(i) or (f)(i), or of as fine imposed in terms of subsection (1)(e) shall be suspended by the court if the effect of such suspension is that the convicted person will serve less than ten years imprisonment or be liable to pay of less than five times the maximum fine in level fourteen, as the case may be.

(4) If a person accused of contravening subsection (1)(a), (b) or (c) satisfies the court that there are special circumstances in the particular case other than those specified in subsection (2) (the facts of which shall be recorded by the court) justifying the imposition of a lesser penalty than the applicable mandatory penalty referred to in subsection (1)(d)(i), (e) or (f)(i), the person shall be liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

5 Responsible authority

(1) Subject to subsection (2) the Secretary shall be the responsible authority for the purposes of this Act.

(2) In discharging the functions of the responsible authority, the Secretary shall be assisted and advised by the National Authority Advisory Committee as constituted in the Second Schedule to the Chemical Weapons (Prohibition) Act [Chapter 11:18] (Act No. 9 of 1998).

PART III

LICENSING REGIME

6 Licensed possession of biological agents or toxins

(1) Any person who, for prophylactic, protective or other peaceful purposes, wishes to develop, produce, manufacture, possess or stockpile, acquire, retain, transport, transfer or use any biological agent or toxin or any equipment related thereto, shall make application therefor to the responsible authority in the prescribed manner and form and for the prescribed fee.

(2) The responsible authority may, in the prescribed manner and within the prescribed period, issue a licence for a prescribed duration to an applicant subject to the prescribed conditions or other conditions specified in the licence.

(3) The responsible authority may, on application by a person referred to in subsection (1), and in the prescribed manner and within the prescribed period, issue the following licences for a prescribed duration—

- (a) a general licence to the applicant subject to the prescribed conditions or other conditions specified in the licence; and
- (b) a premises licence in respect of every premises of the applicant in which the applicant proposes to—

- (i) keep, store or have in custody or under control or supervision any biological agent or toxin;
- (ii) to develop, produce, manufacture, stockpile, acquire, retain, import, export, re-export, transport, transit, trans-ship, transfer any biological agent or toxin.

7 Conditions attaching to every licence

It shall be deemed to be a condition of every—

- (a) general or premises licence held by an individual or corporate licensee that—
 - (i) under no circumstances will any biological agent or toxin be put to use for hostile purposes or in armed conflict, or for any purpose other than the prophylactic, protective or other peaceful purpose specified in the licence; and
 - (ii) no change in any of the conditions subject to which the licence is issued that is expressly specified in the licence to be a material change shall be made except with the prior written permission of the responsible authority.
 - (iii) in addition to any specific safety measures stipulated in the licence, the licensee has a general duty of care to ensure that appropriate measures are taken to prevent or minimise any foreseeable danger to persons, animals or plants or to the environment generally that may arise from the possession of any biological agent or toxin;
- (b) general licence that no licensee, whether individual or corporate, shall transfer his, her or its licence to another person during the currency of the licence except with the prior written permission of the responsible authority;
- (c) premises licensee that the licensee shall not—
 - (i) keep, store or have in custody or under control or supervision any biological agent or toxin; or
 - (ii) develop, produce, manufacture, stockpile, acquire, retain, import, export, re-export, transport, transit, trans-ship, or transfer any biological agent or toxin.

except at the premises specified or described in the premises licence;
- (d) general or premises licence held by a corporate licensee that no change in or amendment of—
 - (i) the beneficial ownership or control of the corporate body holding the licence; or
 - (ii) the shareholding or other stake in the corporate body holding the licence that exceeds ten *per centum* of the total shares or stakes in the corporate body at the time the licence was issued; or
 - (ii) the name of a corporate body holding the licence;

shall be made except with the prior written permission of the responsible authority.

8 Issuance, duration, surrender and renewal of licences

- (1) Every licence shall be valid for a period of a year or part of a year ending on 31st December of the year in which the applicant received the licence, unless it is earlier surrendered to or cancelled by the responsible authority.

- (2) If an application for a licence is successful (whether granted with or without special conditions) the responsible authority shall—
- (a) inform the applicant accordingly in writing; and
 - (b) issue to the applicant a licence in the prescribed form; and
 - (c) make an appropriate entry in the Register. 5
- (3) A person who makes an application for a licence—
- (a) in the first quarter of the year, shall pay the full prescribed issuance fee; or
 - (b) in the second quarter of the year, shall pay three-quarters of the prescribed issuance fee; or 10
 - (c) in the third quarter or fourth quarter of the year, shall pay half of the prescribed issuance fee.
- (4) If a licensee ceases to operate as such, he or she must immediately, and in any event within forty-eight hours of ceasing to operate as a licensee, surrender his or her licence to the responsible authority. 15
- (5) Upon expiry of a licence, a licensee may renew it by making an application therefor to the responsible authority no later than seven days after the expiry of the existing licence.
- (6) If an application for a licence or the renewal thereof is unsuccessful, the responsible authority shall inform the applicant accordingly in writing. 20

9 Suspension or cancellation of licences

- (1) Subject to subsections (2) and (4), the responsible authority may at any time suspend (for a period not exceeding sixty days) or cancel any licence if the responsible authority has reasonable grounds for believing that—
- (a) the licence was issued in error or through fraud or misrepresentation or non-disclosure of a material fact by the licensee; or 25
 - (b) the licensee has contravened any provision of this Act or any condition of his or her licence; or
 - (c) the licensee has ceased the licensed operations.
- (2) The responsible authority shall notify the licensee in writing of the authority's intention to suspend or cancel his or her licence and the reasons for doing so, and shall call upon the licensee to show cause, within fourteen days from the date of the notice, why the licence should not be suspended or cancelled, as the case may be: 30
- Provided that if in the opinion of the responsible authority the licence needs to be immediately suspended or cancelled in the public interest or to avert an environmental emergency he or she can issue the notice requiring the licensee to show cause after suspending or cancelling the licence. 35
- (3) If, at the expiry of the period specified in the notice given in terms of subsection (2), and after considering any representations made by the licensee, the responsible authority is satisfied for any reason specified in subsection (1) that the licence concerned should be suspended or cancelled, the responsible authority shall, by notice in writing to the licensee, suspend or cancel the licence or take such other action as it considers appropriate. 40
- (4) The penalty of suspension is only available where there has been a contravention of any provision of the Act or any condition of a licence which, in the 45

opinion of the responsible authority, is a contravention that can be easily or speedily remediated by the licensee:

Provided that—

- 5 (a) if after the expiry of the period of suspension the licensee has not taken the remedial action, the responsible authority shall forthwith cancel the licence; or
- (b) on good cause shown by the licensee, the responsible authority may extend the suspension for a period not exceeding thirty days to allow the licensee to take the required remedial action.
- 10 (5) The responsible authority shall immediately make an appropriate entry in the Register where he or she suspends or lifts a suspension of any licence or cancels it in accordance with this section.

10 Amendment and replacement of licences

15 (1) The responsible authority may at any time amend a licence or any terms or conditions of a licence—

- (a) to correct any error in the licence; or
- (b) if the licensee requests the amendment; or
- (c) if the responsible authority considers the amendment necessary to reflect the true nature of the licensed activities; or
- 20 (d) if for any other reason the responsible authority considers the amendment necessary or desirable in the interests of the environment or in the public interest.

(2) The responsible authority shall notify the licensee in writing of the authority's intention to amend a licence on a ground referred to in subsection (1)(a), 25 (c) or (d) and shall call upon the licensee to show cause, within fourteen days from the date of the notice, why the licence should not be amended.

(3) Where a licensee requests an amendment to his or her licence, he or she shall make an application to the licensing authority therefor in the prescribed form, together with the prescribed fee.

30 (4) If in the opinion of the responsible authority the amendment sought by the licensee is a material amendment, the responsible authority may require the licensee to submit an application for a new licence.

35 (5) Where a licence is lost or destroyed, the licensee shall immediately, and in any event no later than forty-eight hours after becoming aware of such loss or destruction, apply to the appropriate licensing authority in the prescribed form, together with the prescribed fee, for a replacement licence:

Provided that if the licensee subsequently finds a licence that has been lost, he or she shall immediately, and in any event no later than forty-eight hours after finding it, surrender it to the responsible authority.

40 11 Expedited licensing for persons licensed under Cap. 15:03

(1) Every person (in this section called a “medicines licensee”) who obtains a licence under the Medicines and Allied Substances Control Act [*Chapter 15:03*] (in this section called a “medicines licence”) to manufacture any medicine involving the use or possession of a biological agent or toxin shall, subject to this section, be deemed 45 to be issued with the appropriate general and premises licence in terms of this Act.

- (2) In order to be deemed to be licensed under this Act, a medicines licensee must, within thirty days of obtaining his or her medicines licence—
- (a) complete and submit to the responsible authority the prescribed form (for the submission and processing of which no fee shall be charged); and
 - (b) satisfy the responsible authority that all particulars relating to the use or possession of a biological agent or toxin in connection with the manufacture of the medicine in question have been disclosed in or together with the prescribed form. 5
- (3) Upon satisfactory compliance with subsection (2), the responsible authority must issue to the medicines licensee a certificate in the prescribed form deeming the medicines licensee to be licensed in terms of this Act. 10
- (4) During the currency of his or her medicines licence, a medicines licensee shall be deemed to be licensed under this Act for the same period and subject to the same terms and conditions as those specified in his or her medicines licence.
- (5) If the medicines licence of a medicines licensee who is deemed to be licensed under this Act is cancelled, suspended, altered or varied in terms of the Medicines and Allied Substances Control Act [*Chapter 15:03*], the medicines licensee must, within thirty days of such cancellation, suspension, alteration or variation, give notice to the responsible authority in the prescribed form (for the submission and processing of which no fee shall be charged) of the particulars of the cancellation, suspension, alteration or variation of the medicines licence. 15 20
- (6) The responsible authority shall record in the Register the particulars of any general and premises licences deemed to have been issued in terms of this section, and the particulars of any cancellation, suspension, alteration or variation of such licences.
- (7) Any medicines licensee who fails to comply timeously with subsection (1) or (5) shall— 25
- (a) be required to be licensed in terms of this Part as if he or she was not a medicines licensee; and
 - (b) be in contravention of section 4(1) in the circumstances specified in section 4(2) if he or she does not apply for a licence in terms of section 6 within thirty days from the last day on which— 30
 - (i) he or she would have been entitled to apply to be a deemed licensee under subsection (2); or
 - (ii) he or she should have notified the responsible authority of the particulars of the cancellation, suspension, alteration or variation of his or her medicines licence under subsection (5); 35
- as the case may be.
- (8) The responsible authority shall not, without the concurrence in writing of the Director-General of the Medicines Control Authority of Zimbabwe, consider any application for a licence under this Act— 40
- (a) if the application exclusively or predominantly concerns the manufacture of any medicine; or
 - (b) if the applicant, at any time within the period of five years immediately preceding the making of the application, was a medicines licensee whose medicines licence was cancelled. 45
- (9) The responsible authority may, upon at least fourteen days written notice, require the Director-General of the Medicines Control Authority of Zimbabwe to provide

to the responsible authority all particulars of any medicines licensee concerned in the manufacture of any medicine involving the use or possession of a biological agent or toxin, and the Director-General shall promptly comply with any such requirement.

5 **12 Register of General and Premises Licences for the Possession of Biological Agents and Toxins**

(1) The responsible authority shall establish and maintain, in material and electronic form, a register of licences to be known as the Register of General and Premises Licences for the Possession of Biological Agents and Toxins, which shall be divided into two parts, for general licences and premises licences, and in which the following shall be recorded—

- (a) in the case of—
 - (i) an individual licensee, the name and residential address of the licensee and the business address of the licensee; and
 - (ii) a corporate licensee, the names and residential addresses of every director or member of the governing body of the corporate body, and the address of the principal office in Zimbabwe of the licensee;
 - (b) the date of issue of every licence and of any renewal thereof; and
 - (c) any special terms or conditions subject to which any licence is issued or renewed; and
 - (d) the particulars of any suspension, cancellation, amendment or restoration of a licence; and
 - (e) the particulars of any general and premises licences deemed to have been issued in terms of section 11.
- (2) Any person may —
- (a) inspect the Register free of charge at all reasonable times at the premises of the responsible authority or at such other place that the responsible authority may direct; or
 - (b) obtain material or electronic copies of or extracts from the Register for a prescribed fee.

30 **13 Offences against Part III**

- (1) Any licensee who—
- (a) fails to comply with conditions of his or her licence with the result that any person has suffered death or serious injury, shall, subject to subsection (4), be guilty of an offence and liable—
 - (i) in the case of an individual licensee —
 - A. to imprisonment for a period of not less than ten years; and
 - B. additionally, at the option of the court, to a fine of not more than level 14;
 or to both such fine and such imprisonment;
 - (ii) where the licensee is a corporate body —
 - A. to a fine of not less than five times the maximum fine in level 14; and
 - B. in the case of every director or member of the governing body of the corporate body—

- I. to imprisonment for a period of not less than ten years; and
 - II. additionally, at the option of the court, to a fine of not more than level 14;
- or to both such fine and such imprisonment; 5
- (b) fails to comply with conditions of his or her licence with the result that any animals have suffered death or serious injury or the environment has suffered serious damage, shall be guilty of an offence and liable—
 - (i) in the case of an individual licensee—
 - A. to imprisonment for a period of not more than ten years; or 10
 - B. to a fine of not more than level 14;
 - or to both such fine and such imprisonment;
 - (ii) where the licensee is a corporate body—
 - A. to a fine of not more than five times the maximum fine in level 14; and 15
 - B. in the case of every director or member of the governing body of the corporate body—
 - I. to imprisonment for a period of not more than ten years; and
 - II. to a fine of not more than level 14; 20
 - or to both such fine and such imprisonment;
- (c) fails to comply with conditions of his or her licence in circumstances where such non-compliance involves a risk of death or serious injury to persons or animals or of serious damage to the environment—
 - (i) in the case of an individual licensee— 25
 - A. to imprisonment for a period of not more than seven years; or
 - B. to a fine of not more than level 14;
 - or to both such fine and such imprisonment;
 - (ii) where the licensee is a corporate body—
 - A. to a fine of not more than three times the maximum fine in level 14; and 30
 - B. in the case of every director or member of the governing body of the corporate body—
 - I. to imprisonment for a period of not more than seven years; and 35
 - II. to a fine of not more than level 14;
 - or to both such fine and such imprisonment;
- (d) fails to comply with conditions of his or her licence in circumstances not involving any risk of death or serious injury to persons or animals or of serious damage to the environment— 40
 - (i) in the case of an individual licensee—
 - A. to imprisonment for a period of not more than one year; or
 - B. to a fine of not more than level 10;
 - or to both such fine and such imprisonment;

- (ii) where the licensee is a corporate body—
- A. to a fine of not more than the maximum fine in level 14; and
 - B. in the case of every director or member of the governing body of the corporate body—
 - I. to imprisonment for a period of not more than one year; and
 - II. to a fine of not more than level 10;
 or to both such fine and such imprisonment.
- (2) No portion of a sentence imposed in terms of subsection (1)(a)(i) A or (1)(a)(ii) B.I, or of a fine imposed in terms of subsection (1)(a)(ii) A shall be suspended by the court if the effect of such suspension is that the convicted person will serve less than ten years imprisonment or be liable to pay less than five times the maximum fine in level fourteen, as the case may be.
- (3) If a person accused of contravening subsection (1)(a) satisfies the court that there are special circumstances in the particular case (the facts of which shall be recorded by the court) justifying the imposition of a lesser penalty than the applicable mandatory penalty referred to in subsection (1)(a)(i)A, (1)(a)(ii)A or (1)(a)(ii)B.I, the person shall be liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.
- (4) Any person who—
- (a) knowingly makes any false or misleading statement in an application for a licence or for the renewal, amendment or replacement of a licence under this Part;
 - (b) contravenes section 7(a), (b) or (c);
 - (c) fails to notify the responsible authority of any change or amendment affecting a licence in contravention of section 7(d);
 - (d) contravenes section 8(4) or (5);
 - (e) contravenes section 10(5);
 - (f) contravenes section 19(3);
- shall be guilty of an offence and liable—
- (g) in the case of an individual or individual licensee—
 - (i) to imprisonment for a period of not more than one year; or
 - (ii) to a fine of not more than level 10;
 or to both such fine and such imprisonment;
 - (h) in the case of a corporate body or corporate licensee—
 - (i) to a fine of not more than the maximum fine in level 14; and
 - (ii) in the case of every director or member of the governing body of the corporate body—
 - A. to imprisonment for a period of not more than one year; and
 - B. to a fine of not more than level 10;
 or to both such fine and such imprisonment.

PART IV

ENFORCEMENT

14 Inspectors and analysts

(1) The inspectors and analysts required for the purposes of this Act shall be—

- (a) the inspectors of the Agency appointed as such in terms of section 35 of the Environmental Management Act [*Chapter 20:27*] (No. 13 of 2002); and 5
- (b) the analysts and inspectors of the Medicines Control Authority of Zimbabwe established by the Medicines and Allied Substances Control Act [*Chapter 15:03*]; 10

to whom the responsible authority, in consultation with the Agency and Medicines Control Authority, has issued with certificates of appointment.

(2) In addition, subject to the law relating to the Defence Forces and the Public Service, there may be appointed as inspectors or analysts for the purposes of this Act any other persons, who may be independent contractors or as members on pensionable terms of service employed in the Ministry for which the Minister is responsible. 15

15 Powers of inspectors

(1) The responsible authority shall give every inspector a certificate of appointment signed by the Minister.

(2) An inspector shall, on demand by any person affected by the exercise of the inspector's functions under this Act, exhibit the certificate issued in terms of subsection (1). 20

(3) An inspector shall, in relation to any licensed premises, have power to enter such premises for the purposes of establishing whether or not the requirements of this Act and of the conditions of the general and premises licences issued to a licensee are being complied with. 25

(4) For the purpose of preventing, investigating and detecting an offence against this Act, an inspector may, subject to subsection (5), enter and inspect any place in which the inspector believes on reasonable grounds there is any—

- (a) biological agent or toxin; or 30
- (b) biological weapon.

(5) An inspector may not enter a place referred to in subsection (4) except—

- (a) with the consent of the occupant; or
- (b) under the authority of a warrant issued in terms of the Criminal Procedure and Evidence Act [*Chapter 9:07*]; or 35
- (c) without a warrant in the circumstances referred to in section 51(1)(b) of the Criminal Procedure and Evidence Act [*Chapter 9:07*].

(6) Subject to subsection (7), an inspector carrying out an inspection for the purposes of subsection (3) or (4) may—

- (a) be accompanied by an analyst and may request the assistance of one or more police officers to assist him or her in such inspection; and 40
- (b) require the attendance of and question any person whom the inspector considers will be able to assist in the inspection; and

- (c) examine, take samples of, seize, detain or remove any biological agent or toxin or biological weapon or substance suspected to be a biological agent or toxin or thing suspected to be a biological weapon; and
 - 5 (d) require any person to produce for inspection, or to copy, any document that the inspector believes contains any information relevant to the administration of this Act; and
 - 10 (e) require that any individual in charge of the place take any measures that the inspector considers appropriate to ensure compliance with the requirements of this Act and of the conditions of the general and premises licences issued to a licensee; and
 - 15 (f) use or cause to be used any computer or data processing system at the place to examine any data contained in or available to the computer or system; and
 - (g) reproduce or cause to be reproduced any record from the data at the place, in the form of a printout or other intelligible output, and remove the printout or other output for examination or copying; and
 - (g) use or cause to be used any equipment at the place to make copies of any data or any record, book of account or other document.
- (7) An inspector who seizes, removes or detains any thing, document or article
20 in terms of subsection (6) shall, as soon as practicable—
- (a) advise in writing its owner or the person having the possession, care or control of it at the time of its seizure of the reason for the seizure; and
 - (b) give a full receipt for the thing, document or article so seized, removed or detained to the person having the possession, care or control of it; and
 - 25 (c) not permit any interference with or alteration of or further removal of the thing, document or article so seized, removed or detained that is not strictly required for the purposes of enabling the inspector to ascertain whether the requirements of this Act and of the conditions of the general and premises licences issued to a licensee are being complied with; and
 - 30 (d) not retain any such thing, document or article for longer than is necessary for the purposes of an inspection or any criminal or other legal proceedings arising out of his or her inspection.
- (8) An inspector may apply to a justice of the peace for a warrant referred to in subsection 5(b) and if the justice of the peace is satisfied by information on oath given
35 by the inspector that—
- (a) the conditions forentory described in subsection (4) exist in relation to the place in question; or
 - (b) entry into the place in question has been refused or there are reasonable grounds to believe that entry will be refused;
- 40 the justice of the peace may issue a warrant authorising the inspector named in the warrant to enter the place in question.

16 Obstruction and false statements

- (1) No person shall obstruct or hinder, or knowingly make any false or misleading statement either orally or in writing, to an inspector or analyst engaged in
45 carrying out duties under this Act.
- (2) The owner or person in charge of a place being searched under section 15 and every person present therein shall give an inspector or analyst all reasonable

assistance to enable the inspector or analyst to perform his or her duties, and shall furnish the inspector or analyst with any information related to the administration of this Act that the inspector or analyst reasonably requests.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable— 5

(a) in the case of an individual—

- (i) to imprisonment for a period of not more than one year; or
- (ii) to a fine of not more than level 10;
or to both such fine and such imprisonment;

(b) in the case of a corporate body— 10

- (i) to a fine of not more than the maximum fine in level 14; and
 - (ii) in the case of every director or member of the governing body of the corporate body
 - A. to imprisonment for a period of not more than one year; and
 - B. to a fine of not more than level 10; 15
- or to both such fine and such imprisonment.

17 Directions requiring security measures

(1) An inspector may give directions to a licence of any premises requiring him or her to take such measures to ensure the security of any biological agent or toxin kept or used in his or her premises. 20

(2) The directions referred to in subsection (1)—

- (a) shall be in writing;
 - (b) shall specify or describe the biological agent or toxin that is the subject of the direction;
 - (c) may require the licensee to give notice to the responsible authority before any biological agent or toxin specified or described in the direction is kept or used in the premises; 25
 - (d) where the directions require the disposal of any biological agent or toxin or weapon—
 - (i) must specify the manner in which, and time by which, the biological agent or toxin or weapon must be disposed of; 30
 - (ii) shall require the licensee to produce the biological agent or toxin or weapon to a person specified or described in the directions in the manner and by the time so specified for him or her to dispose of the biological agent or toxin or weapon; 35
- and
- (e) shall afford a licensee to whom any direction is addressed an opportunity to make representations thereon within forty-eight hours:

Provided that pending the making of any representations by a licensee against any direction an inspector gives in terms of this section, the direction shall be implemented if, in the opinion of the inspector, circumstances are such that it is in the interest of defence, public order, public safety or public health that the direction be complied with immediately. 40

18 Extra-territorial application

(1) A person who is alleged to have committed an offence under sections 4 and 13 outside the territory of Zimbabwe, may be prosecuted for that offence if—

- (a) at the time the offence is alleged to have been committed, the person was a citizen of or domiciled in Zimbabwe; or
- (b) the person not being a citizen of or domiciled in Zimbabwe, he or she is amenable to the jurisdiction of Zimbabwe.

PART V**INFORMATION AND DOCUMENTS****19 Information and documents**

(1) Every licensee or applicant for a licence shall—

- (a) provide such information, at such times and in such form, as may be prescribed, to the responsible authority or to any other prescribed authority; and
- (b) keep and maintain the documents prescribed, at the person's place of business or at such other place as may be designated by the responsible authority, in the manner and for the period that is prescribed and, on request by the responsible authority, provide the documents to the responsible authority or to any other prescribed authority.

(2) The responsible authority may issue a notice to any person whom the responsible authority believes on reasonable grounds has information or documents relevant to the enforcement of this Act, whether or not such person is licensed, requesting the person to provide the information or documents to the responsible authority.

(3) A person who receives a notice referred to in subsection (2) shall provide the requested information and documents that are under the person's care or control to the responsible authority in the form and within the time specified in the notice.

20 Confidential information

(1) No person who obtains information or documents pursuant to this Act or the Convention from a person who indicates that such matter is confidential shall knowingly, without the written consent of the person furnishing them, communicate it or them or allow it or them to be communicated to any person, or allow any person to have access to it or them, except—

- (a) for the purpose of the enforcement or application of this Act or any other enactment;
- (b) pursuant to an obligation of Zimbabwe under the Convention; or
- (c) to the extent that they are required to be disclosed or communicated in the interest of public safety, public morality, public defence or public health; or
- (d) in pursuance of a court order.

21 Evidence of analyst

(1) Subject to subsection (3), a certificate signed by an analyst setting out, in relation to a biological agent or toxin, one or more of the following—

- (a) when and from whom the biological agent or toxin was received;
- (b) what labels or other means of identifying the biological agent or toxin accompanied it when it was received;
- (c) what container the biological agent or toxin was in when it was received;
- (d) a description of the biological agent or toxin received; 5
- (e) that he or she has analysed or examined the biological agent or toxin;
- (f) the date on which the analysis or examination was carried out;
- (g) the method used in conducting the analysis or examination;
- (h) the results of the analysis or examination;

is admissible in any proceedings for an offence referred to in sections 4 or 13 as evidence of the matters in the certificate and the correctness of the results of the analysis or examination. 10

(2) Section 278 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] applies to this section with such changes as may be necessary.

PART VI 15

GENERAL

22 Appeals

- (1) Any person who is aggrieved by a decision of the responsible authority to—
 - (a) reject an application for a licence; or
 - (b) grant an application for a licence subject to specified conditions; 20
 - (c) cancel a licence in terms of section 9; or
 - (d) suspend a licence in terms of section 9; or
 - (e) amend a licence in terms of section 10(1)(c) or (d);

may appeal to the Minister in the prescribed form (or in a substantially similar form) together with the prescribed fee within fourteen working days from the date he or she is notified of the decision in accordance with section 6(6), 8(2)(a), 9(3) or 10(2) as the case may be. 25

(2) Subject to subsection (4), the period between the lodging of the appeal in terms of subsection (1) and its determination shall not exceed thirty days,

Provided that if the appeal has not been determined after that period it shall not be deemed to have been determined in favour of the appellant. 30

(3) The Minister may before deciding an appeal request the appellant to make such further written submissions or supply such further information as he or she considers will be of assistance in determining the appeal, in which event the thirty day period referred to in subsection (2) shall be extended by a further period so that the appeal may be determined on a date no later than sixty days from the date when the appeal was lodged. 35

(4) On an appeal under this section, the appellate authority may confirm, vary or set aside the decision or action appealed against.

(5) Upon making his or her determination, the Minister shall notify the determination to the appellant and the responsible authority accordingly, and shall state his or her reasons for the determination. 40

(6) If the determination is favourable to the appellant the responsible authority shall within seven working days from the date of such notification, grant to the appellant the licence in question.

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

- 5 (a) an appellant whose application for a licence or permit has been rejected or whose licence or permit is granted conditionally or whose licence has been suspended or cancelled; and
 - (b) the appeal has not been determined timeously in accordance with subsection (3);
- 10 such appellant has a right under the Administrative Justice Act [*Chapter 10:28*] to apply to the High Court to compel the Minister to furnish reasons why the determination of his or her appeal has not been made timeously and for such other relief that the High Court may grant under that Act.

23 Regulations

- 15 (1) The Minister, in consultation with the Agency, the responsible authority and the National Authority Advisory Committee, may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for the better carrying out of or giving effect to this Act.
- 20 (2) Without derogating from the generality of subsection (1), the Minister may make regulations—
 - (a) that prescribe certain substances to be biological agents or toxins and certain equipment to be biological weapons;
 - 25 (b) governing conditions under which a licence in terms of this Act may be issued, suspended and cancelled;
 - (c) governing the fees or the manner of calculating the fees that may be prescribed to be paid for the purpose of this Act;
 - (e) respecting the detention, storage, transfer, restoration, forfeiture and disposal, including destruction, of things, articles or substances removed by inspectors under this Act; and
 - 30 (g) generally for carrying out the purposes and provisions of the Convention and Protocol; and
 - (h) imposing fines for breaches of regulations not exceeding level 10.

24 Publication of amendments to Schedules

- 35 The Minister shall, as soon as practicable after any amendment to the Convention or Protocol is made, make the appropriate amendments to the First and Second Schedules by notice in a statutory instrument.

25 Transitional provisions

- (1) In this section—
- 40 “fixed date” means the date on which this Act comes into effect.
- (2) Every person who, on the fixed date, is licensed under the Medicines and Allied Substances Control Act [*Chapter 15:03*] to manufacture any medicine involving the use or possession of a biological agent or toxin, shall, with effect from the fixed date—

- (a) be deemed to be issued with the appropriate general and premises licence in terms of this Act; and
- (b) be deemed (during the currency of his or her licence under the Medicines and Allied Substances Control Act [*Chapter 15:03*]) to be licensed under this Act for the same period and on the same terms and conditions as those specified in his or her licence issued under the Medicines and Allied Substances Control Act [*Chapter 15:03*].

(3) Section 11(2), (3), (5) and (7) and (8) shall not apply to the persons referred to in subsection (2).

(4) The Director-General of the Medicines Control Authority of Zimbabwe shall, no later than sixty days after receiving a written request from the responsible authority to that effect, furnish the responsible authority with all particulars of the persons referred to in subsection (2) to enable the responsible authority to make the appropriate entries in the Register.

(5) Notwithstanding anything to the contrary in this Act, but subject to subsection (6), every person who, before the fixed date, possessed any biological agent or toxin for prophylactic, protective or other peaceful purposes (the proof whereof shall lie on him or her), other than for any purpose for which a licence is required under the Medicines and Allied Substances Control Act [*Chapter 15:03*], may, for a period of twelve calendar months after the fixed date, continue to possess and acquire the same biological agent or toxin for such purposes, at the expiry of which period such person must either have obtained a licence under this Act or must cease to possess such biological agent or toxin on the date of such expiry.

(6) During the period for which a person's possession of any biological agent or toxin is permitted to be unlicensed under subsection (5), Part IV and section 19 shall apply to such person as if or she is licensed.

26 Amendment of Cap. 11:18

The Chemicals Weapons (Prohibition) Act [*Chapter 11:18*] (No. 9 of 1998) is amended—

- (a) in section 5 (“National Authority”) by the insertion of the following subsections, the existing section becoming subsection (1)—

“(2) In discharging the functions of the National Authority, the Secretary shall be assisted and advised by the National Authority Advisory Committee as constituted in the Second Schedule.

(3) The Minister may by notice in a statutory instrument amend the Second Schedule—

- (a) to enable the National Authority Advisory Committee to operate more efficiently as assistant and adviser to the National Authority;
- (b) by varying the composition, functions and procedure of the National Authority Advisory Committee when the Committee is employed in assisting or giving advice to the responsible authority under the Biological and Toxin Weapons Crimes Act [*Chapter 11:22*] on the implementation of the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, and the 1972 Convention on the Prohibition

- of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction”;
- (c) may, by regulations made under section 11, repeal and replace the Second Schedule.”;
- (b) in section 11 (“Regulations”)—
- (i) in subsection (2) by the insertion of the following paragraph after paragraph (b)—
- “(c) the fees for the processing and issuance of licences or for other services provided or things done pursuant to this Act.”;
- (ii) by the insertion after subsection (3) of the following subsection—
- “(4) Regulations in terms of subsection (1) may provide for any appeal against a decision of the Minister or the National Authority rendered in terms of this Act to be lodged in the first instance with the Administrative Court, and, in that event, for the decision of the Administrative Court on the appeal to be final, subject to the review of the Administrative Court’s decision by the High Court on the grounds specified in section 27 of the High Court Act [*Chapter 7:06*].”;
- (c) by the insertion of the following Schedule, the existing Schedule becoming the First Schedule—

“SECOND SCHEDULE (*Section 5(2)*)

NATIONAL AUTHORITY ADVISORY COMMITTEE

Paragraph

1. Definitions.
2. Membership of National Authority Advisory Committee.
3. Functions of Committee.
4. Liaison functions of National Authority.
5. Licensing of Schedules 1, 2 and 3 chemicals and related facilities.
6. Export and import of Schedules 1, 2 and 3 chemicals.
7. Obligation to supply information.
8. OPCW inspections.
9. OPCW inspection procedures.
10. National inspections and powers of national inspectors and representatives.
11. Handling of confidential information.

Definitions

1. (1) In this Schedule—
- “chemical weapons” means chemical weapons as defined in paragraph 1 of Article II of the Convention;
- “Committee” means the National Authority Advisory Committee constituted under paragraph 2;
- “OPCW” means the Organisation for the Prohibition of Chemical Weapons, established at The Hague, the Netherlands, pursuant to paragraph 1 of Article VIII of the Convention;
- “OPCW inspector” means an inspector appointed by the OPCW;

“national inspector” means an inspector as defined in section 2 of the Act;

“prescribe” means prescribe by regulations made in terms of section 11 of the Act;

“protective purposes” means for purposes of protection against the use of toxic chemicals or chemical weapons;

Scheduled chemicals” or “Schedule 1, 2 or 3 chemicals” means the chemicals specified in Schedule 1, 2 or 3 to the Convention;

“Technical Secretariat” shall have the meaning assigned to it under Article VIII (D) of the Convention;

“toxic chemical” means a toxic chemical as defined in paragraph 2 of Article II of the Convention;

Membership of National Authority Advisory Committee

2. (1) The National Authority Advisory Committee shall consist of the Secretary as the Chairperson of the Committee, the medical officers of health for the Bulawayo and Harare Metropolitan Provinces, and the following members appointed by the Minister—

- (a) a member nominated by the Office of the President and Cabinet;
- (b) a member employed in the Ministry for which the Minister is responsible;
- (c) a member employed in the Ministry of Foreign Affairs and nominated by the Minister responsible for foreign affairs;
- (d) a member employed in the Attorney-General’s Office and nominated by the Attorney-General;
- (e) a member employed in the Ministry responsible for industry of international trade and nominated by the Minister responsible for that Ministry;
- (f) a member employed in the Ministry responsible for energy or power and nominated by the Minister responsible for that Ministry;
- (g) a member employed in the Ministry responsible for the environment and nominated by the Minister responsible for that Ministry;
- (h) a member employed in the Ministry responsible for transport and nominated by the Minister responsible for that Ministry;
- (i) a member employed in the Ministry responsible for health and nominated by the Minister responsible for that Ministry;
- (j) a member of the Police Force nominated by the Commissioner-General of Police;
- (k) an officer of the Zimbabwe Revenue Authority nominated by the Commissioner-General of the Authority;
- (l) a person employed by the Scientific and Industrial Research Council and nominated by the Minister responsible for the Scientific and Technological Research Act [*Chapter 10:22*];
- (m) a person employed by the Medicines Control Authority of Zimbabwe and nominated by the Minister responsible for the Medicines and Allied Substances Control Act [*Chapter 15:03*];

(2) Any one or more of the following additional and temporary members of the Committee may be appointed by the Chairperson in consultation with the Minister as the occasion requires, but shall not have the right to vote on any matter put to the

vote by the Committee at any meeting unless the majority of the permanent members of the Committee so authorises for the purpose of that meeting only —

- (a) a nominee of the Zimbabwe Medical Association;
- (b) a nominee of the Council of Veterinary Surgeons of Zimbabwe;
- (c) a nominee of the Pharmaceutical Society of Zimbabwe;
- (d) a nominee of any statutory or chartered university, with special knowledge of chemistry or biology;
- (e) a nominee of any organisation considered by the Minister represent industry, with special knowledge of the chemical industry.

(3) If anybody or person fails, neglects or refuses to submit any names or make any nomination the purposes of subsection (2), the Minister may in terms of the appropriate provision appoint any person, whether that person is qualified in terms of that provision or not, whom he or she thinks fit to be a member.

(4) An appointed member of the Committee may appoint any person approved by the person who nominated the appointed member to be his or her alternate, who shall act as a member only when the member for whom he or she is alternate is for any reason unable to exercise his or her functions as a member; and

Functions of Committee

3. In assisting and advising the Secretary as the National Authority, the Committee shall —

- (a) liaise with the OPCW and its organs on all matters relevant to the implementation of the Convention;
- (b) work closely with all relevant Ministries and, in particular, with the Ministry of Defence and the Ministry of Industry and International Trade, on all matters relating to export and import of Schedules 1, 2 and 3 chemicals, and serve as Registrar for all matters that are related to OPCW declarations and recoding of licences issued in relation to Schedules 1, 2 and 3 chemicals;
- (c) tender advice on all matters relevant to the Convention, this Act and any regulations made or to be made under it;
- (d) as Registrar to the National Authority the Committee shall —
 - (i) keep a record of all its proceedings and those of the OPCW organs relevant to the implementation of the Convention;
 - (ii) advise the Minister through the National Authority on all matters relevant to the Convention, the Act, and this Schedule, and provide information as required;
 - (iii) receive and distribute to the general public information about chemical weapons disarmament and non-proliferation, and the role of the individual and corporate bodies in chemical disarmament as well as their obligations under this Act;
 - (iv) record, process and forward all data required for submission to the Technical Secretariat of the OPCW, including all declarations, particularly under Articles III, V and VI of the Convention and Parts IV, V, VI, VII, VIII and IX of the Verification Annex of the Convention;
 - (v) advise the Ministry responsible for industry or international trade on the granting or otherwise of trade licences with respect to Scheduled

- chemicals, and also advise that Ministry on the administration of all licences required under the Convention;
- (vi) receive and forward to the Ministry responsible for industry or international trade applications for licences by individuals and entities for the export and import of Schedule 1, 2 or 3 chemicals;
 - (vii) administer licences issued by the Ministry responsible for industry or international trade for Schedule 1, 2 or 3 facilities as required under this Act;
 - (viii) record information received in terms of section 9 of the Act and from legal and natural persons in terms of paragraphs 18 and 19 of Part VII of this Schedule and submit relevant reports to the Technical Secretariat of the OPCW;
 - (ix) advise the Minister with respect to payment of Zimbabwe's assessed contributions to the OPCW, pursuant to paragraph 7 of Article VIII of the Convention;
- (e) submit to the Technical Secretariat of the OPCW all notifications required under the Convention, including—
- (i) information on the legislative and administrative measures in force in Zimbabwe to implement the Convention and the text of these measures, in accordance with paragraph 5 of Article VII of the Convention, and OPCW decision C- 8/Dec.16;
 - (ii) advance notification and reporting on Schedule 1 chemicals transferred to or received from natural or legal persons in other State Parties to the Convention in accordance with Part VI (B), paragraphs 3, 4, *5bis* and 6 of the Verification Annex;
 - (iii) changes to the list of riot control agents held by Zimbabwe for riot control purposes, not later than 30 days after any change becomes effective, as required under Article III, paragraph 1(e), of the Convention;
 - (iv) changes in the address or points of contact with the National Authority, in accordance with Article VII, paragraph 4 of the Convention;
 - (v) the designated point(s) of entry into Zimbabwe for OPCW inspections, pursuant to paragraph 16 of Part of the Verification Annex to the Convention;
 - (vi) the standing diplomatic clearance number for non-scheduled aircraft, in terms of paragraph 22 of Part II of the Verification Annex to the Convention;
 - (vii) the radio frequencies available for use by the OPCW inspectors for two-way radio communications among inspection team members, in accordance with paragraph 44 of Part II of the Verification Annex to the Convention;
 - (viii) the list of national holidays at the beginning of every calendar year; and
 - (ix) the extent, if at all, of Zimbabwe's voluntary contribution to a fund for assistance in protecting States Parties against chemical weapons, pursuant to Article X, paragraph 7(a) of the Convention; what Zimbabwe may agree in advance to hold in store by way of chemical weapons detection equipment, protective equipment,

- decontamination equipment and decontaminants, medical antidotes and treatments, and advice on any of the protective measures, that it would be ready to deliver on demand, pursuant to Article X, paragraph 7(b) of the Convention; or a declaration by Zimbabwe no later than 180 days after entry into force of the Convention for Zimbabwe, of the kind of assistance Zimbabwe might provide in response to an appeal by the OPCW, pursuant to Article X, paragraph 7(c) of the Convention;
- (f) submit to the Technical Secretariat of the OPCW all declarations required under the Convention, including—
- (i) declarations of chemical weapons pursuant to Article III, paragraph 1 (a) of the Convention, and Part IV (A), paragraphs 1 and 3, of the Verification Annex;
 - (ii) declarations of old chemical weapons and abandoned chemical weapons pursuant to Article III, paragraph 1 (b) of the Convention, providing all available information in accordance with Part IV (B), paragraphs 3, 4, 8 and 9 of the Verification Annex;
 - (iii) declarations of chemical weapons production facilities pursuant to Article III, paragraph 1 (c) of the Convention in accordance with Part V (A), 1, 2, 3 and 5 of the Verification Annex;
 - (iv) declarations of chemical weapons production facilities, specifying the precise location, nature and general scope of any facility or establishment under its jurisdiction or control, and that has been designed, constructed or used since 1 January, 1946, primarily for the development of chemical weapons. Such declaration shall include, *inter alia*, laboratories and test and evaluation sites, in accordance with Article III, paragraph 1 (d) of the Convention and Part V (A), of the Verification Annex;
 - (v) declarations of each chemical held for riot control purposes, in accordance Article III, paragraph 1 (e) of the Convention;
 - (vi) detailed annual declarations, providing the Technical Secretariat with the name, location and detailed technical description of any single small-scale facility producing Schedule 1 chemicals for protective purposes in accordance with Part VI (C), paragraphs 8 to 12, and Part VI (D), paragraphs 13 to 20 of the Verification Annex;
 - (vii) annual declarations on past activities of Schedule 1 facilities, in accordance with Part VI (D), paragraphs, 13, 14 and 15 and 19 of the Verification Annex;
 - (viii) a detailed annual declaration regarding the projected activities and the anticipated production at a single small-scale facility referred to in subparagraph (vi) above for the coming year in accordance with Part VI (D), paragraph 16 and 20 of the verification Annex;
 - (ix) annual declarations on transfers of Schedule 1 chemicals in compliance with the requirements of Part VI (B), paragraphs 3, 4, 5*bis*, and 6 of the Verification Annex;
 - (x) initial and annual declarations pursuant to Article VI, paragraphs 7 and 8, including aggregate national data for the previous calendar year on the quantities produced, processed, consumed, imported and exported, of each Schedule 2 chemical, as well as specifying quantities of import and export for each country involved;

- (xi) initial declarations referred to in subparagraph (x) above shall be made not later than 30 days after this Convention enters into force for Zimbabwe; and, starting in the following calendar year, annual declarations shall be made not later than 90 days after the end of the previous calendar year, in accordance with Part VII, paragraph 2 of the Verification Annex;
- (xii) initial and annual declarations for all plant sites that comprise one or more plant(s) which produced, processed or consumed during any of the previous three calendar years or is anticipated to produce, process or consume in the next calendar year more than (a) 1 kg of a chemical designated in Schedule 2, part A; (b) 100 kg of any other chemical listed in Schedule 2, part; or (c) 1 tonne of a chemical listed in Schedule 2, Part B, in accordance with paragraphs 1 and 2 and paragraphs 3 to 8 of Part VII of the Verification Annex;
- (xiii) initial and annual declarations referred to in subparagraph (xii) above and pursuant to part VII, paragraph 3 of the Verification Annex shall be made not later than 30 days after this Convention enters into force for Zimbabwe, and starting in the following calendar year, annual declarations not later than 90 days after the end of the previous calendar year, and annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity planned as an addition after the annual declaration has been submitted shall be declared not later than five days before this activity begins, in accordance with Part VII, paragraph 4 of the Verification Annex;
- (xiv) declarations on past production of Schedule 2 chemicals for chemical weapons purposes, pursuant to Part VII, paragraphs 9 and 10 of the Verification Annex;
- (xv) initial and annual declarations, pursuant to Article VI, paragraphs 7 and 8, and Part VIII (A), paragraphs 1 and 2 of the Verification Annex, including aggregate national data for the previous calendar year on the quantities produced, imported and exported of Schedule 3 chemicals as well as quantities imported and exported by countries involved;
- (xvi) initial and annual declarations of all plant sites producing Schedule 3 chemicals, pursuant to Part VIII (A), paragraphs 3 to 8 of the Verification Annex, including aggregate national data for the previous calendar year on the quantities produced, imported and exported of Schedule 3 chemicals as well as quantities imported and exported by the countries involved;
- (xvii) declarations pursuant to Part VIII (A), paragraphs 9 and 10 of the Verification Annex on past production of Schedule 3 chemicals for chemical weapons purposes;
- (xviii) any information on plant sites declared under Part VII (A), and under paragraphs 6, 7(a), 8(a) and 10 of Part VII (A) hereof shall be transmitted by the Technical Secretariat to any requesting State Party;
- (xix) initial declaration pursuant to Article VI, paragraph 7 of the Convention, and Part IX (A), paragraphs 1 to 6 of the Verification Annex, of plant sites that produced by synthesis during the previous

calendar year more than 200 tonnes of unscheduled discrete organic chemicals (DOC's); or those that comprise one or more plants which produced by synthesis during the previous calendar year more than 30 tonnes of an unscheduled discrete organic chemical containing the elements of phosphorus, sulphur or fluorine (referred in short as "PSF-chemicals");

- (xx) the list of names of plant sites, their exact locations and addresses, their main activities, the number of plants, and the names of the owners thereof and their addresses submitted pursuant to paragraph 1 of Part IX (A), shall not include plants that produced explosives and hydrocarbons;
- (xxi) annual information on the national protective programme in accordance with Article 10, paragraph 4, of the Convention following the format required by OPCW Conference decision C-9/DEC. 10;
- (xxii) any changes to any annual declarations; and
- (xxiii) any information on plant sites declared under part VII (A), and under paragraphs 6, 7(a), 7(c), 7(d)(i), 79(d) (iii), 8(a) and 10 of Part VII (A) hereof, shall be transmitted by the Technical Secretariat to any requesting State Party;
- (f) facilitate all OPCW inspections, and fact-finding missions in accordance with Article VIII, paragraph 51 of the Convention, and Part II (B), paragraphs 10 to 15, Part II (C), and Part X of the Verification Annex, pursuant to Article IX of the Convention.

Liaison functions of National Authority

4. (1) The National Authority shall perform the following liaison functions in the course of fulfilling its responsibilities—

- (a) liaise with the Ministry of Foreign Affairs in giving effect in Zimbabwe to the privileges and immunities of the OPCW and OPCW inspection teams, in accordance with Article VIII, paragraphs 48, 49 and 51 of the Convention, and Part II (B), paragraphs 10, 11, 12 and 15 of the Verification Annex;
- (b) liaise with the Ministry of Foreign Affairs in the negotiation and conclusion of agreements with the OPCW in terms of Article VIII, paragraph 50 of the Convention;
- (c) liaise with the Ministry of Foreign Affairs in the negotiation and conclusion of agreements with the OPCW in terms of Article X, paragraph 7 in order for Zimbabwe to meet the obligations outlined in Part III, paragraph 3(d) (ix) of this Schedule;
- (d) liaise with the Ministry of Foreign Affairs and the Ministry of Home Affairs in facilitating the issuance of two-year multiple entry visas for OPCW inspectors, in accordance with Part II (B), paragraphs 10 and 11 of the Verification Annex;
- (e) liaise with the Ministry of Foreign Affairs and supply relevant information to the Ministry for it to be able to respond to requests from other States Parties or from the Technical Secretariat for clarification in relation to compliance with the Convention under Article IX and Part X;
- (f) liaise with Ministry of Foreign Affairs in receiving inspection teams from the OPCW, and in escorting them on any OPCW inspections notified to

Zimbabwe in accordance with Part II (D), paragraphs 31 and 32 of the Verification Annex, Part X, paragraph 6, or requested under Article X of the Convention;

- (g) liaise with the Ministry of Home Affairs and the Ministry of Justice and other members of the Ministry headed by the Secretary as the National Authority in conducting outreach activities in Zimbabwe in order to publicise the Convention and the obligations of natural and legal persons under sections 3, 4, 6 and 9 of the Act and this Schedule;
- (h) liaise with all relevant investigative bodies, including the Police, the Attorney-General, the Prosecutor-General, customs and port authorities in the enforcement of the Convention, and provide the Minister with any relevant information thereof
- (i) liaise with the Attorney-General's Office and the National Prosecuting Authority on any matter that may be the subject of eventual requests for cooperation and legal assistance under Article VII; and
- (j) liaise with the Attorney General's Office and the National Prosecuting Authority through the Ministry of Foreign Affairs, in proposing amendments to the Act or this Schedule, and amendments to the Convention and decisions of the OPCW policy-making organs as may be deemed necessary for the effective implementation of the Convention.

Licensing of Schedules 1, 2 and 3 chemicals and related facilities

5. (1) Schedule 1 chemicals shall not be produced, acquired, retained, transferred or used unless—

- (a) the chemicals are for research, medical, pharmaceutical or protective purposes; and
- (b) the types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and
- (c) the aggregate amount of such chemicals at any given time nationally is equal to or less than 1 tonne.

(2) Licences may be issued by the Minister for the following Schedule 1 facilities—

- (a) a single small-scale facility (SSSF) in which only 10 kg are produced per year in reaction vessels in production lines not configured for continuous operation. The volume for the said vessels shall not be more than 100 litres, and the total volume of all such reaction vessels of 5 litres each shall not be more 500 litres; and
- (b) one production facility outside the SSSF for protective purposes, at which Schedule 1 chemicals in aggregate quantities not exceeding 10 kg per year may be produced; and
- (c) a production facility outside the SSSF producing not more than 100g per year of a Schedule 1 chemical in aggregate quantities not exceeding 10kg per year for research, medical or pharmaceutical purposes.

(3) The following is exempt from licensing—

- (a) synthesis of Schedule 1 chemicals for research, medical or pharmaceutical purposes, but not for protective purposes, may be carried out at laboratories in aggregate quantities of less than 100g per year per facility. Such facilities are exempt from licensing pursuant to Part VI (B), paragraph 12 of the Verification Annex; and

- (b) castor oil processing plants are exempt from verification under OPCW decision C-V/DEC.17.

(4) The following is the procedure for licence applications—

- (a) licences to operate facilities to produce Schedule 1 chemicals shall be issued by the Minister. Applicants shall submit their applications through the National Authority at least 180 days prior to the intended date of commencement of production;
- (b) subject to any exceptions provided for in the Convention, the Act and this Schedule, any juridical or natural person intending to operate a facility to produce Schedule 1 chemicals shall obtain the authorisation of the Minister pursuant to section 8(2) of the Act, and paragraphs 3(c)(vii) and 5(2) and 4(a) of this Schedule;
- (c) the application shall be in the approved form attached as Appendix A to this Schedule;
- (d) there shall be submitted together with the application form a prescribed fee;
- (e) the Minister may request additional information concerning the application;
- (f) in consultation with the National Authority, the Minister shall approve or refuse the application 90 days before the intended date of commencement of production;
- (g) the licence shall be issued for a two-year period;
- (h) if the application is approved, the National Authority shall inform the applicant in writing and issue to the applicant the relevant licence, on payment by the prescribed fee.

(5) The licence shall contain the conditions upon which it is issued, and all essential details, including the—

- (a) name and address of the person to whom the licence is issued; and
- (b) address of the facility to which the licence pertains; and
- (c) purpose of the licence; and
- (d) date on which the licence is issued and the date of expiration or renewal.

(6) An application for the renewal of a licence shall be lodged three months before the expiration of the licence.

(7) If the application is not approved, the National Authority shall inform the applicant in writing, providing the reasons for the refusal. The applicant may re-submit the application within one year.

(8) The Minister may revoke or suspend a licence if the holder breaches any of the conditions of the licence or the Convention, the Act or this Schedule. The holder shall be notified in writing of the revocation or suspension together with the reasons therefor.

(9) Any applicant for or holder of a licence may appeal to the Administrative Court against the refusal to issue a licence or the cancellation or suspension thereof, on the grounds that the Minister has misdirected himself or herself in terms of the Convention, the Act, or this Schedule. The decision of the Administrative Court shall be final, subject to the review of the Administrative Court's decision by the High Court on the grounds specified in section 27 of the High Court Act [*Chapter 7:06*].

(10) Should any holder of a licence under this Schedule cease activities, the Minister shall cause this information to be published, and the National Authority shall notify the Technical Secretariat of the OPCW accordingly.

Export and import of Schedules 1, 2 and 3 chemicals

6. (1) Schedule 1, 2 and 3 chemicals shall only be exported or imported for the following purposes, and in types and quantities consistent with that purpose—

- (a) research, medical, or pharmaceutical purposes;
- (b) protection against the use of toxic chemicals and the use of chemical weapons;
- (c) industrial, agricultural, or other peaceful purposes;
- (d) law enforcement, including domestic riot control.

(2) The conditions for the transfer of Scheduled chemicals are as follows, subject to exceptions in subparagraph (3)—

- (a) Schedule 1 chemicals shall only be transferred to or received from juristic or natural persons domiciled in a State Party to the Convention. Schedule 1 chemicals so transferred shall not be re-transferred to persons or corporate entities in third States. The aggregate amount of Schedule 1 chemicals at any given time in Zimbabwe shall not exceed 1 tonne. All transfers of Schedule 1 chemicals shall be notified to the National Authority by the natural or legal persons making the transfer, and to the OPCW by the National Authority, not less than 30 days in advance of the transfer;
- (b) Schedule 2 chemicals shall only be transferred to or received from legal or natural persons domiciled in a State Party to the Convention;
- (c) Schedule 3 chemicals shall be transferred between States Parties. Schedule 3 chemicals shall only be transferred to or received from legal or natural persons domiciled in States not Party to the Convention only upon obtaining an end-use certificate from the competent government authority of the State not party to the Convention. The end-use certificate shall state—
 - (i) that the chemicals shall only be used for purposes not prohibited under the Convention;
 - (ii) that the chemicals shall not be re-transferred;
 - (iii) the types and quantities of the chemical (s) involved;
 - (iv) the end-use(s) of the chemical involved; and
 - (v) the name(s) and address(es) of the end –user(s).

(3) The following are exceptions to the transfer regime in subparagraph (2)—

- (a) notification of transfers of the Schedule 1 chemical sax toxin in quantities equal to or less than 5mg intended for medical or diagnostic purposes, can be made to the Technical Secretariat of the OPCW at the time of the transfer, in accordance with Part VI (B), paragraph 5bis of the Verification Annex;
- (b) restrictions on the transfer of Schedule 2 chemicals to corporate or natural persons in States not party to the Convention shall not apply to—
 - (i) products containing one percent or less of a Schedule 2A or 2A chemicals;
 - (ii) products containing 10 percent or less of a Schedule 2B chemical; or

- (iii) products identified as consumer goods packaged for retail sale for personal use or personal use or packaged for individual use;
- (c) the requirement for an end-use certificate prior to transferring Schedule 3 chemicals to corporate or natural persons in a State not party to the Convention shall not apply to—
 - (i) products containing 30 percent or less of a Schedule 3 chemical; and
 - (ii) products identified as consumer goods packaged for retail sale for personal use, or packaged for individual use.

(4) Foreign trade in Schedules 1, 2 and 3 chemicals shall require a licence. The procedure for application for an import or export licence shall be the same as that followed in paragraph 5(4) with respect to licences to operate Schedule 1 chemical production facilities, except that the application for an import or export licence shall be made 45 days in advance of the intended transfer, and that the Minister, in consultation with the National Authority, shall decide whether or not to grant a licence within 15 days of receiving the application. The licence shall stipulate the conditions in subparagraphs (1) and (2), in accordance with each type of Scheduled chemical that is the subject of trade.

(5) If the application under subparagraph (4) is approved, the National Authority shall—

- (a) inform the applicant in writing; and
- (b) forward the licence to the applicant upon payment by the applicant of the prescribed fee; and
- (c) register the name and address of the licence holder, and the type and quantity of chemical to be transferred; and
- (d) in the case of transfers of Schedule 1 chemicals, the National Authority shall notify the Technical Secretariat of the OPCW of the transfer not less than 30 days in advance of the transfer, except in the case of sax toxin which may be notified at the time of transfer in accordance with paragraph 13 (a) of these Regulations.

(6) If the application is not approved, the National Authority shall inform the applicant in writing, providing the reasons for the refusal. Any applicant for or holder of a licence may appeal to the Administrative Court against the refusal to issue a licence or the cancellation or suspension thereof, on the grounds that the Minister has misdirected himself or herself in terms of the Convention, the Act, or this Schedule. The decision of the Administrative Court shall be final, subject to the review of the Administrative Court's decision by the High Court on the grounds specified in section 27 of the High Court Act [Chapter 7:06].

(7) A licence issued under this paragraph shall be valid for one year.

Obligation to supply information

7. (1) The National Authority has power on behalf of the Minister to demand any information, including declarations, notifications, and reports, relating to the implementation of the Convention, from all legal and natural persons possessing Zimbabwe's nationality wherever situate in accordance with international law, pursuant to the Convention, and to section 9 of the Act.

(2) All legal and natural persons have an obligation under the Convention, the Act, and this Schedule, to fulfil their obligations, including the obligation to supply

the National Authority with the information required under the Convention relating to the implementation of the Convention, including information that they are undertaking declarable activities.

(3) Any person who on request by the National Authority fails to supply any information required to be supplied under the Convention, the Act or this Schedule 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.

OPCW inspections

8. The provisions of Part II, and Parts III to XI of the Verification Annex of the Convention and section 10 of the Act shall govern inspections, subject to the following conditions—

- (a) the point of entry of the OPCW inspection teams to the territory of Zimbabwe, as well as the point of exit, is the Harare International airport situated in Harare; and
- (b) on behalf of the Minister the National Authority shall acknowledge, within one hour, receipt of a notification by the Technical Secretariat of the OPCW of an intention to conduct an inspection. The National Authority shall immediately inform the facility to be inspected and begin preparations to receive the OPCW inspection team; and
- (c) to the extent possible, the National Authority shall arrange for the equipment and services needed by the inspection team, such as communication means, transportation, working facilities, lodging, meals and medical care. With respect to inspections conducted under Articles VI or IX of the Convention, the National Authority shall be reimbursed by the OPCW for such costs incurred by the inspection team in accordance with paragraph 26 of Part II of the Verification Annex; and
- (d) when the OPCW inspection team arrives at the point of entry, it will be met by the escort team, the members of which are official representatives of Zimbabwe as the inspected State Party. The escort team shall ensure the immediate entry of the inspection team into Zimbabwe and have the right to inspect all inspection equipment in the presence of the inspection team members at the point of entry; and
- (e) on arrival at the point of entry, the head of the inspection team shall hand over to the head of the escort team the mandate of the OPCW to conduct an inspection on the territory of Zimbabwe; and
- (f) in the event of an inspection under Articles IV to VI of the Convention, the escort team shall be guided by the provisions of Part II of the Verification Annex to the Convention. In the event of an inspection under Article IX of the Convention, the escort team shall be guided by the provisions of Part X of the Verification Annex. And in the event of an investigation under Article X of the Convention, the escort team shall be guided by Part XI of the Verification Annex; and
- (g) upon completion of the procedures in subparagraphs (a) to (f), above, the escort team will bring the inspection team to the facility to be inspected, doing everything in its power to ensure the safe conduct of the inspection team and its equipment and supplies from the point of entry to the inspection site(s) and to the point of exit; and
- (h) on arrival at the inspection site and before the commencement of the inspection, the inspection team shall be briefed by facility representatives,

with the aid of maps and other documentation on the facility, the activities carried out there, safety measures, and administrative and logistic arrangements necessary for the inspection. The briefing time shall be limited to the minimum necessary and in any event shall not exceed three hours.

OPCW inspection procedures

9. (1) All OPCW inspections under Articles IV, V, VI and IX of the Convention, including investigations under Article X of the Convention, shall be conducted only in the presence of an escort team referred to in paragraph 8(d).

(2) The escort team and the facility representative shall support and assist the inspection team in its inspection tasks, guided by the provisions of the Convention, the Act and this Schedule. In case of any conflict, the provisions of the Convention shall prevail.

(3) The OPCW inspection team shall observe the applicable safety regulations at the inspection site, and shall respect all regulations for controlled environments within facilities.

(4) The rights of OPCW inspectors during an inspection are provided in Part II (D), paragraphs 45 to 48 and paragraph 51 of the Verification Annex and elsewhere in the Convention, and include the following—

- (a) unimpeded access to the inspection site; and
- (b) the right to bring, use and keep in its custody inspection equipment approved by the OPCW; and
- (c) the right to communicate with the OPCW Headquarters using its own equipment approved by the OPCW, other means of communication provided by the national Authority, and its own two-way system of radio communications between members of the inspection team; and
- (d) the right to interview any facility personnel in the presence of representatives of Zimbabwe for the purpose of establishing relevant facts. Inspectors shall only request information and data that is necessary for the conduct of the inspection. The inspection team and the escort team ought to take into account the interests of the inspected facility in order not to cause any undue interference with the functioning of the facility; and
- (e) the right to inspect documents relating to the facility, that the inspection team deems necessary for the proper conduct of the inspection; and
- (f) the right to have photographs of the facility and/or site taken at its request by representatives of Zimbabwe or facility representatives; and
- (g) the right to have samples taken by representatives of Zimbabwe in its presence or, when agreed in advance with Zimbabwe, to take the samples itself; and
- (h) the right to request on-site analysis of samples in its presence; and
- (i) the right to carry out off-site analysis of samples.

(5) Zimbabwe's rights as the inspected State Party, exercised by the National Authority, are provided in Part II (D), paragraphs 49, 50, 54, 63 of the Verification Annex and elsewhere in the Convention, and include the following—

- (a) the right to observe all verification activities carried out in Zimbabwe by the inspection team; and

- (b) the right to receive copies, at its request, of the information and data gathered about its facility or facilities by the Technical Secretariat; and
- (c) the right to retain portions of all samples taken or to take duplicate samples and be present when samples are analysed on-site; and
- (d) the right to receive immediately upon its completion the final inspection report, and the right to make comments on the inspection findings and to have the comments annexed to the report; and
- (e) the right to request clarifications on any ambiguities that arise during an inspection, in accordance with Article IX, paragraph 3, of the Convention and other provisions in the Verification Annex; and
- (f) the right to have, to the extent possible, the escort team take into account the interests of Zimbabwe so that the inspection team does not cause any unnecessary interference with the functioning of the facility in accordance with Article VIII, paragraph 5, and Article VI, paragraphs 10 and 11 of the Convention, and the relevant provisions of the Annex on the Protection of Confidential Information.

(6) To the extent necessary for the conduct of inspections in accordance with Article IX of the Convention, the inspection team shall, in addition to the rights specified in subparagraph (4), have the right—

- (a) to enter and inspect locations and premises outside regular business hours, but in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission, according to paragraph 18 of Article IX of the Convention and Part X of the Verification Annex; and
- (b) to operate continuous monitoring equipment at the inspected facility; and
- (c) to receive information from the escort team about all exit traffic from the inspected facility; and
- (d) to monitor and inspect, on a managed access basis, vehicles leaving the inspection site, with the exception of personal passenger vehicles, in accordance with Part X, paragraphs 29 and 30, of the Verification Annex; and
- (e) to carry out specific operations at the facility in performance of the mandate and Part X of the Verification Annex; and
- (f) to allow an observer designated by the requesting State Party in accordance with Article IX, paragraph 12, to participate in the inspection, in accordance with Part X, paragraphs 53 to 56, subject to the following provisions—
 - (i) the observer shall have the right to make recommendations to the inspection team, which recommendations the team shall take into account to the extent it deems appropriate; and
 - (ii) the observer shall be kept informed about the conduct of the inspection and the findings; and
 - (iii) the observer shall have access to the means of communication with the Requesting State Party.

(7) The inspection period shall not exceed 84 hours.

(8) A draft final inspection report shall be made available to the inspected State Party.

National inspections and powers of national inspectors and representatives

10. (1) The National Authority may conduct its own internal inspections by its own inspectors.

(2) National inspectors may conduct random, unannounced checks on facilities that come under Parts VI to IX of the Verification Annex

(3) National inspectors may be sent to inspect a facility on grounds of suspicion of wrongful acts in that facility, or misleading information or suppression of information on the types of activities carried out at the facility.

(4) The national inspection team shall submit its report to the National Authority no later than 10 days after the inspection.

(5) Notwithstanding anything to the contrary contained in any other enactment, a national inspection team, or any representative of the National Authority, has power—

- (a) without a warrant, to inspect the premises of the owner or operator of any facility licensed under this Schedule to ensure that the owner or operator is complying with the terms of his or her licence; or
- (b) where any national inspector or representative has reasonable grounds for believing that—
 - (i) any person (whether or not the owner or operator of any facility licensed under this Schedule) is in unlawful possession of any chemical weapon or a toxic chemical or precursor listed in Schedule 1 of the Schedules of Chemicals set out in the Annex on Chemicals in the Convention; and
 - (ii) the delay in obtaining a warrant would prevent the seizure or defeat the object of the search, as the case may be;
 to do any of the following without a warrant—
 - (iii) to enter upon any land where such person is believed to be, and there require him or her to produce for his or her inspection such chemical weapon or toxic chemical or precursor; and
 - (iv) to search such person, and enter and search any land, building, vehicle, aircraft, train, vessel or boat in the possession or use or under the control of such person, and open and search any receptacle, container or thing in the possession of such person:

Provided that—

- A. a person shall be searched only by a person of like sex; and
 - B. in the case of the search of a female person, such search shall be done with the strictest regard to decency and decorum; and
- (v) to seize any such chemical weapon or a toxic chemical or precursor in the possession of such person and, unless the national inspector or representative is satisfied that such person will appear and answer any charge which may be preferred against him or her, arrest and detain him or her;
 - or
 - (c) to exercise, in relation to an owner or operator of any facility licensed under this Schedule who is in material breach of any term of his or her licence, any of the powers referred to in paragraph (b)(iii), (iv) and (v).

(6) Any person who is arrested and detained and any chemical weapon or a toxic chemical or precursor which is seized in terms of subparagraph (5) shall be taken as soon as practicable before a court of competent jurisdiction to be dealt with according to law.

Handling of confidential information

11. (1) The Minister shall take all necessary measures to ensure that citizens and residents of Zimbabwe and individual members of the National Authority who have access to documents from the OPCW pertaining both to States Parties and to the Technical Secretariat, shall protect confidential information, in accordance with the Annex on the Protection of Confidential Information (Confidentiality Annex).

(2) Any person who discloses or fails to protect any confidential information referred to in subparagraph (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

FIRST SCHEDULE

CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT,
PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL)
AND TOXIN WEAPONS AND ON THEIR DESTRUCTION OPENED FOR
SIGNATURE AT LONDON, MOSCOW AND WASHINGTON. 10 APRIL 1972

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control.

Recognising the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva 17 June 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of 17 June 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realisation of the purposes and principles of the Charter of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognising that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement

on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological(biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimise this risk,

Have agreed as follows:

Article I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

1. microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
2. weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Article II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this Article all necessary safety precautions shall be observed to protect populations and the environment.

Article III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organisations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of the Convention.

Article IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

Article V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and cooperation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

Article VI

1. Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint

should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

2. Each State Party to this Convention undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

Article VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger a result of violation of the Convention.

Article VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June, 1925.

Article IX

Each State Party to this Convention affirms the recognised objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically designed for the production or use of chemical agents for weapons purposes.

Article X

1. The State Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also co-operate in contributing individually or together with other States or international organisations to the further development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of disease, or for other peaceful purposes.

2. This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international co-operation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

Article XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

Article XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realised. Such review shall take into account any new scientific and technological developments relevant to the Convention.

Article XIII

1. This Convention shall be of unlimited duration.

2. Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardised the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardised its supreme interests.

Article XIV

1. This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

6. This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

SECOND SCHEDULE

PROTOCOL FOR THE PROHIBITION OF THE USE OF ASPHYXIATING,
POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS
OF WARFARE. GENEVA, 17 JUNE 1925

The undersigned Plenipotentiaries, in the name of their respective Governments:

(Here follow the names of Plenipotentiaries)

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids materials or devices, has been justly condemned by the general opinion of the civilized world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all Signatory and Acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear today's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the Signatory and Acceding Powers.

The instruments of ratification and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each Signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, the seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.