

RADIATION PROTECTION

H.B. 8, 2026.]

RADIATION PROTECTION BILL, 2026

MEMORANDUM

This Bill seeks to repeal and substitute the Radiation Protection Act [*Chapter 15:15*]. In more detail, the individual clauses of the Bill provide as follows:—

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause sets out the objectives of the Bill.

Clause 3

This clause defines the terms used in the Bill, the key definitions being “radiation protection”, “ionising radiation”, “non-ionising radiation”, and many other salient ones.

Clause 4

This clause provides for the continuity of the Radiation Protection Authority formed under the repealed Radiation Protection Act [*Chapter 15:15*].

Clause 5

This clause sets out the functions of the Authority.

Clause 6

This clause provides the Board of the Authority and its role.

Clause 7

This clause provides for the appointment of the Chief Executive Officer of the Authority.

Clause 8

This clause provides for the appointment of the Corporate Secretary and his or her functions.

Clause 9

This clause provides for the appointment of Inspectors and Officers to carry out inspections, enforcement, and other duties necessary for the execution of the Authority's mandate.

Clause 10

This clause provides for the powers of inspectors.

Clause 11

This clause provides for the prohibition of non-peaceful applications of ionising radiation by prohibiting certain practices.

Clause 12

This clause provides for the prohibition of certain practices.

Clause 13

This clause provides for the types of authorisations, that is to say, the activities which can be allowed and licensed by the Authority. Further, the clause makes it an offence, for which a civil penalty shall be imposed, to carry out the specified activities without authorisation from the Authority.

Clause 14

This clause provides for the responsibilities of an authorised person.

Clause 15

This clause provides for the roles of the radiation protection officers, which shall mainly be overseeing regulatory requirements and radiation protection programs.

Clause 16

This clause provides for the registers of authorisations which shall be established and maintained by the Authority for record keeping purposes, with which the Authority shall have discretion to publicise or have open for inspection for the public as may be guided by obligations of non-disclosure in the interest of national defence, security, public safety, or interest, whether to avail the whole or part of the register for public inspection.

Clause 17

This clause gives insight into how inspection and enforcement may be undertaken.

Clause 18

This clause provides requirements for radioactive sources mainly by giving the duty of safety and security to the Authority.

Clause 19

This clause provides for the Authority's obligation to put in place a national plan for emergency preparedness and response.

Clause 20

This clause places an obligation on the Authority to notify the IAEA of any transboundary emergencies that may likely occur.

Clause 21

This clause places an obligation on the Authority to coordinate and collaborate with other competent authorities in nuclear security matters.

Clause 22

This clause provides for the mining and processing of nuclear energy source material.

Clause 23

This clause establishes a Radioactive Waste Management Fund whose management and control shall be vested in the Board.

Clause 24

This clause provides for the national policy and principles of radioactive waste management.

Clause 25

This Clause provides for the radioactive waste management requirements, which include the safety and security of radioactive waste management activities.

Clause 26

This Clause prohibits the importation and exportation of radioactive waste generated in another country and makes contravention an offence.

Clause 27

This clause obligates the Minister to constitute a National Nuclear Security Committee, which will have representation from relevant offices such as the Office of the President and Cabinet, Defence, Energy, and many others.

Clause 28

This clause mandates the Authority to prescribe requirements for the security of nuclear and other radioactive material, and their associated facilities and activities, including measures for the detection, prevention, and response to unauthorised or malicious acts involving such material, facilities or activities, taking into account the national nuclear threat assessment.

Clause 29

This clause sets the responsibility of authorised persons, which is primarily ensuring the physical protection of such material and related facilities as prescribed.

Clause 30

This clause gives an obligation to the Authority to be the central authority responsible for the physical protection of nuclear material and for coordinating recovery and response in the event of any theft or unlawful taking of nuclear or other radioactive material.

Clause 31

This clause provides for offences relating to the handling of radioactive or nuclear material devices without lawful authority and criminalises threats to commit such offences as well.

Clause 32

This clause provides for the Authority to prescribe safeguards requirements to ensure the implementation of the obligations of Zimbabwe arising from the Comprehensive Safeguards Agreement and any protocols thereto.

Clause 33

This Clause provides for the regulation and prescription of electromagnetic fields (EMF) frequency exposure limits.

Clause 34

This clause provides for the Funds of the Authority.

Clause 35

This clause provides for the investment of moneys not immediately required by the Authority.

Clause 36

This clause provides for the Financial year of the Authority.

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This clause provides for the Accounts of the Authority.

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This clause outlines the Audit of Authority's accounts.

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This clause provides for the Internal Auditor.

Clause 40

This clause provides for the offences and penalties.

Clause 41

This clause provides for the preservation of secrecy.

Clause 42

This clause provides for handling radioactive or nuclear material devices.

Clause 43

This clause provides for appeals in which aggrieved persons may lodge their grievance with the Board.

Clause 44

This clause provides for the Regulations that can be made by the Minister.

Clause 45

This clause provides for the repeal and savings.

Clause 46

This clause provides for offences that Zimbabwe has jurisdiction over, as set forth in section 40.

Clause 47

This clause provides for extradition of persons who commit offences under this Act.

Clause 48

This clause outlines the policy directions which the Minister may make.

Clause 49

This clause provides for the Reports of the Authority.

Clause 50

This clause repeals the Radiation Protection Act [*Chapter 15:15*].

RADIATION PROTECTION BILL, 2026

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FIRST SCHEDULE: Powers of the Authority.

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BILL

To provide for the safe use of nuclear energy and radiation technologies for the protection of people, both present and future generations, and the environment against the harmful effects of ionising radiation; to
5 allow for the beneficial and peaceful uses of nuclear technology and its applications; to provide for the establishment of an adequate system of regulatory control; to provide for the safety and security of radiation sources and radioactive waste; to provide for the establishment of a framework for the regulation of non-ionising radiation; to repeal the
10 Radiation Protection Act [*Chapter 15:15*] and to provide for matters connected with or incidental to the foregoing.

WHEREAS Article IV of the International Atomic Energy Agency Statute, approved on 26th October, 1956, provides as follows—

ARTICLE IV Membership

- 15 A. The initial members of the Agency shall be those States Members of the United Nations or of any of the specialised agencies which shall have signed this Statute within ninety days after it is opened for signature and shall have deposited an instrument of ratification.
- 20 B. Other members of the Agency shall be those States whether or not Members of the United Nations or of any specialised agencies, which deposit an

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instrument of acceptance of this Statute after their membership has been approved by the General Conference upon the recommendation of the Board of Governors. In recommending and approving a State for membership, the Board of Governors and the General Conference shall determine that the State is able and willing to carry out the obligations of membership in the Agency, giving the consideration to its ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations. 5

- C. The Agency is based on the principle of sovereign equality of all its members, and all members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligation assumed by them in accordance with this Statute.; 10

AND WHEREAS paragraphs 13 and 14 of the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources further provide as follows— 15

“13 Every State should establish legislation and regulations that:—

- (a) prescribe and assign governmental responsibilities for the safety and security of radioactive sources;
- (b) provide for the effective control of radioactive sources;
- (c) specify the requirements for protection against exposure to ionising radiation; 20
- (d) specify the requirements for the safety and security of radioactive sources; and
- (e) provide for the establishment of a national register of those radioactive sources which pose the most significant risks, i.e. the radioactive sources belonging to Category I of the IAEA’s “Categorization of Radiation Sources”. However, in doing so, States should also devote appropriate attention to radioactive sources other than those belonging to Category I. 25

14 Such legislation and regulations should include, in particular—

- (a) the establishment of a regulatory body whose regulatory functions are effectively independent of other functions if that body is involved in both the management of radioactive sources and in their regulation. This body should have the powers listed in paragraphs 15 to 17; 30
- (b) measures, commensurate with the risks, to protect individuals, society and the environment from the deleterious effects of radiation; 35
- (c) administrative requirements relating to the authorisation of the management of radioactive sources;
- (d) provisions for exemption, as appropriate, from the administrative requirements referred to in paragraph (c) above;
- (e) administrative requirements relating to the notification to the regulatory body, as appropriate, by an authorised person of actions involved in the management of such sources and of any other activity in relation to such sources which may engender a significant risk to individuals, society or the environment; 40
- (f) managerial requirements in particular relating to the establishment of adequate policies, procedures and measures for the control of radioactive sources; 45
- (g) security measures to prevent, protect against, and ensure the timely detection of, the unauthorised access to, or the theft, loss or unauthorised use or removal of radioactive sources during all stages of management; 50

- (h) requirements relating to the verification of the safety and security of radioactive sources, through: safety and security assessments; monitoring and verification of compliance; and the maintenance of appropriate records; the imposition of appropriate penalties.”

5 AND WHEREAS the Constitution of Zimbabwe provides as follows—

“73 *Environmental rights*

(1) Every person has the right—

- (a) to an environment that is not harmful to their health or well-being; and
- (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that—
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development.

15 (2) The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section.”

AND WHEREAS recognising the need to ensure the security of sources and Zimbabwe’s international obligation to safeguard nuclear material;

20 AND WHEREAS, it is desirable to make further provisions for the protection of the public and workers from ionising radiation:

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

PART I

25 PRELIMINARY

1 Short title

(1) This Act may be cited as the Radiation Protection Act [*Chapter...*].

(2) This Act shall come into operation on a date to be fixed by the president in a Statutory Instrument.

30 2 Objectives

The objectives of this Act are—

- (a) to allow for the beneficial and peaceful use of nuclear technology and its applications;
- (b) to provide for the establishment of an adequate system of regulatory control for the protection of individuals, society, and the environment, against harmful effects of ionising radiation and for the safety and security of radiation sources and radioactive waste;
- (c) to provide for the establishment of a framework for the regulation of non-ionising radiation; and
- 40 (d) to ensure that Zimbabwe fulfils its international obligations pursuant to its agreement with the International Atomic Energy Agency (IAEA), the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty), and other related conventions and treaties to which Zimbabwe is a party.

3 Interpretation

(1) In this Act—

- “authorised facilities” means any facility authorised in terms of section 13;
- “authorised person” means the holder of a licence issued in terms of section 13 or any prescribed exemption or registration; 5
- “authorisation” means the written permission granted by the Authority to a person who has applied to undertake an activity subject to regulation, which may take the form of a licence or registration certificate;
- “Authority” means the Radiation Protection Authority of Zimbabwe as established in the Radiation Protection Act [*Chapter 15:15*] (No. 5 of 2004); 10
- “Chief Executive Officer” means the Chief Executive Officer of the Authority appointed in terms of section 7;
- “consumer product” means a device or manufactured item into which radionuclides have deliberately been incorporated or produced by activation, or which generates ionising radiation, and which can be sold or made available to members of the public without special surveillance or regulatory control after sale; 15
- “disposal” means the emplacement of radioactive waste in an appropriate facility without the intention of retrieval; 20
- “emergency exposure situation” means a situation of exposure that arises because of an accident, a malicious act, or other unexpected event, and requires prompt action to avoid or reduce adverse consequences;
- “emergency” means a non-routine situation that necessitates prompt action, primarily to mitigate a hazard or adverse consequences for human health and safety, quality of life, property, or the environment; 25
- “emergency plan” means a description of the objectives, policy, and concept of operations for the response to an emergency and of the structure, authorities, and responsibilities for a systematic, coordinated, and effective response; 30
- “exclusion” means the deliberate exclusion of a particular type of exposure from the scope of this Act on the grounds that it is not considered amenable to regulatory control;
- “exemption” means a determination by the Authority that a source or practice need not be subject to some or all aspects of regulatory control on the basis that the exposure or the potential exposure to ionising radiation due to the source or practice is too small to warrant the application of those aspects or that this is the optimum option for protection irrespective of the actual level of the doses or risks; 35
- “intervention” means any action intended to reduce or avert exposure or the likelihood of exposure due to sources that are not part of an activity subject to regulation or that are out of control as a consequence of an accident; 40
- “ionising radiation” means, for the purposes of radiation protection, radiation capable of producing ion pairs in biological materials;
- “ion pairs” means a molecule or atom that, due to exposure to radiation energy, gains or loses energy, resulting in the formation of positively and negatively charged ions; 45
- “licence” means a form of authorisation issued by the Authority;

- “medical exposure” means exposure incurred by patients for medical or dental diagnosis or treatment, by carers and comforters and by volunteers subject to exposure as part of a programme of biomedical research;
- 5 “Minister” means the Vice President or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- 10 “mining”, in relation to nuclear source energy material, means mining in a mine that yields radioactive ores containing uranium series or thorium series radionuclides, either in amounts or concentrations sufficient to warrant exploitation or, when present in conjunction with other substances being mined, in amounts or concentrations that require radiation protection measures to be taken as determined by the Authority;
- 15 “national liaison officer” means an officer designated by the Chief Secretary to the President and Cabinet to liaise with the International Atomic Energy Agency on behalf of Zimbabwe;
- “non-ionising radiation” means a low-energy type of radiation that lacks the energy to remove electrons and create ion pairs;
- “nuclear energy source material” shall have the meaning provided in the Mines and Minerals Act [*Chapter 21:05*];
- 20 “nuclear facility”, for purposes of the application of safeguards, means a facility as defined in the Comprehensive Safeguards Agreement;
- “nuclear material” means any special fissionable material or source material as defined in the Comprehensive Safeguards Agreement; it shall not be interpreted as applying to ore or ore residue;
- 25 “nuclear security” or “security” means the prevention of, detection of, and response to, criminal or intentional unauthorised acts involving or directed at nuclear material, other radioactive material, associated facilities, or associated activities;
- “occupational exposure” means the planned exposure of workers incurred in the course of their work;
- 30 “planned exposure situation” means the exposure that arises from the planned operation of a source or from a planned activity subject to regulation that results in an exposure due to a source;
- 35 “practice” means any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people or modifies the network of exposure of people or the number of people exposed;
- “processing” in relation to nuclear source energy material means processing of radioactive ores from such mines to produce a chemical concentrate;
- 40 “radiation protection” means the protection of people from the harmful effects of exposure to radiation and the means for achieving this;
- “radioactive waste management facility” means a facility specifically designed to handle, treat, condition, store, or permanently dispose of radioactive waste;
- 45 “radioactive waste management” means all administrative and operational activities involved in the handling, pre-treatment, treatment, conditioning, transport, storage and disposal of radioactive waste;
- “radioactive waste” means any radioactive material destined to be disposed of as waste material;
- 50 “radiation source” means any substance, whether natural or artificial, emitting ionising or non-ionising radiation;

- “radioactive source” means any substance, whether natural or artificial, emitting ionising radiation;
- “radionuclide” means an unstable isotope of a chemical element that emits radiation as it decays into a more stable form;
- “registration” means a form of authorization issued by the Authority for practices of low or moderate risk; 5
- “release from regulatory control” means the removal of radioactive materials or radioactive objects from any further control by the Authority;
- “sensitive information” in the context of information pertinent to nuclear facilities and other installations as prescribed by the Authority, means information in whatever form, including software, the unauthorised disclosure, modification, alteration, destruction, or denial of use of which could compromise nuclear security; 10
- “threat assessment” means an evaluation of the threats based on available intelligence, law enforcement, and open-source information that describes the motivation, intentions and capabilities of these threats. 15

PART II

RADIATION PROTECTION AUTHORITY OF ZIMBABWE

4 Radiation Protection Authority of Zimbabwe

The Radiation Protection Authority of Zimbabwe, established in terms of the Radiation Protection Act [*Chapter 15:15*], (No. 5 of 2004), shall continue with powers and functions as provided for by this Act, as the effectively independent Authority for the regulatory control of activities and facilities involving ionising radiation and non-ionising radiation. 20

5 Functions of Authority

- (1) The functions of the Authority shall be— 25
- (a) to issue standards and norms governing exemption, notification, registration, and licensing of radiation sources and radiation protection and safety; and
 - (b) to define in regulation standards, norms and exposures that are excluded from regulatory requirements on the basis that they are not capable of being subjected to regulatory control; and 30
 - (c) to issue authorisations for the possession and use of radiation sources; and
 - (d) to define in regulations and authorisations the detailed obligations to be placed on those who possess radiation sources; and 35
 - (e) to conduct inspections and obtain performance information concerning radiation sources; and
 - (f) to take such action as is necessary to enforce any prescribed requirements; and 40
 - (g) to protect the health and safety of workers and the members of the general public; and
 - (h) to accredit persons as suppliers of certain services or facilities necessary to enable licensees, registrants, or notifying parties to comply with conditions or requirements imposed by or under this Act; and 45
 - (i) to approve persons with specified radiation protection responsibilities; and

- (j) to ensure that adequate national arrangements for response to radiological accidents are established; and
- (k) to initiate, recommend, or provide support for intervention, as appropriate; and
- 5 (l) to advise on matters relating to the safety of radiation sources and the disposal of radioactive waste materials or irradiating devices; and
- (m) to establish and maintain registers of importers, exporters, manufacturers, users, and operators of devices or materials capable of producing ionising radiation.

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

6 Board of Authority

15 (1) There shall be a Board of the Authority which, subject to this Act, shall be responsible for formulating the general policy of the Authority and controlling its operations.

(2) The Board shall consist of not less than seven members and not more than eleven members appointed by the Minister, in consultation with the President.

20 (3) Members shall be appointed based on their knowledge, expertise, or of at least five years of experience in the fields relevant to the operation and management of the Authority as follows—

- (a) a person suitably qualified in disaster management and civil protection;
- (b) two persons suitably qualified in nuclear and radiation safety issues;
- 25 (c) a person suitably qualified in human resource management;
- (d) one shall be a legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*];
- (e) one shall be a qualified chartered accountant registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] and practising as an auditor for a period of at least five years;
- 30 (f) one shall be a qualified accountant registered in terms of the Public Accountants and Auditors' Act [*Chapter 27:12*] and practising as an accountant for a period of at least five years;
- (g) one shall be qualified in Information Communication Technology;
- 35 (h) a national liaison officer with the International Atomic Energy Agency Technical Cooperation Programmes;
- (i) a person qualified in environmental matters nominated by the Minister responsible for environment; and
- (j) a person qualified in occupational health and safety issues, nominated by the Minister responsible for that portfolio.
- 40

(4) The Minister shall, from among the members, appoint one as chairperson and another as vice chairperson of the Board.

(5) The Vice Chairperson shall be of a different sex from the Chairperson.

45 (6) In the event of the Chairperson not being present, the vice Chairperson shall act as the chairperson.

(7) In making appointments in terms of subsection (4), the Minister must ensure that, in so far as is practicable—

- (a) there are equal numbers of men and women; and
- (b) there is fair regional representation; and
- (c) all appointments are made primarily on merit. 5

(8) The provisions applicable to the Board shall be as set out in the Second Schedule.

PART III

STAFF OF AUTHORITY

7 Appointment and functions of Chief Executive Officer 10

(1) The Board shall appoint a Chief Executive Officer in terms of section seventeen (17) of the Public Entities and Corporate Governance Act [*Chapter 10:33*].

(2) Subject to this Act and the control of the Board, the Chief Executive Officer shall—

- (a) exercise such of the Authority's functions as the Board may assign; 15
- (b) be responsible for the efficient management of the day-to-day activities, funds, and property of the Authority; and
- (c) exercise general authority over the conduct and discipline of the Authority's staff.

8 Corporate Secretary and functions 20

(1) The Board shall appoint a corporate secretary who shall—

- (a) be the secretary to the Board, and its committees;
- (b) be the chief legal officer responsible for all legal issues of the Authority; and
- (c) be the custodian of corporate governance. 25

9 Inspectors and other officers

(1) The Authority may appoint—

- (a) such number of inspectors as the Authority considers necessary to carry out inspections and ensure the proper enforcement of this Act; and
- (b) such number of radiation officers, licensing officers, and other officers to carry out such duties as the Authority considers necessary for the purposes of this Act. 30

(2) Persons appointed under subsection (1) shall be subject to the supervision and control of the Chief Executive Officer.

(3) The Authority shall ensure that every inspector is provided with a certificate identifying him or her as an inspector, and the inspector shall exhibit such certificate at the request of any interested person. 35

10 Powers of Inspectors

(1) An inspector may, without warrant or prior notice, enter any vehicle, premises, or facilities where activities or practices are carried out under authorisation, after informing the person in charge or control of the premises of the purpose of his or her visit, and may do any or all of the following — 40

- (a) make such examination and inquiry as may be required by this Act;
- (b) obtain information about the status of radiation safety and security of radiation sources;
- (c) carry out measurements and assessments on radiation exposures;
- 5 (d) take so many samples of any substance as he or she may consider necessary for the purpose of testing, examination, or analysis in terms of this Act;
- (e) verify compliance with the provisions of this Act and applicable regulations;
- 10 (f) investigate any incident or accident involving radiation sources and carrying out any other investigation, test, or examination he or she may consider appropriate;
- (g) question any person who has duties which, in the view of the officer or inspector, may be pertinent to his or her enquiries regarding the possession and use of radiation sources;
- 15 (h) require the production of authorisation permitting the use of any irradiating device, radioactive material, or any other radiation source, or a register or document kept under this Act, and inspect, examine, or take copies of them; and
- 20 (i) seize and detain any radiation source, substance or document which he or she has reasonable grounds for believing is evidence of or is the subject matter of an offence in terms of this Act.

(2) An inspector shall not exercise any power conferred by subsection (1) without a warrant unless he or she has reasonable grounds to believe that the exercise of power is necessary —

- 25 (a) in the interest of public safety or public order; or
- (b) for the prevention, investigation or detection of an offence in terms of this Act, or for the seizure of any property which is the subject matter of or evidence relating to such an offence.

30 (3) In exercising the powers conferred in subsection (1), an inspector may be accompanied and assisted by one or more police officers or other persons, and those persons shall have the same powers as the inspector under that subsection.

35 (4) Every person whose premises have been entered in terms of subsections (1) and every employee or agent of that person in or on those premises shall forthwith provide the inspector and his or her assistants with whatever facilities the inspector may reasonably require for the exercise of the powers conferred on them by those subsections.

(5) Any person who —

- (a) hinders or obstructs an inspector or his or her assistant in the exercise of his or her powers under this section; or
- 40 (b) without just cause, fails or refuses to comply with a lawful request of an inspector or his or her assistant in terms of this section;

shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

45 (6) A court convicting a person of failing to give information or to produce any document when required to do so under this section may require the person, within such period as the court may specify, to give the information or to produce the document, as the case may be.

- (7) The powers of entry conferred on an inspector in subsection (1) shall not be used in respect of any place that is a private dwelling or any part of a place that is designed to be used and is being used as a dwelling place except—
- (a) with the consent of the occupier of the dwelling place; or
 - (b) in terms of a warrant issued by the Court. 5
- (8) An owner or occupier of any place intended to be entered by an inspector shall at all reasonable times furnish such facilities as are required by the inspector for entering the premises to exercise his or her powers under subsection (1).
- (9) An officer or inspector may, if he or she considers that it is necessary to act immediately for the protection of the environment, do either or both of the following— 10
- (a) close any premises until the Authority is satisfied that adequate redress has been made where an activity subject to regulation which pollutes the environment contrary to the provisions of this Act or any standard issued under it is carried out; or
 - (b) serve an order in writing on the owner, user, or occupier of any land or premises requiring that owner, user, or occupier to take such measures as may be specified in the order for the prevention of harm to the environment and natural resources or persons. 15
- (10) Subject to this section, an order in terms of subsection (9)(b) shall be of full force and effect until it is withdrawn or set aside. 20
- (11) An officer or inspector shall, within fourteen days of serving an order, forward a copy of the order together with details of the circumstances that gave rise to the need for the order to the Chief Executive Officer.
- (12) The Chief Executive Officer shall review within thirty days any order sent to him or her in terms of subsection (11), whether or not the owner, occupier, or user of any premises has appealed, and he or she may confirm, vary, or set aside the order. 25
- (13) No officer or inspector shall be held liable for acts done in good faith and without negligence during the course and within the scope of exercising his or her functions.
- (14) Inspection results shall be documented and recorded, and made available to relevant officials and authorised persons as a basis for corrective or enforcement action. 30
- (15) Regulatory inspection shall not diminish the prime responsibility for safety of the authorised person, and shall not substitute for the control, supervision, and verification activities conducted by the authorised person. 35
- (16) An inspector shall also have the power to seize any such substances or equipment or any book, record, or document so found in respect of which any provisions of this Act appear to have been contravened. In the event of such seizure, the authorised person or owner of any material seized by the Authority retains the primary responsibility for any costs associated with the safety and security of the seized material and retains ownership of the material. 40
- (17) Any person who fails to comply with an order issued in terms of subsection (9)(b) shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment or a civil penalty as provided in the Third Schedule. 45

PART IV

PROTECTION AGAINST RADIATION

11 Prohibition of non-peaceful application of ionising radiation

(1) No person shall engage in any activities or practices related to the acquisition
5 or development of nuclear explosives or other non-peaceful uses of nuclear material
and related technology, nor assist others in such activities.

(2) Any person who contravenes subsection (1) without authorisation shall be
guilty of an offence and liable to a fine not exceeding ten times level fourteen or to
imprisonment for a period not exceeding twenty years or to both such fine and such
10 imprisonment.

12 Prohibition of certain practices

(1) For the purposes of this Act, any department of Government, public or
statutory body, or Board or local authority which, for the purpose of performing its
functions, uses or is required to use radiation shall comply with the provisions of this
15 Act and any prescribed requirements in the same manner and to the same extent as any
other person using radiation.

(2) Subject to exemptions that may be prescribed or provided under this Act,
no practice shall be adopted, introduced, conducted, discontinued, or ceased and no
radiation source within a practice shall, as applicable, be mined, milled, processed,
20 designed, manufactured, constructed, assembled, acquired, imported, exported,
distributed, sold, loaned, hired, received, sited, located, commissioned, possessed, used,
operated, maintained, repaired, transferred, decommissioned, disassembled, transported,
stored or disposed of except in accordance with prescribed requirements.

(3) No person shall—

- 25 (a) cause ionising radiation to be applied to any other person for the purpose
of diagnosing or treating a disease unless the application is prescribed by
a registered medical or dental practitioner; or
- 30 (b) conduct a practice that results in an increase in exposure, by the
deliberate addition of radioactive substances or by activation, in food,
feed, beverages, cosmetics, or any other commodity or product intended
for ingestion, inhalation, or percutaneous intake by, or application to a
person; or
- 35 (c) wilfully or recklessly conduct a practice involving the frivolous use
of radiation or radioactive substances in commodities or in consumer
products such as toys and personal jewellery or adornments, which results
in an increase in exposure, by the deliberate addition of radioactive
substances or by activation.

(4) Practices involving human imaging using radiation for the purpose of theft
detection or for anti-smuggling purposes are permissible under prescribed conditions.

40 **13 Authorisations**

(1) No person shall administer ionising radiation to another person unless the
person administering it has a valid licence issued under this Act.

(2) An application for the issuance or renewal of a licence under this Act shall
be made in the prescribed form to the Authority and shall be accompanied by the
45 prescribed fee.

(3) After receiving an application for a licence or renewal of a licence, the Board
may issue to the applicant the appropriate licence or renew the licence if it is satisfied

that the applicant has proper personnel or authorised facilities required to operate or safely install, use, or store any irradiating device or radioactive materials.

(4) A licence issued under this Act shall —

- (a) be in the prescribed form; and
- (b) authorise the licensee to own, purchase, acquire, import, export, possess, sell or deal in, install, use or dispose of, as may be required, irradiating devices, radioactive materials or other sources of ionising radiation; and
- (c) be valid for such a period as the Board may determine; and
- (d) contain such conditions as the Board may think necessary for the safe use or disposal of irradiating devices or radioactive materials.

(5) The holder of a licence shall be responsible for ensuring that exposure to ionising radiation resulting directly or indirectly from its operation, conditions of storage, transport, or disposal is kept as low as reasonably practicable and below the prescribed limits.

(6) Failure on the part of an authorised person to comply within the time specified by the Authority shall be a ground to suspend the authorisation until compliance is effected.

(7) A licence issued under this Act may be —

- (a) amended by the Board if the amendment is necessary for the purpose of public safety; or
- (b) suspended or revoked by the Board, if the holder fails to comply with the conditions contained in the licence.

14 Responsibilities of authorised person

(1) The authorised person shall —

- (a) appoint a person experienced in radiation health and safety measures as a radiation protection officer within the facility, as prescribed; and
- (b) ensure that all persons using or working in the facility are supplied with monitoring devices and any other protective accessories necessary to carry out radiation procedures with the lowest possible risk; and
- (c) ensure that all radiation workers whose annual exposure exceeds three-tenths of the dose equivalent limit are placed under a health surveillance programme; and
- (d) ensure that all proper care is taken of radioactive wastes if they appear in the course of the use of radiation sources as described in the codes of practice issued by the Board for the protection of persons exposed to ionising radiation; and that the wastes are only disposed of in accordance with the licence granted for the purpose; and
- (e) ensure that all exposure records are kept as prescribed in the codes of practice for users of ionising radiation; and
- (f) ensure that any other instructions that may be issued from time to time by the Board are implemented.

15 Role of radiation protection officer

(1) The radiation protection officer referred to in section 14 shall oversee the application of regulatory requirements, and the radiation protection programme, including ensuring that —

- (a) all occupationally exposed workers are put under personal monitoring;
- (b) workplace monitoring is conducted;
- (c) all workers employed within the facility are given proper instruction on radiation safety measures and partake in health surveillance programmes as prescribed;
- (d) adequate radioactive waste management protocols are put in place as prescribed;
- (e) safety and security-related records are kept as prescribed; and
- (f) necessary actions for reporting and addressing emergencies are taken as prescribed.

16 Registers

(1) The Authority shall maintain registers in the prescribed form in which it shall record—

- (a) authorisations;
- (b) occupational exposure history;
- (c) incidents and accidents; and
- (d) any other matter in respect of which it becomes prudent to maintain a register in implementation of this Act.

(2) The registers referred to in subsection (1) shall be in electronic or hard copy form.

(3) The Authority shall, with the specific or general approval of the Board, effect changes in particulars and rectify any clerical errors in the registers or in any other document containing extracts from the register.

(4) The Authority may, in its discretion, subject to any obligations of non-disclosure in the interest of defence, public security, or the public interest, make the whole or any part of its registers or a digest thereof available to the public for inspection.

17 Inspection and enforcement

(1) The Chief Executive Officer or a radiation protection officer in his or her capacity as an inspector may—

- (a) enter, inspect, and examine any facility or premises at all reasonable times, if there is reasonable cause to believe that an irradiation device, radioactive material, or any other radiation source is stored, used, transported, or disposed of;
- (b) require the production of a licence authorising the use of any irradiating device, radioactive material, or any other radiation source or a register or document kept under this Act, and inspect, examine, or take copies of them;
- (c) seize any such substances or equipment or any book, record, or document so found in respect of which any provisions of this Act appear to have been contravened;
- (d) by notice in writing to the person in control thereof, prohibit the use, sale or removal of, or any other dealing whatsoever in connection with, such materials in respect of which any provisions of this Act appear to have been contravened;
- (e) take so many samples of any substance as he or she may consider necessary for the purpose of testing, examination, or analysis in terms of this Act;

- (f) carry out any investigation, test, or examination he or she may consider appropriate.

(2) Any person who fails to comply with a notice of prohibition issued in terms of paragraph (d) of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment. 5

(3) An inspector may, after confirming no contravention was done in terms of this Act or by the order of the Court, return anything seized or, by notice in writing to the appropriate person, withdraw a notice of prohibition issued in terms of paragraph (d) of subsection (1). 10

(4) Where an authorised person is found to be in contravention of this Act, the Authority shall take enforcement actions as prescribed and, where necessary, a civil penalty order commensurate to the extent practicable with the likelihood and possible consequences of the contravention, and with the level of risk in accordance with the Third Schedule, shall be imposed. 15

18 Requirements for radioactive sources

(1) The Authority shall establish requirements for the safety and security of radioactive sources based on a categorisation of the sources to be made by the Authority in accordance with internationally recognised guidance.

(2) The Authority shall coordinate the development and the implementation of a national strategy for promptly gaining or regaining control over orphan sources 20

(3) The Authority shall develop requirements for the control of radioactivity in scrap metal to ensure that it is free from radiation contamination.

PART V

OBLIGATIONS OF AUTHORITY 25

19 National plan for emergency preparedness and response

(1) The Authority shall, in consultation with the Department of Civil Protection and other relevant departments, develop a national plan for emergency preparedness and response to nuclear or radiological emergencies that shall be approved, tested, and reviewed in the framework of the national response plan administered by the Department of Civil Protection. 30

(2) The national plan for emergency preparedness and response to nuclear or radiological emergencies shall include an allocation of responsibilities and actions among relevant government and non-governmental bodies, including arrangements for communications and public information. 35

20 Transboundary emergencies

In the event of a nuclear or radiological emergency that poses a risk that radioactive contamination could spread beyond the boundaries of Zimbabwe, the Authority shall immediately notify the International Atomic Energy Agency and the relevant authorities of any State which is or may be physically affected by a release that could be of radiological significance for that State in terms of the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. 40

21 Obligations of Authority in nuclear security coordination

The Authority shall coordinate and collaborate with other competent authorities to ensure that national nuclear security systems and measures are in place to detect, assess, and respond to nuclear security events. 45

22 Mining and processing of nuclear energy source material

Any mining right or title in connection with a nuclear energy source material shall be issued in consultation with the Authority.

PART VI

RADIOACTIVE WASTE MANAGEMENT

23 Radioactive Waste Management Fund

(1) There is hereby established a fund, to be known as the Radioactive Waste Management Fund ("the Fund"), whose management and control shall be vested, subject to this Act, in the Board.

(2) The objective of the Fund is to hold such levies as shall be prescribed in trust for the purpose of enabling the repatriation, management, storage or disposal of radioactive sources previously in the custody of an authorised person who by reason of insolvency or any other event is incapable of discharging his or her obligations to repatriate, manage, store or dispose of the sources concerned.

(3) The Chief Executive Officer shall administer the Fund on behalf of the Authority and in the prescribed manner.

(4) For the purposes of accounting, the Fund shall be deemed to be a public entity as defined in the Public Finance Management Act [*Chapter 22:19*].

(5) The Minister shall, by Statutory Instrument, fix a percentage surcharge (not exceeding 5 *per centum*) on the fee for authorisation or renewal thereof, the proceeds of which surcharge shall be deposited in the Fund.

(6) Not more than 0.5 *per centum* of the moneys of the Fund in any financial year shall be expended to meet the administrative costs of administering the Fund.

(7) The Chief Executive Officer shall notify the Board in every case where moneys of the Fund are required to be disbursed for the purposes referred to in subsection (2) and, together with such notification, shall submit for the approval of the Board an expenditure plan to secure the repatriation, management, storage, or disposal of the radioactive sources in question:

Provided that—

(a) if the amount required to be disbursed in respect of any single case or group of cases in any financial year of the Fund is likely to exceed more than half of the total moneys standing to the credit of the Fund at the end of that financial year, such excess shall not be met from the Fund but from the funds of the Authority; and

(b) if an eventuality such as is referred to in paragraph (a) happens in any financial year, the Minister may, on the recommendation of the Board, by statutory instrument, levy on authorised persons an extraordinary additional surcharge not exceeding 5 *per centum* on the fees payable in the next financial year.

(8) Moneys of the Fund not immediately required for the purpose of the Fund may be invested in such government-prescribed securities as the Board shall approve on the recommendation of the Chief Executive Officer.

24 National policy on radioactive waste management

(1) The Authority shall coordinate the development of a national policy and strategy for radioactive waste management to be approved by the Minister.

- (2) At all stages in the management of radioactive waste, the following principles shall be applied by all persons and entities, including governmental bodies—
- (a) that people and the environment are adequately protected against radiological and other hazards;
 - (b) that the generation of radioactive waste is kept to the minimum practicable; 5
 - (c) that the interdependence among the different steps of radioactive waste management is taken into account;
 - (d) that protective measures for radioactive waste management in Zimbabwe are implemented in a manner that reflects internationally recognised standards; 10
 - (e) that biological, chemical, and other hazards that may be associated with radioactive waste management are adequately addressed;
 - (f) that actions imposing reasonably predictable impacts on future generations greater than those permitted for the current generation are avoided;
 - (g) that undue burdens on current and future generations are avoided; and 15
 - (h) that appropriate funding arrangements are in place.

25 Requirements for radioactive waste management

The Authority shall prescribe and enforce requirements for the management of radioactive waste, including but not limited to: —

- (a) safety and security of radioactive waste management activities and facilities; 20
- (b) financial arrangements for radioactive waste management and resulting obligations for authorisation holders;
- (c) requirements for authorisation of radioactive waste management facilities.

26 Prohibition of import of radioactive waste 25

(1) No person shall import radioactive waste generated in another country for any purpose.

(2) A person who contravenes subsection (1) shall be guilty of an offence and 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. 30

PART VII

NUCLEAR SECURITY

27 National Nuclear Security Committee

(1) The Minister shall, after consultation with relevant ministries and departments, constitute a Committee to be known as the National Nuclear Security Committee to coordinate national efforts in nuclear security, including but not limited to threat assessment, detection, response to security events, and assessment of the sustainability of the national nuclear security regime, which Committee shall include representatives from the following ministries, departments, and agencies— 35

- (a) Office of the President and Cabinet; 40
- (b) Defence;
- (c) Energy;
- (d) Finance;
- (e) Foreign Affairs;

- (f) Health;
 - (g) Office of the Attorney General;
 - (h) Civil Protection;
 - (i) State Security;
 - 5 (j) Immigration;
 - (k) Zimbabwe Revenue Authority;
 - (l) Zimbabwe Republic Police;
 - (m) Aviation;
 - (n) Justice;
 - 10 (o) Mines;
 - (p) Transport;
 - (q) Environmental Management Agency; and
 - (r) Local government.
- (2) The Committee shall be chaired by a representative of the Office of the President and Cabinet, and the Authority shall be the secretariat to the Committee and keep records of meetings and recommendations of the Committee.
- (3) The Committee may constitute the following standing sub-committees—
- (a) detection sub-committee, responsible for threat assessment, prevention and detection measures;
 - 20 (b) response sub-committee, responsible for emergency preparedness and response to nuclear security events;
 - (c) Nuclear Security Sustainability sub-committee, responsible for the technical, scientific, and skills development support; and
 - (d) such other ad-hoc sub-committees as may be necessary.
- 25 (4) The Minister may appoint other persons to the Committee as he or she may deem necessary from time to time.

28 Security and physical protection requirements

The Authority shall prescribe requirements for the security of nuclear and other radioactive material, and their associated facilities and activities, including measures for the detection, prevention, and response to unauthorised or malicious acts involving such material, facilities or activities, considering the national nuclear threat assessment.

29 Primary responsibility of authorised persons

An authorised person conducting activities utilising nuclear or other radioactive material is primarily responsible for ensuring the physical protection of such material and related facilities as prescribed.

30 International Cooperation

- (1) The Authority shall be the central authority responsible for physical protection of nuclear material and for coordinating recovery and response in the event of any theft or unlawful taking of nuclear or other radioactive material.
- 40 (2) In the event of theft, robbery, or unlawful taking, or credible threat of unlawful taking, of nuclear or other radioactive material, the Authority shall—
- (a) take appropriate steps as soon as possible to inform other States or international organisations that may be affected, of the circumstances of the incident; and

- (b) determine the necessary cooperation and assistance arrangements in the recovery and protection of such material to be agreed with any State or international organisation that so requests.

31 Offences relating to nuclear facilities and facilities with radioactive materials 5

(1) Any person who uses or damages a nuclear facility or a facility with radioactive material, interferes with its operation, or commits any other act directed against such a nuclear facility, in a manner which releases or risks the release of radioactive material—

- (a) with the intent to cause— 10
 - (i) death or serious bodily injury; or
 - (ii) substantial damage to property or to the environment; or
- (b) with knowledge that the act is likely to cause death or serious injury to any person or substantial damage to property or to the environment by exposure to radiation or release of radioactive material (unless the act is undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated); 15
- (c) to compel a natural or legal person, an international organisation, or a State to do or refrain from doing an act;

shall be guilty of an offence and liable to life imprisonment. 20

(2) Any person who threatens to commit an offence set forth in subsection (1) shall be guilty of an offence and liable to life imprisonment.

(3) Any person who demands a nuclear facility by threat or by use of force or by any other form of intimidation, under circumstances which indicate the credibility of the threat, shall be guilty of an offence and liable to imprisonment for a period not exceeding twenty (20) years. 25

PART VIII

SAFEGUARDS

32 Application of safeguards

The Authority shall prescribe safeguards requirements to ensure the implementation of the obligations of Zimbabwe arising from the Comprehensive Safeguards Agreement and any protocols thereto. 30

PART IX

NON-IONISING RADIATION SOURCES

33 Control of exposure to electromagnetic fields 35

No person shall install, use, or dispose of any device that exposes individuals to electromagnetic fields (EMF) in the frequency range 0 to 3 x 10¹⁵ Hz unless in terms of the prescribed requirements.

PART X

FINANCIAL PROVISIONS RELATING TO AUTHORITY 40

34 Funds of Authority

(1) The Authority shall be provided with sufficient financial resources for the effective conduct of its functions.

- (2) The funds of the Authority shall consist of—

- (a) any moneys that may be payable to the Authority from moneys appropriated for the purpose by Act of Parliament;
- (b) any donations, grants, bequests or loans made to the Authority by any person or organisation or any government of any country with the leave of the Minister;
- (c) after consultation with the Minister responsible for mines, a percentage prescribed for any mining fee imposed for the mining of nuclear energy source materials;
- (d) with the leave of the Minister responsible for finance, a prescribed surcharge on the added value of any radioactive source devices;
- (e) any other moneys accruing to the Authority by way of licence fees, penalty fees, or other payments charged for any services rendered by the Authority.

35 Investment of moneys not immediately required by Authority

Any funds of the Authority not immediately required by the Authority may be invested in such a manner as the Board, in consultation with the Minister and the Minister responsible for finance, may approve.

36 Financial Year of Authority

The financial year of the Agency shall be the period of twelve months ending on the 31st of December in each year or such other date as may be prescribed.

37 Accounts of Authority

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

(2) Not later than three months after the end of each financial year, the Authority shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

38 Audit of Authority's accounts

(1) The accounts of the Authority shall be audited by the Auditor-General, who for that purpose shall have the function conferred on him or her by sections 8 and 9 of the Audit Office Act [*Chapter 22:18*] as though the assets of the Authority were public moneys and the members of the Board and employees and agents of the Authority were officers as defined in that Act.

(2) Any member of the Board or employee or agent of the Authority who—

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

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

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

- (a) subsections (1) and (2) shall apply in respect of the person so appointed as if he or she were the Auditor-General; and

- (b) any expense incurred by the person so appointed in carrying out his or her audit shall be met from the funds of the Authority.

39 Internal Auditor

Section 80 of the Public Finance Management Act [*Chapter 22:19*] shall apply, with such changes as may be necessary, to the appointment of an Internal Auditor to the Authority in all respects as if the Authority were a Ministry or a department of a Ministry. 5

PART XI

GENERAL

40 Offences 10

- (1) Any person who—
- (a) wilfully obstructs the Chief Executive Officer or any other radiation protection officer in the exercise of his or her duties in pursuance of this Act; or
 - (b) without reasonable excuse fails to produce a licence or other document required to be produced by this Act; or 15
 - (c) wilfully prevents or attempts to prevent any person from giving information as to their ownership or management of a radiation source; or
 - (d) wilfully withholds any information as to the ownership or management of a radiation source; or 20
 - (e) gives information which he or she knows to be untrue or has no reason to believe to be true;

shall be guilty of an offence and liable to a fine not exceeding level thirteen or to imprisonment for a period not exceeding six years or both such fine and such imprisonment. 25

(2) Any person who contravenes any of the provisions of this Act relating to or in connection with the importation, possession, transportation, use or disposal of irradiating devices or radioactive materials or deals in any radiation source without a valid licence shall be guilty of an offence and liable to a fine not exceeding level thirteen or to imprisonment for a period not exceeding six years or to both such fine and such imprisonment. 30

(3) The court may, in addition to any punishment imposed for an offence under this Act, order the forfeiture of any irradiating device, radioactive material, or radiation source by which an offence is committed and shall determine the manner of disposal of the device or material. 35

41 Preservation of secrecy

Any person who discloses, except—

- (a) to the Minister or to any other person for the purposes of carrying out his or her duties or the performance of his or her functions under this Act; or 40
- (b) to a police officer for an investigation or inquiry relating to the enforcement of the provisions of this Act; or
- (c) when required to do so by any court or under any enactment.

any information acquired by him or her in the carrying out of any duty or the performance of any function under this Act in relation to the business or affairs of any other person shall be guilty of an offence and liable to a fine not exceeding level six 45

or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

42 Handling of radioactive or nuclear material and devices

(1) Any person who, without lawful authority, receives, possesses, transfers,
5 alters, uses, or disposes of radioactive or nuclear material or device—

(a) with the intent to cause: —

(i) death or serious bodily injury; or

(ii) substantial damage to property or to the environment; or

(b) which causes or is likely to cause death or serious injury to any person
10 or substantial damage to property or to the environment;

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twenty-five years or to both such fine and such imprisonment.

(2) Any person who commits—

15 (a) theft or robbery of radioactive or nuclear material;

(b) fraud to obtain radioactive or nuclear material; or

(c) an act which constitutes the carrying, sending, or moving of radioactive material into or out of Zimbabwe without lawful authority;

20 shall be guilty of an offence and liable to a fine not exceeding level thirteen or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment.

(3) Any person who threatens to commit an offence set forth in subsections (1) and (2) to compel a natural or legal person to do or to refrain from doing any act shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment
25 for a period not exceeding ten years or to both such fine and such imprisonment.

(4) Any person who demands radioactive or nuclear material or a device by threat, or by use of force, or by any other form of intimidation, under circumstances which indicate the credibility of the threat shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding fifteen
30 years or to both such fine and such imprisonment.

43 Appeals

(1) Any person aggrieved by a decision of the Authority may appeal in writing, together with a prescribed fee, to the Board.

(2) The person referred to in subsection (1) shall—

35 (a) lodge an appeal with the Corporate Secretary in writing, no later than seven (7) working days after he or she has received notification of the decision; and

(b) incorporate in the appeal representations justifying why the appeal should be resolved in his or her favour.

40 (3) An appeal in terms of subsection (1) shall not suspend the decision of the Authority until the Board has made the decision on the contrary.

(4) The Board shall consider such appeal in the prescribed manner and shall uphold or dismiss the appeal as appropriate within thirty (30) working days.

45 (5) Any person aggrieved by a decision of the Board may appeal to the Administrative Court.

(6) An appeal in terms of subsection (5) shall be noted by lodging a written notice of appeal with the Registrar of the Administrative Court and the Chief Executive Officer of the Authority within twenty (20) days from the date on which the appellant was notified of the decision that is the subject of the appeal.

(7) In an appeal in terms of subsection (5), the Administrative Court may confirm, vary or set aside the decision appealed against or give such other decision as in its opinion the Board ought to have given, and may make such order as to costs as it thinks fit. 5

(8) Before making any decision in terms of subsection (7), the Administrative Court may invite expert assessors to give evidence. 10

(9) The Administrative Court Act [*Chapter 7:01*] shall apply in relation to the composition, procedure, and powers of the Administrative Court in an appeal in terms of subsection (5).

44 Regulations

(1) The Minister, in consultation with the Authority, may make regulations providing for matters which, in terms of this Act, are required or permitted to be prescribed. 15

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

- (a) the precautions to be taken to prevent injury caused by ionising radiation to the health of persons employed in places where irradiating devices, radioactive materials, or other radiation sources are manufactured, stored, or disposed of, or of persons likely to be exposed to harmful radiation; 20
- (b) the methods of disposing of radioactive waste products;
- (c) the precautions to be taken to prevent injury caused by the transportation of irradiating devices, radioactive materials, or other radiation sources to the health of persons engaged therein and other persons; 25
- (d) the manner in which and the conditions subject to which irradiating devices or radioactive materials, or other radiation sources, may be stored or used;
- (e) the making of returns by owners and persons in possession of irradiating devices, radioactive materials, or other radiation sources, giving such details as may be required; 30
- (f) the security of nuclear and radiation sources to prevent theft and acts of terrorism;
- (g) collaboration with relevant bodies in the establishment of a system for control and monitoring of radioactivity in consumer products, water, foodstuffs, and other materials; and 35
- (h) the fees payable in respect of any licence and services offered by the Authority.

45 Repeal and savings

(1) In this section— 40
“repealed Act” means the Radiation Protection Act [*Chapter 15:15*].

(2) Subject to this section, the Radiation Protection Act [*Chapter 15:15*] is repealed.

(3) Any regulations, rules, by-laws, notices, orders, or awards which, immediately before the date of commencement, were in force under the repealed Act shall remain in force as if they had been made or granted under this Act. 45

(4) Any matter or thing which was lawfully made, done or commenced under the repealed Act and which, immediately before the date of commencement, had effect or was capable of acquiring effect shall, subject to this Act, continue to have or to be capable of acquiring force, as the case may be, and shall be deemed to have been made, done or commenced under this Act.

46 Jurisdiction

Zimbabwe shall have jurisdiction over the offences set forth in section 40 as follows—

- (a) when the offence is committed within the territory of Zimbabwe or on board a ship or aircraft registered in Zimbabwe;
- (b) when the alleged offender is a national or permanent resident of Zimbabwe;
- (c) when the alleged offender is present in the territory of Zimbabwe and is not extradited to any other State asserting jurisdiction;
- (d) when the alleged offender is present in the territory of Zimbabwe, and no State has asserted jurisdiction; and
- (e) when an act is done outside Zimbabwe, if the act is done in the course of international transport of nuclear material, where Zimbabwe is the State from which shipment originates or the State of ultimate destination.

47 Extradition

The offences set forth in this Part shall be considered as extraditable offences pursuant to any extradition treaty between Zimbabwe and any other State or between Zimbabwe and any State Party to the Convention on the Physical Protection of Nuclear Material and its amendment.

48 Policy directions

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

- (a) not be inconsistent with any provision of this Act or Zimbabwe's international obligations; and
- (b) be issued in good faith, apply prospectively and not retrospectively, and be of general applicability; in particular the policy directions—
 - (i) must not apply so as to influence or direct the Board on the outcome of any particular application or other matter that is being considered by the Board immediately before the directions are issued; and
 - (ii) must not prejudice the application of the rules of natural justice by the Board in the exercise of its quasi-judicial functions;
- (c) clearly delimit the scope of their application and must otherwise not be vague or ambiguous in their terms; and
- (d) clearly express the national interest at stake; and
- (e) must be clear that they apply or are in force for a fixed or indefinite period, or that they expire on the happening of any event.

(2) Before giving the Board a direction, the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the finances, commercial interests and other resources and functioning of the Authority.

(3) After receipt of the views of the Board submitted in terms of subsection (2), the Minister may confirm, alter or withdraw any proposed direction to the Board and, where the Minister has confirmed a direction, whether altered or not, the Board shall forthwith comply with the direction.

(4) When any direction has been received by the Board in terms of this section, the Board shall set out in its annual report the direction received by it, the views expressed by it in terms of subsection (2), and the final direction given to it in terms of subsection (3). 5

(5) If the Board fails to carry out any duty imposed upon it by or under this Act or any other law, the Minister may direct the Board to take such action as he or she considers necessary to rectify the matter within such time as he or she may specify: 10

Provided that before doing so, the Minister shall give the Board an opportunity to make any representations it may wish to make in the matter.

(6) If the Board fails to take action in accordance with a direction in terms of subsection (2) within the time specified by the Minister, the Minister may take appropriate action on behalf of the Board to rectify the matter. 15

49 Reports of Authority

(1) The Board shall submit to the Minister an annual report describing fully its operations and activities, the report being submitted not later than the end of March in the year following the year to which the report relates. 20

(2) The Board may at any time submit to the Minister a special report on any matter upon which the Board considers it desirable to report.

(3) The Minister shall lay a copy of every report submitted to him or her in terms of subsections (1) and (2) before the National Assembly on one of the thirty days on which the Assembly next sits after he or she received it. 25

50 Repeal of Cap. 15:15

The Radiation Protection Act [*Chapter 15:15*] is repealed.

FIRST SCHEDULE (*Section 5(2)*)

Powers of the Authority

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interests, rights, concessions, grants, powers and privileges in respect of such property. 30

2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions. 35

3. To maintain, alter or improve property acquired by it.

4. To mortgage any assets or part of any assets and to sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Board may determine. 40

5. To draw, make, accept, endorse, discount, execute and issue, for the purposes of its functions, promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments.

6. To insure against losses, damages, risks and liabilities which it may incur.

7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such suretyships or guarantees. 45

8. To enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise that may seem conducive to the exercise of any of its functions and to obtain from such government or authority rights, privileges and concessions.

5 9. To establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the Authority's functions.

10 10. To pay such remuneration and allowances and grant such leave of absence and, with the approval of the Minister, to make such gifts, bonuses and the like to its members of staff as the Board considers fit.

15 11. To provide pecuniary benefits for its members of staff on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its members of staff and their dependants any or all of the pecuniary benefits to which this paragraph relates.

12. To purchase, take on lease or in exchange or otherwise acquire land or dwelling houses for use or occupation by its members of staff.

20 13. To construct dwellings, outbuildings or improvements for use or occupation by its members of staff on land purchased, taken on lease or in exchange or otherwise acquired by the Authority.

14. To sell or lease dwelling-houses and land and rights therein for residential purposes to its members of staff.

25 15. To make loans or guarantee loans made to its members of staff and their spouses for the acquisition of dwelling-houses or land for residential purposes, the construction of dwelling houses and the improvement of dwelling houses or land.

16. To provide security in respect of loans such as are described in paragraph 15 by the deposit of securities, in which the Authority may invest such moneys as the Board may consider necessary for the purpose.

30 17. To make loans to any member of the Authority's staff for the purpose of purchasing vehicles, tools or other equipment to be used by him or her in carrying out his or her duties.

35 18. To do anything for the purpose of improving the skill, knowledge or usefulness of its members of staff, and in that connection to provide or assist other persons in providing facilities for training, education and research.

19. To provide such services and facilities as the Board considers may properly be provided by the Authority and to charge for such services and facilities such fees as the Board may, from time to time, determine.

40 20. To establish appropriate mechanisms and procedures for informing and consulting stakeholders and the public generally about the regulatory process and relevant aspects of activities subject to regulation, including incidents, accidents and abnormal occurrences in connection therewith.

45 21. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the exercise of the Authority's functions in terms of this Act or any other enactment.

SECOND SCHEDULE (*Section 6(8)*)
Provisions applicable to Board

Paragraph

- 50 1. Disqualifications from membership of Board.
2. Terms and conditions of office of members.

3. Vacation of office by members of Board.	
4. Filling of vacancies on Board.	
5. Dismissal of appointed members.	
6. Co-opted members of Board.	
7. Meetings and procedure of Board.	5
8. Electronic meetings of Board.	
9. Committees of Board.	
10. Members of Board and committees to disclose certain connections and interests.	
11. Minutes of proceedings of Board and committees.	
12. Remuneration and allowances of members of Board and committees.	10
13. Validity of decisions and acts of Board and committees.	

Disqualifications from membership of Board

1. (1) A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as a member if—	
(a) he or she is not a citizen of Zimbabwe ordinarily resident in Zimbabwe; or	15
(b) he or she has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or	
(c) he or she has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or	20
(d) he or she has been sentenced—	
(i) in Zimbabwe, in respect of an offence; or	25
(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;	
to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or	30
(e) he or she has been convicted—	
(i) in Zimbabwe of an offence involving dishonesty; or	
(ii) outside Zimbabwe, in respect of any conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty;	
and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.	35
(2) A person who is—	
(a) a member of Parliament; or	
(b) a member of two or more other statutory bodies;	
shall not be appointed as a member of the Board nor shall he or she be qualified to hold office as a member.	40
(3) For the purposes of subparagraph (2)(b), a person who is appointed to a council, board or other Authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body.	45

Terms of office and conditions of service of members of Board

2. (1) A member of the Board shall hold office for such period, not exceeding four years as the Minister may fix for members generally.

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

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

(3) A person who ceases to be a member of the Board shall be eligible for re-appointment for only one further such term.

(4) Members of the Board shall hold office on such conditions as the Minister may fix for members generally.

Vacation of office by members of Board

3. (1) A member of the Board shall vacate his or her office and his or her office shall become vacant—

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

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

- (a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any condition of his or her office fixed in terms of paragraph 2(4); or
- (c) is mentally or physically incapable of efficiently exercising his or her functions as a member.

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

Filling of vacancies on Board

4. Subject to this Schedule, on the death of, or the vacation of office by, a member of the Board, the Minister may appoint a person to fill the vacancy:

Provided that, if the number of members is fewer than the minimum number of members specified in paragraph 6, the Minister shall forthwith (and in any case within 30 days of the vacancy occurring) appoint a person to fill the vacancy.

Dismissal of appointed members

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

- (a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or 5
- (b) the Board has failed to comply with a direction issued in terms of section 48; or
- (c) whether through disagreements among its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act; 10

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

(2) Before dismissing all the appointed members in terms of subparagraph (1), the Minister shall consult the President and act in accordance with any directions the President may give. 15

Co-opted members of Board

6. Where for the purpose of any meeting, the Board is of the opinion that the contribution of a particular person would add value to their deliberations, the Board may with the approval of the Minister, co-opt that person to the Board; 20

Provided that:

- (a) a person shall not be co-opted to the Board if he or she is disqualified from membership of the Board in terms of paragraph 7;
- (b) a co-opted person shall have no vote in any decision by the Board.

Meetings and procedure of Board 25

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

Provided that the Board shall meet at least four times annually.

(2) The chairperson of the Board may at any time and shall, at the request in writing of not fewer than three members, convene a special meeting of the Board, which meeting shall be convened at a date not sooner than seven days nor later than thirty days after receipt of such request. 30

(3) Subject to subparagraph (4) the chairperson of the Board or, in his or her absence the vice-chairperson, shall preside at meetings of the Board.

(4) If the chairperson and vice-chairperson are both absent from a meeting of the Board, the members present may elect one of their number to preside at that meeting as chairperson. 35

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

(6) All acts, matters or things authorised or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present. 40

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

Provided that—

- (a) in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to his or her deliberative vote; 45

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

5 (c) any proposal circulated among all members of the Board and agreed to by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board (but if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.)

10 *Electronic meetings of the Board*

8. (1) In addition to meetings with members physically present, the Board may hold or continue a meeting by the use of any means of communication by which all the members at the meeting can hear and be heard at the same time (hereinafter referred to as an "electronic meeting").

15 (2) A member who participates in an electronic meeting is taken for all purposes to have been present at the meeting.

(3) The Board may establish procedures for electronic meetings (including recording the minutes of such meetings).

Committees of Board

20 9. (1) For the better exercise of its functions, the Board may establish committees in which, it may vest such of its functions as it thinks fit:

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

25 (2) On establishing a committee, the Board may appoint to the committee persons who are not members of the Board, but at least one of the members must be a member of the Board who shall be the chairperson of the committee (or one of them shall be the chairperson if two or more members are appointed to the committee.)

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

Members of Board and committees to disclose certain connections and interests

10. (1) In this paragraph—

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

35 (2) Subject to subparagraph (4)—

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

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

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

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

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

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

5

(iv) if for any reason the private interests of a member of the Board or of a committee come into conflict with his or her functions as a member;

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

10

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

(4) Nothing in this paragraph shall be taken to prevent members of the Board or of a committee of the Board from taking part in the consideration of, or voting on, any matter that affects members generally in their capacity as members of the public.

15

(5) Any person who contravenes subparagraph (2) or (3) 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.

20

Minutes of proceedings of Board and of Committees

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

(2) Any minutes which purport to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes on their face as proof of the proceedings of and decisions taken at that meeting.

25

(3) The Board shall ensure that copies of all minutes of its meetings are sent to the Minister, for his or her information, without delay after they have been signed.

30

Remuneration and allowances of members of Board and of committees

12. (1) Members of the Board and of committees of the Board shall be paid—

(a) such remuneration, if any, as the Minister may from time-to-time fix for members of the Board or members of committees, as the case may be, generally; and

35

(b) such allowances, if any, as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business of the Board or the committee, as the case may be.

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

40

Validity of decisions and acts of Board and committees

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

45

THIRD SCHEDULE (*Section 10; 17*)

Civil penalty orders

ARRANGEMENT OF PARAGRAPHS

Section

- 5 1. Interpretation in Schedule.
2. Power of Authority to issue civil penalty orders.
3. Specific civil infringements.
4. Limitation on issuance and enforcement of civil penalty orders.
5. Service and enforcement of civil penalties and destination of proceeds thereof.
- 10 6. When hearings on question whether to serve civil penalty orders may be held.
7. Evidentiary provisions in connection with civil penalty orders.
8. Designated officers.

Interpretation in Schedule

1. In this Schedule, unless the context otherwise requires —
 - 15 “citation clause”, in relation to a civil penalty order, means the part of the order in which the Authority names the defaulter and cites the provision of this Act in respect of which the default was made or is alleged, together with (if necessary) a brief statement of the facts constituting the default;
 - 20 “civil penalty register” means the register referred to in paragraph 7 (“Evidentiary provisions in connection with civil penalty orders”);
 - “corporate defaulter” means a defaulter which is a company, syndicate or other corporate person (and includes a partnership for the purpose of paragraph 5(3) and (6));
 - 25 “date of issuance”, in relation to the service of a civil penalty order, means the date on which it is served in any of the ways specified in paragraph 4(1);
 - “defaulter” means the person on account of whose default a civil penalty order is served, and includes an alleged defaulter;
 - “designated officer” means an employee of the Authority or other person designated and authorised by the Chief Executive Officer of the Authority to undertake duties in connection with the implementation of this Schedule;
 - 30 “penalty clause”, in relation to a civil penalty order, is the part of the order that fixes the penalty to be paid by the defaulter, and “fixed penalty clause” and “cumulative penalty clause” shall be construed accordingly;
 - 35 “remediation clause”, in relation to a civil penalty order, means the part of the order that stipulates the remedial action to be taken by the defaulter;
 - “show cause clause”, in relation to a civil penalty order means the part of the order that requires the defaulter to show cause why the civil penalty order should not have been served or should be withdrawn.

40 *Power of Authority to issue civil penalty orders*

2. Where default is made in complying with any provision of this Act or of regulations or orders made under this Act for which a civil penalty is specified in this Schedule to be leviable, the Authority may, in addition to, and without derogating from, any criminal or non-criminal penalty that may be imposed by this Act or any other law
45 for the conduct constituting the default, serve upon the defaulter a civil penalty order of the appropriate description specified in paragraph 3.

Specific civil infringements

3. (1) A natural or legal authorised person shall be guilty of a civil infringement if he or she commences his or her activities subject to authorisation without having obtained the relevant authorisation from the Authority, contrary to section 13.

(2) In the event of default in complying with subparagraph (1), the civil penalty shall provide for— 5

- (a) a combination of—
 - (i) a fixed penalty of twice the authorisation fee that person would have paid on application for that authorisation; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 10
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 15

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period; 20
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(3) A natural or legal authorised person shall be guilty of a civil infringement if he or she fails to timeously renew the authorisation, contrary to section 13. 25

(4) In the event of default in complying with subparagraph (3), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of twice the authorisation fee that person would have paid on renewal of that authorisation; and 30
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 35
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 40

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register. 45

(5) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to issue a monitoring device to each employee of the

authorised person in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(6) In the event of default in complying with subparagraph (5), the civil penalty shall provide for—

- 5 (a) a combination of—
 - (i) a fixed penalty of the amount of twenty per centum of the fee payable for the authorisation of the defaulter in respect of each employee for whom no monitoring device has been issued in accordance with the schedule; and
 - 10 (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- 15 (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- 20 (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

25 (7) A natural or legal authorised person shall be guilty of a civil infringement if he or she fails to have a dosimeter at a facility.

(8) In the event of default in complying with subparagraph (7), the civil penalty shall provide for—

- (a) a combination of—
 - 30 (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter in respect of each facility for whom no monitoring device has been issued in accordance with the schedule; and
 - 35 (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- 40 (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- 45 (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(9) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to submit the monitoring device issued to each employee of the authorised person for reading by an approved dosimetry laboratory in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(10) In the event of default in complying with subparagraph (9), the civil penalty shall provide for— 5

- (a) a combination of—
 - (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter in respect of each employee for whom no monitoring device has been submitted timeously in accordance with the schedule; and 10
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 15
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 20

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register. 25

(11) A natural or legal authorised person shall be guilty of a civil infringement if he or she, employs persons not qualified to be employed in its organisation in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(12) In the event of default in complying with subparagraph (11), the civil penalty shall provide for— 30

- (a) a combination of—
 - (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter in respect of each employee for whom qualifications are available; and 35
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 40
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that— 45

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(13) A natural or legal authorised person shall be guilty of a civil infringement if he or she, makes use of unaccredited service providers contrary to the terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(14) In the event of default in complying with subparagraph (13), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(15) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to transport radioactive or nuclear material with the appropriate signage in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(16) In the event of default in complying with subparagraph (15), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of twice the value of the fee payable for the authorisation of the defaulter in respect of transportation in accordance with the schedule; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.
- (17) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to inform the Authority of changes to any authorisation in terms of the schedule prescribed in the authorisation to which the authorised person is subject. 5
- (18) In the event of default in complying with subparagraph (17), the civil penalty shall provide for—
- (a) a combination of— 10
- (i) a fixed penalty of the amount of sixty per centum of the fee payable for the authorisation of the defaulter; and
- (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 15
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 20
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register. 25
- (19) A natural or legal authorised person shall be guilty of a civil infringement if he or she fails or neglects to follow prescribed procedures with regard to import or export of radioactive or nuclear material in terms of the schedule prescribed in the authorisation to which the authorised person is subject. 30
- (20) In the event of default in complying with subparagraph (19), the civil penalty shall provide for—
- (a) a combination of—
- (i) a fixed penalty of the amount of twice the value of the authorisation fees required in respect of import and export of the relevant authorisation; and 35
- (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 40
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 45
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(21) A natural or legal authorised person shall be guilty of a civil infringement if he or she, denies a designated officer or inspector entry into his or her premises in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(22) In the event of default in complying with subparagraph (21), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of fifty per centum of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(23) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to notify the Authority of any radiation incidences that occurs in any of its premises or facilities in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(24) In the event of default in complying with subparagraph (23), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of eighty *per centum* of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.
- (25) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to produce a vehicle screening license on demand by the Authority in terms of the schedule prescribed in the authorisation to which the authorised person is subject. 5
- (26) In the event of default in complying with subparagraph (25), the civil penalty shall provide for—
- (a) a combination of— 10
- (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter; and
- (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 15
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 20
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register. 25
- (27) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to notify the Authority of any modifications that the authorised person made to any facility under him or her in terms of the schedule prescribed in the authorisation to which the authorised person is subject. 30
- (28) In the event of default in complying with subparagraph (27), the civil penalty shall provide for—
- (a) a combination of—
- (i) a fixed penalty of the amount of sixty *per centum* of the fee payable for the authorisation of the defaulter; and 35
- (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 40
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 45
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(29) A natural or legal authorised person shall be guilty of a civil infringement if he or she, not undertaking any activities subject to authorisation but remains in possession of radiation source after expiry of an authorisation and does not apply for authorisation to regulate such possession in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(30) In the event of default in complying with subparagraph (29), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(31) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to notify the Authority of any change of ownership of a radiation source in terms of the schedule prescribed in the authorisation to which the authorised person is subject.

(32) In the event of default in complying with subparagraph (31), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.
- (33) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to dispose of disused sources or waste in the prescribed manner to which the authorised person is subject. 5
- (34) In the event of default in complying with subparagraph (33), the civil penalty shall provide for—
- (a) a combination of—
 - (i) a fixed penalty of the amount of the fee payable for the authorisation of the defaulter; and 10
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 15
 - (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 20
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
 - (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register. 25
- (35) A natural or legal authorised person shall be guilty of a civil infringement if he or she, fails or neglects to comply with an order issued by an inspector or designated person to which the authorised person is subject.
- (36) In the event of default in complying with subparagraph (35), the civil penalty shall provide for— 30
- (a) a combination of—
 - (i) a fixed penalty of the amount of the fee payable for the authorisation of the defaulter; and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter; 35
 - (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error: 40
- Provided that—
- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period; 45
 - (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

(37) A natural or legal authorised person shall be guilty of a civil infringement if he or she fails or neglects to complete a Naturally Occurring Radioactive Materials (NORM) assessment as is required.

(38) In the event of default in complying with subparagraph (37), the civil penalty shall provide for—

(a) a combination of—

(i) a fixed penalty of the amount of twenty *per centum* of the fee payable for the authorisation of the defaulter; and

(ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter;

(b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

(i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;

(ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.

Limitation on issuance and enforcement of civil penalty orders

4. (1) No civil penalty order may be issued more than twenty-four months from the date when the default or alleged default occurred or ceased to occur.

(2) A single civil penalty order may (in terms of paragraph 5(4)) be served in respect of two or more defaults committed by the defaulter within a single period not exceeding six months, but if the aggregate of such defaults results in the defaulter becoming liable (either immediately or within seven days from the service of the civil penalty order) to a penalty or combined penalties in excess of the equivalent to more than twice the highest monetary penalty for which that person is liable in respect of any of those civil defaults, the Authority may select one or any combination of those defaults which will not result in the defaulter becoming so liable, while reserving the right to serve a second or further additional civil penalty orders in respect of the defaults not so selected if the defaulter does not comply with the first civil penalty order.

Service and enforcement of civil penalties and destination of proceeds thereof

5. (1) References to the designated officer serving upon a defaulter any civil penalty order in terms of this Schedule, are to be interpreted as requiring the designated officer to serve such order in writing to the defaulter concerned—

(a) by hand delivery to the defaulter or his or her director, manager, secretary or accounting officer in person, or to a responsible individual at the place of business of the defaulter; or

(b) by delivery through a commercial courier service to the defaulter's place of business or his or her principal office in Zimbabwe or other place of business of the defaulter; or

(c) by electronic mail to the defaulter whose electronic mail address is known to the designated officer.

- (2) The designated officer shall not extend the period specified in a civil penalty order for compliance therewith except upon good cause shown to him or her by the defaulter, and any extension of time so granted and the reasons therefor (not exceeding in any case 30 days) shall be noted by the designated officer in the civil penalty register.
- (3) The designated officer may, if the defaulter is a corporate defaulter — 5
- (a) in the same civil penalty order, name the corporate defaulter and every officer of the company, syndicate, other corporate person or partnership concerned as being so liable separately, or issue separate civil penalty orders in respect of the defaulter and each of the officers concerned; or
 - (b) choose to serve the order only upon the corporate defaulter without naming the officers if, in his or her opinion (which opinion the designated officer shall note in the civil penalty register), there may be a substantial dispute of fact about the identity of the particular officer or officers who may be in default: 10
- Provided that nothing in this subparagraph affects the default liability of officers of the defaulter mentioned in subparagraph (6). 15
- (4) Subject to paragraph 4(2), the designated officer may, in the citation clause of a single civil penalty order, cite two or more defaults relating to different provisions of this Schedule if the defaults in question —
- (a) occurred concurrently or within a period not exceeding six months from the first default or defaults to the last default or defaults; or 20
 - (b) arose in connection with the same set of facts.
- (5) Where in this Act the same acts or omissions are liable to both criminal and civil penalty proceedings, the designated officer may serve a civil penalty order at any time before the commencement of the criminal proceedings in relation to that default, that is to say at any time before — 25
- (a) summons is issued to the accused person for the prosecution of the offence; or
 - (b) a statement of the charge is lodged with the clerk of the magistrate's court before which the accused is to be tried, where the offence is to be tried summarily; or 30
 - (c) an indictment has been served upon the accused person, where the person is to be tried before the High Court;
- as the case may be, but may not serve any civil penalty order after the commencement of the criminal proceedings until after those proceedings are concluded (the criminal proceedings are deemed for this purpose to be concluded if they result in a conviction or acquittal, even if they are appealed or taken on review). (For the avoidance of doubt, it is declared that the acquittal of an alleged defaulter in criminal proceedings does not excuse the defaulter from liability for civil penalty proceedings). 35
- (6) Every officer of a corporate defaulter mentioned in the civil penalty order by name or by office, is deemed to be in default and any one of them can, on the basis of joint and several liability, be made by the designated officer to pay the civil penalty in the event that the corporate defaulter does not pay. 40
- (7) Upon the expiry of the ninety-day period within which any civil penalty order of any category must be paid or complied with, the defaulter 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 (in the case of a corporate defaulter, every one of its officers is liable to the penalty of imprisonment, and to the fine if the corporate defaulter fails to pay it). 45

(8) The amount of any civil penalty shall—

- (a) be payable in the manner directed by the designated officer in the civil penalty order and shall form part of the funds of the Authority; and
- (b) be a debt due to the Authority and shall be sued for in any proceedings in the name of the Authority in any court of competent civil jurisdiction:

Provided that for this purpose, the court of the magistrate in the district where the defaulter has his or her principal place of business shall be deemed to have jurisdiction to hear the suit even if the monetary amount sought would otherwise exceed its prescribed jurisdiction.

(9) Proceedings in a court for the recovery of a civil penalty shall be deemed to be proceedings for the recovery of a debt as if the defaulter had acknowledged the debt in writing.

(10) If the designated officer in terms of subparagraph (8)(b) desires to institute proceedings to recover the amounts of two or more civil penalties in any court of competent civil jurisdiction, the designated officer may, after notice to all interested parties, bring a single action in relation to the recovery of those penalties if the orders relating to those penalties —

- (a) were all served within the period of twelve months preceding the institution of the proceedings; and
- (b) were served—
 - (i) on the same defaulter; or
 - (ii) in relation to the same default or set of defaults, whether committed by the same defaulter or different defaulters; or
 - (iii) on two or more defaulters whose registered offices are in the same area of jurisdiction of the court before which the proceedings are instituted.

(11) Unless the designated officer has earlier recovered in civil court the amount outstanding under a civil penalty order, a court convicting a person of an offence against subparagraph (7), may on its own motion or on the application of the prosecutor and in addition to any penalty which it may impose, give summary judgement in favour of the designated officer for the amount of any outstanding civil penalty due from the convicted defaulter.

When hearings on question whether to serve civil penalty orders may be held

6. (1) If, in response to a show cause clause, an alleged defaulter satisfies the designated officer, that it is not possible within 48 hours to demonstrate that the civil penalty order was issued in error, the designated officer shall afford the alleged defaulter an opportunity to be heard by making oral representations to the designated officer, for which purpose—

- (a) no later than 96 hours after the issuance of the civil penalty order, the alleged defaulter must furnish to the designated officer an affidavit sworn by him or her giving reasons to show that the civil penalty order was issued in error:

Provided that the designated officer shall not entertain ignorance of the law or any alleged impossibility of compliance with it as grounds for withdrawing a civil penalty order;

- (b) within a reasonable period from the receipt of an affidavit referred to in subparagraph (1)(a) the designated officer may serve copies of the affidavit on any person who, in the designated officer's opinion, is affected by or may be a party to the default, together with an invitation to the parties to

attend at a meeting to be presided over by the designated officer (giving particulars of its time and venue) to enable the parties to make oral and written representations at that meeting on the question whether the civil penalty order was issued in error to the alleged defaulter and whether it should be issued to some other person or not issued at all: 5

Provided that in such invitation or at the meeting the designated officer may restrict the parties to submitting written representations only, before or no later than 48 hours after the conclusion of the meeting.

(2) The following provisions apply to every meeting convened under this paragraph in connection with the issuance of a civil penalty order— 10

- (a) if the alleged defaulter fails to attend at the meeting the designated officer may proceed to issue the civil penalty order;
- (b) the alleged defaulter bears the burden of showing on a balance of probabilities that the civil penalty order was issued in error;
- (c) at the conclusion of the meeting the designated officer may in the presence of the parties (if any) at the meeting verbally— 15
 - (i) confirm that the civil penalty order was properly issued and is to have effect from—
 - A. the date on which it was initially issued if the designated officer finds that the defaulter's objections to its issuance were baseless, vexatious or frivolous; or 20
 - B. in any other case, post-date the date of commencement of the civil penalty order to the date of his or her decision;

or

- (ii) cancel the civil penalty order; or 25
- (iii) re-issue the civil penalty order to the same or another defaulter and on the same or different terms with effect from the date of his or her decision;

and, in the case of subparagraph (c)(i) or (iii), may extend the period specified in a civil penalty order for compliance therewith by a further specified period: 30

Provided that the designated officer may defer making a decision by no more than 48 hours after the conclusion of the meeting and give notice of his or her decision, and the reasons for it (together with the civil penalty order, if any), to the alleged defaulter or any other person found to be liable for the civil penalty.

Evidentiary provisions in connection with civil penalty orders 35

7. (1) For the purposes of this Schedule the designated officer shall keep a civil penalty register wherein shall be recorded—

- (a) the date of service of every civil penalty order, the name and the physical or registered office address of the person upon whom it was served, the civil penalty provision in relation to which the defaulter was in default, and the date on which the civil penalty order was complied with or the penalty thereunder was recovered as the case may be; 40
- (b) if the alleged defaulter responded to the show cause clause in the civil penalty order with the result that—
 - (i) the order was cancelled because it was issued in error, the fact and the date of such cancellation; or 45
 - (ii) a meeting was held in accordance with paragraph 6, then—
 - A. a record or an adequate summary of any representations made at the meeting by way of an entry or cross-reference in, or

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B. a record of the outcome of the meeting, that is to say, whether or not the civil penalty order was cancelled, and if not the date from which it was to have effect and whether a different defaulter was served with it.

(2) A copy of—

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8. (1) Any reference to the Authority in this Schedule shall be construed as a reference to a designated officer.

(3) A designated officer shall, on demand by any person affected by the exercise of the powers conferred upon the Authority under this Schedule, exhibit the certificate issued to him or her in terms of subparagraph (2).

