

HUMAN RESOURCES PRACTITIONERS BILL, 2013

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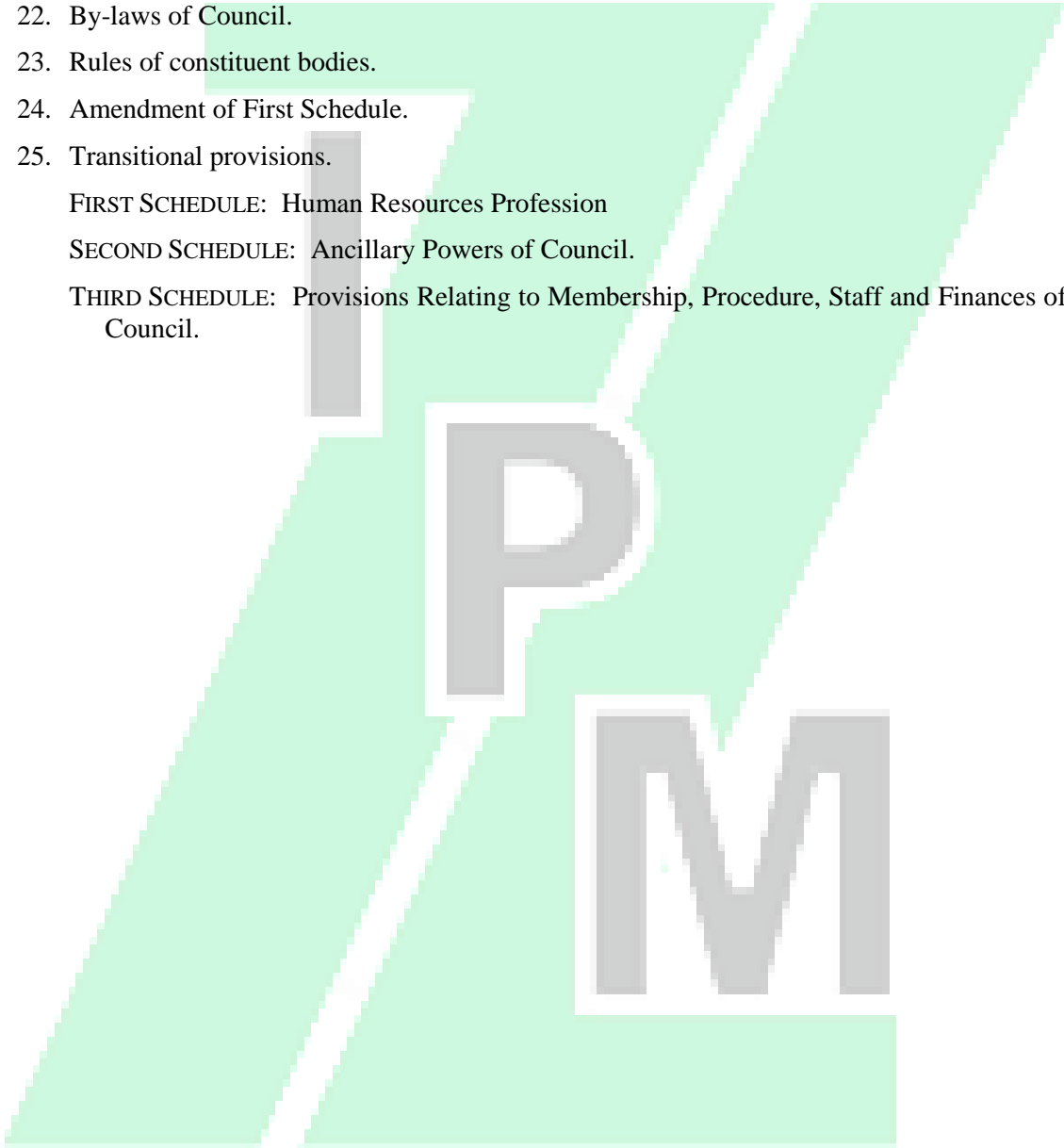
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Second draft: 3rd April, 2013

First draft: 2nd February, 2013

BILL

To establish a council to be known as the Human Resources Practitioners Council of Zimbabwe and to provide for its functions and powers; to provide for the registration of human resources practitioners and for the regulation and control of their practice; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I PRELIMINARY

1 Short title and date of commencement

- (1) This Act may be cited as the Human Resources Practitioners Act [*Chapter 27:23*].
- (2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

2 Interpretation

In this Act—

“by-laws” means by-laws made by the Council in terms of section 22;

“certificate of registration” means a certificate issued in terms of section 9(5) or a duplicate certificate of registration issued in terms of by-laws;

“constituent body” means an institute, association or body which represents human resources practitioners or any class thereof and which is, or is declared to be, a constituent body in terms of section 3;

“Council” means the Human Resources Practitioners Council of Zimbabwe established by section 4;

“councillor” means a member of the Council;

“fixed date” means the date fixed in terms of section 1(2) as the date of commencement of this Act;

“human resources practitioner” means a person who practices in the human resources profession described in the First Schedule;

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

“Register” means the Register of Human Resources Practitioners established in terms of section 7;

“registered” means registered in the Register in terms of this Act;

“rules” means rules made by a constituent body in terms of section 23;

“Secretary” means the person appointed by or assigned to the Council as its secretary in terms of paragraph 12 of the Third Schedule.

3 Constituent bodies

- (1) The following associations shall be constituent bodies for the purposes of this Act—
- (a) the Institute of People Management of Zimbabwe, a voluntary association incorporated on the 8th May 1979 under Vocational Education and Training Act 1978 and currently governed by a constitution adopted by members of the Institute in March 1985 and amended on 3rd April 2009; and
 - (b) any other institute, association or body declared to be a constituent body in terms of subsection (7).
- (2) Any institute, association or body representing human resources practitioners, or any class of such practitioners, may apply to the Council to become a constituent body.
- (3) An application under subsection (2) shall be made in writing and shall—
- (a) specify the classes of human resources practitioners represented by the applicant, and provide evidence that the applicant is fairly representative of them; and
 - (b) describe the manner in which the applicant is constituted, whether as a voluntary association, a body corporate, a company limited by guarantee under the Companies Act [*Chapter 24:03*] or otherwise; and
 - (c) be accompanied by—
 - (i) a copy of the constitution, memorandum, articles, rules or other document by which the applicant is constituted and governed; and
 - (ii) any other information that may be prescribed or that the Council may reasonably require.

(4) The Council, after considering an application under subsection (3), shall forward to the Minister-

- (a) the application and all documents received from the applicant in connection with the application; and
- (b) the Council's written recommendation whether or not the Minister should declare the applicant to be a constituent body.

(5) The Council shall not recommend in terms of subsection (4)(b) that the Minister should refuse to declare an applicant a constituent body unless the Council has—

- (a) informed the applicant of its proposed recommendation and the reasons for it; and
- (b) given the applicant a reasonable opportunity to make representations in regard to the proposed recommendation; and
- (c) paid due regard to any representations made by the applicant.

(6) In deciding whether or not to declare an applicant a constituent body, the Minister—

- (a) shall pay due regard to the Council's recommendation made under subsection (4)(b); and
- (b) may invite the Council and the applicant to make further written representations in the matter, either orally or in writing:

Provided that the Minister shall not—

- (a) reach a decision contrary to the Council's recommendation unless the Council has been informed of the proposed decision and given a reasonable opportunity to make representations in regard to it;
- (b) refuse to declare an applicant a constituent body unless the applicant has been informed of the proposed decision and given a reasonable opportunity to make representations in regard to it.

(7) Subject to this section, the Minister may, by statutory instrument, declare an applicant to be a constituent body.

(8) If the Council considers that the membership or standards of a constituent body have fallen to an extent that it can no longer fairly represent human resources practitioners as a constituent body, the Council shall recommend to the Minister that he or she should rescind the declaration of the body as a constituent body:

Provided that the Council shall not make such a recommendation unless it has—

- (a) informed the body concerned of its proposed recommendation and the reasons for it; and
- (b) given the body concerned a reasonable opportunity to make representations in regard to the proposed recommendation; and
- (c) paid due regard to any representations made by the body concerned.

(9) On receipt of a recommendation in terms of subsection (8), the Minister may, by statutory instrument, rescind the declaration of the body concerned as a constituent body:

Provided that, before doing so, the Minister shall—

- (a) inform the body concerned of the proposed rescission and the reasons for it; and

- (b) given the body concerned a reasonable opportunity to make representations in regard to the proposed rescission; and
- (c) paid due regard to any representations made by the body concerned.

(10) The Minister may amend a declaration of a constituent body to take account of any change in the body's name.

PART II

HUMAN RESOURCES PRACTITIONERS COUNCIL OF ZIMBABWE

4 Establishment of Human Resources Practitioners Council of Zimbabwe

There is hereby established a council, to be known as the Human Resources Practitioners Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of doing anything that bodies corporate may do by law.

5 Functions and powers of Council

(1) Subject to this Act, the functions of the Council shall be—

- (a) to maintain the Register;
- (b) to consider and determine applications for registration;
- (c) to conduct examinations to qualify persons for registration as human resources practitioners;
- (d) to encourage co-operation between constituent bodies in matters of common interest;
- (e) to ensure that constituent bodies have adequate procedures to enforce ethical practice and discipline among their members;
- (f) to take such steps as the Council considers necessary or desirable to advance the standing of human resources practitioners;
- (g) to exercise any other function that may be conferred or imposed on the Council by any other enactment.

(2) Subject to this Act and any other law, the Council shall have power to do anything specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

6 Provisions relating to membership, procedure, staff and finances of Council

(1) Part I of the Third Schedule shall apply in regard to the membership of the Council, the election and appointment of councillors and their tenure and conditions of service.

(2) Part II of the Third Schedule shall apply in regard to the conduct of the Council's business.

(3) Part III of the Third Schedule shall apply in regard to appointment and conditions of service of the Council's staff.

(4) Part IV of the Third Schedule shall apply in regard to the Council's finances.

PART III

REGISTRATION OF HUMAN RESOURCES PRACTITIONERS

7 Register of Human Resources Practitioners

(1) The Council shall establish a register, to be known as Register of Human Resources Practitioners, and may divide it into two or more parts for the registration of different classes of human resources practitioners.

(2) The Secretary shall be responsible, subject to any directions given to him or her by the Council, for maintaining the Register and ensuring that entries are made in it recording—

- (a) the name and such other particulars as may be prescribed of each person whom the Council has directed shall be registered; and
- (b) particulars of the cancellation or suspension of any person's registration, and of the restoration of any such cancelled registration or the termination of any such suspension; and
- (c) any other particulars that may be prescribed or that the Council may determine; and
- (d) any necessary corrections or alterations to the particulars or facts referred to in paragraph (a), (b) or (c).
- (d) any other particulars that may be prescribed or that the Council may determine.

(3) The Secretary shall ensure that the Register is open to inspection at all reasonable times, free of charge, by members of the public at the Council's offices.

8 Qualifications for registration

(1) Subject to subsection (2), a person shall be qualified for registration if he or she is of or over the age of eighteen years, and—

- (a) is a member in good standing of any constituent body; or
- (b) possesses such qualifications and additionally, or alternatively, has such experience as may be prescribed or as the Council accepts as a qualification for registration.

(2) A person shall not be qualified for registration if—

- (a) 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
- (b) 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
- (c) he or she has been certified or declared, either inside or outside Zimbabwe, to be mentally disordered or intellectually handicapped or of unsound mind in terms of the Mental Health Act [*Chapter 15:12*], or an equivalent law of a foreign country, and the certification or declaration remains in force; or
- (d) within the period of five years immediately preceding his or her application for registration—
 - (i) he or she has been convicted inside or outside Zimbabwe of an offence which in the Council's opinion is of a disgraceful or dishonourable nature; or

- (ii) he or she has been guilty of conduct which, in the Council's opinion, would have constituted unprofessional, improper or disgraceful conduct had he or she been registered;

or

- (e) the constituent body of which he or she is a member has ceased to be a constituent body and, within twelve months thereafter, he or she has not become a member of another constituent body.

9 Registration

(1) Any person who wishes to be registered as a human resources practitioner shall submit to the constituent body of which he or she is a member an application in the prescribed form, together with the prescribed application fee.

(2) On receipt of an application in terms of subsection (1), the secretary or executive officer of the constituent body shall certify in writing whether or not the applicant—

- (a) is a member in good standing of the constituent body; and
- (b) is qualified for registration as a human resources practitioner;

and shall forward the application, together with the prescribed application fee, to the Council.

(3) The Council shall without delay consider every application for registration forwarded to it in terms of subsection (2), and—

- (a) if the Council is satisfied that the applicant is qualified for registration, the Council shall direct its Secretary to register the applicant;
- (b) subject to subsection (4), if the Council is not so satisfied, the Council shall refuse the application and direct its Secretary to notify the applicant in writing, through the constituent body concerned, of its decision.

(4) Before refusing an application for registration, the Council shall—

- (a) inform the applicant in writing, through the constituent body concerned, of the grounds on which it proposes to refuse the application, and afford the applicant a reasonable opportunity to make representations in the matter, in writing or in person as the Council thinks fit; and
- (b) pay due regard to any representations made by the applicant in terms of paragraph (a).

(5) Whenever the Secretary registers a person in terms of this section, he or she shall issue that person with a certificate of registration in the form prescribed.

10 Cancellation or suspension of registration

(1) Subject to subsection (3), the Council shall direct its Secretary to cancel the registration of any registered human resources practitioner—

- (a) whose membership of a constituent body has been cancelled by that body; or
- (b) who has ceased to be qualified for registration on a ground specified in paragraph (a), (b) or (c) of section 8(2); or
- (c) who has been—
 - (i) convicted of an offence, whether in Zimbabwe or elsewhere; or
 - (ii) guilty of conduct;

which in the Council's opinion constitutes unprofessional, improper or disgraceful conduct;

and the Secretary shall comply with any such direction.

(2) Subject to subsection (3), if the Council is notified in writing by a constituent body that it has—

- (a) suspended the membership of a registered human resources practitioner, the Council shall direct its Secretary to suspend the practitioner's registration for the same period as his or her membership of the constituent body has been suspended;
- (b) cancelled the membership of a registered human resources practitioner, the Council shall direct its Secretary to cancel the practitioner's registration;

and the Secretary shall comply with any such direction.

(3) Before reaching a decision as to whether or not a person's registration should be cancelled or suspended in terms of subsection (1) or (2), the Council shall—

- (a) inform the person in writing of the grounds on which it proposes to cancel or suspend his or her registration and afford him or her a reasonable opportunity to make representations in the matter, in writing or in person as the Council thinks fit; and
- (b) pay due regard to any representations made by the person in terms of paragraph (a).

(4) The Council may direct its Secretary to cancel the registration of any human resources practitioner who applies to the Secretary in writing for his or her registration to be cancelled, if the Council is satisfied that no disciplinary or criminal proceedings are being, or are likely to be, instituted against the applicant in connection with the practice of his or her profession.

(5) Whenever the Secretary cancels or suspends a person's registration in terms of this section, he or she shall notify the person and the constituent body concerned, in writing, of the cancellation or suspension.

11 Return of certificate of registration on cancellation of registration

A person whose registration has been cancelled in terms of section 10 shall return his or her certificate of registration to the Secretary within thirty days after being requested in writing to do so:

Provided that, by written notice to the person concerned, the Council may dispense with this requirement if it is satisfied that he or she has lost the certificate or that the certificate has been destroyed.

12 Restoration of registration

(1) A person whose registration has been cancelled in terms of section 10 may apply for his or her registration to be restored, and section 9 shall apply, with any necessary changes, as if the person were applying for registration.

(2) The Council shall direct its Secretary to restore to the Register the name of a person whose registration was cancelled in terms of section 10(2)(b) if the constituent body concerned notifies the Council, in writing, that the person has had his or her membership restored.

13 Offences in connection with Register, registration certificates, etc.

(1) A person who—

- (a) without lawful authority, makes or causes to be made an entry in or alteration of or deletion from—
 - (i) the Register; or
 - (ii) a certified copy of or extract from the Register; or
 - (iii) a certificate of registration;
- or
- (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or
- (c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his or her identity; or
- (d) wilfully destroys or defaces or renders illegible or causes to be destroyed, defaced or rendered illegible an entry in the Register; or
- (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
- (f) forges a document purporting to be a certificate of registration, or utters such a document knowing it to be forged;

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

(2) A person who, without lawful excuse, fails to return his or her certificate of registration to the Secretary in terms of section 11 shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

14 Register and certificates of Secretary to be evidence

(1) The Register shall be *prima facie* proof of all matters directed or authorised by this Act to be entered in it.

- (2) A certificate purporting to be signed by the Secretary to the effect that—
 - (a) the name of a person appears in the Register, shall be *prima facie* proof that the person is registered;
 - (b) the name of a person has been deleted or removed from or does not appear in the Register, shall be *prima facie* proof that the person is not registered;
 - (c) a person's registration has been suspended for a period specified in the certificate, shall be *prima facie* proof that the person's registration has been suspended for that period;

and the certificate shall be admitted in evidence in all courts upon its production by any person.

(3) A copy of an entry in the Register or of a document in the custody of the Secretary, or an extract from the Register or from such a document, shall, if it purports to be certified by the Secretary, be admitted in evidence in all courts upon its production by any person, without further proof or production of the original.

PART IV
DISCIPLINE

15 Disciplinary proceedings

(1) Each constituent body shall be responsible for the professional conduct of its members who are registered persons and, for that purpose, each constituent body shall have power, in accordance with this Act or its constitution, to undertake disciplinary proceedings against such members and to punish them for breaches of its rules and any by-laws of the Council relating to professional conduct and discipline.

(2) Without derogation from the generality of subsection (1), each constituent body may and, if so directed by the Council, shall inquire into the conduct of any of its members who are registered persons to determine whether or not the member concerned—

- (a) before his or her registration, was guilty of conduct which, if he or she had been registered, would have constituted unprofessional, improper or disgraceful conduct; or
- (b) after his or her registration, has been guilty of unprofessional, improper or disgraceful conduct; or
- (c) is grossly incompetent or has performed in a grossly incompetent manner any act relating to his or her practice as a human resources practitioner; or
- (d) has become mentally or physically disabled to such an extent that it would be contrary to the public interest to permit him to continue to practise as a human resources practitioner;

and following the inquiry may take appropriate disciplinary action against any such member in accordance with the constituent body's constitution or rules.

16 Review of disciplinary proceedings

(1) Where a constituent body has found that a member who is a registered person has contravened a rule or by-law referred to in section 15, the constituent body shall make a report to the Council in writing within fourteen days, and shall provide the Council with such information regarding the case as the Council may reasonably require.

(2) Upon receipt of a report and information in terms of subsection (1), the Council shall review the constituent body's decision, after giving the registered person concerned a reasonable opportunity to make representations in the matter:

Provided that, if an appeal against the constituent body's decision is lodged in terms of section 17, the Council shall determine the appeal rather than review the decision.

(3) In a review under subsection (2) the Council may confirm, alter or set aside the constituent body's decision or refer the matter back to the constituent body for further consideration:

Provided that the Council shall not alter or set aside the decision unless it is satisfied that—

- (a) the constituent body failed to follow any procedure which, by or under this Act or its constitution, it was required to follow in disciplinary proceedings; or
- (b) the constituent body failed to observe the rules of natural justice, or

- (c) the decision of the constituent body was unreasonable in all the circumstances of the case;

and that a substantial miscarriage of justice ensued.

17 Appeal to Council against disciplinary action

(1) A registered person whose membership of a constituent body has been suspended or cancelled following disciplinary proceedings against him or her may appeal in writing to the Council, setting out clearly the grounds of his or her appeal, within fourteen days after being informed of the suspension or cancellation, or within such further period as the Council may allow.

(2) An appeal under subsection (1) shall be lodged in the form and manner prescribed.

(3) The Council shall forward a copy of any appeal lodged with it under subsection (1) to the constituent body concerned, and the constituent body shall, within thirty days or such longer period as the Council may allow, provide the Council with such number of copies of the record of the disciplinary proceedings as may be prescribed.

(4) After affording the appellant and the constituent body concerned a reasonable opportunity to make representations in the matter, the Council shall consider any appeal under this section and may confirm, alter or set aside the constituent body's decision or refer the matter back to the constituent body for further consideration.

(5) If the Council receives oral evidence in connection with an appeal under this section, it shall ensure that a record is kept of such evidence.

(6) If in an appeal under this section the Council confirms the suspension or cancellation of the appellant's registration, the Council may make an order requiring the appellant to pay the expenses of and incidental to the appeal, or any part of those expenses.

(7) The Council, by proceedings in a court of competent jurisdiction, may recover from an appellant any amount he or she has been ordered to pay under subsection (6).

PART V GENERAL

18 Appeals against decisions of Council

(1) Subject to this section, any person who is aggrieved by a decision, direction, order or action of the Council under this Act, including a decision of the Council in an appeal under section 17, may appeal against it to the Administrative Court.

(2) Notice of an appeal under subsection (1)—

- (a) shall be in writing, specifying in detail the grounds of the appeal; and
- (b) shall be lodged with the registrar of the Administrative Court and the Secretary of the Council within thirty days from the date on which the appellant was given notice of the decision, direction, order or action appealed against.

(3) On an appeal under this section, the Administrative Court may confirm, vary or set aside the decision, direction, order or action appealed against or give such other decision as, in its opinion, the Council ought to have given, and may make such order as to costs as it thinks fit:

Provided that—

- (i) a decision, direction, order or action of the Council in an appeal under section 17 shall not be set aside solely because of an irregularity which did not embarrass or prejudice the appellant in answering a charge or in the conduct of his defence;
- (ii) in an appeal against a decision of the Council in an appeal under section 17, the Administrative Court shall not substitute a penalty more severe than that imposed by the Council.

(4) The Council shall comply with any decision of the Administrative Court made in terms of this section.

(5) The Administrative Court Act [*Chapter 7:07*] shall apply in relation to the composition, procedure and powers of the Administrative Court in an appeal under this section.

19 Exemption from liability of Council and its members, committees, employees and agents

Neither the Council nor any councillor, employee or agent of the Council shall be liable for any loss, injury or damage sustained by a person as a result of the *bona fide* exercise or performance by or on behalf of the Council of a function conferred or imposed upon the Council by or in terms of this Act:

Provided that this section shall not be construed so as to prevent a person from recovering compensation for any such loss, injury or damage caused by negligence or breach of contract.

20 Offences by unregistered persons

Any person who is not registered as a human resources practitioner and who—

- (a) pretends to be a registered human resources practitioner; or
- (b) by any means whatsoever describes himself or herself as or holds himself or herself out to be a registered human resources practitioner; or
- (c) in any manner whatsoever uses any name, title, description, badge or symbol which indicates or is calculated to lead a person to assume that he or she is a registered human resources practitioner;

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.

21 Special provisions relating to companies and partnerships

A company or partnership may practise or describe itself as or allow itself to be held out as a registered human resources practitioner if—

- (a) the activities of the company or partnership, in so far as they relate to the human resources profession, are under the direct control and management of a principal who—
 - (i) is a registered human resources practitioner; and
 - (ii) does not act at the same time in a similar capacity for any other company or partnership or on his own behalf;

and

- (b) in every premises where the company or partnership carries on activities relating to the human resources profession, the activities are either—
 - (i) personally carried on by the principal referred to in paragraph (a); or
 - (ii) carried on, under the direction of the principal referred to in paragraph (a), by an assistant who is a registered human resources practitioner.

22 By-laws of Council

(1) Subject to subsections (3) and (4), the Council may make by-laws prescribing anything which this Act requires or permits to be prescribed or which, in the Council's opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) By-laws made in terms of subsection (1) may provide for—

- (a) rules of professional conduct to be observed by registered human resources practitioners, including the prescription of acts and omissions which are unprofessional, improper or disgraceful conduct on the part of registered human resources practitioners;
- (b) the conduct of examinations for the purposes of registration;
- (c) the form of the Register;
- (d) the deletion from the Register of entries made in error or through fraudulent representations or concealment of material facts or in circumstances not authorised by law;
- (e) the restoration to the Register of persons whose registration has been cancelled;
- (f) the form of certificates and other documents issued under or used for the purposes of this Act;
- (g) the issue of duplicate, corrected or amended registration certificates and other documents for the purposes of this Act;
- (h) the procedure for reviews by and appeals to the Council;
- (i) levies payable to the Council by constituent bodies;
- (j) fees and charges for applications made, certificates issued and other things done under this Act.

(3) Before making by-laws in terms of subsection (1), the Council shall—

- (a) inform every constituent body of the contents of the proposed by-laws; and
- (b) afford every constituent body a reasonable opportunity to make representations in regard to the proposed by-laws and pay due regard to any representations so made.

(4) By-laws made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

23 Rules of constituent bodies

(1) Subject to subsection (2), each constituent body may make rules in accordance with its constitution, governing—

- (a) the admission to, or cancellation or suspension of, membership of the constituent body;

- (b) the professional conduct to be observed by registered human resources practitioners who are members of the constituent body:

Provided that no such rule shall be inconsistent with by-laws made by the Council in terms of section 22(2)(a);

- (c) monetary penalties for contraventions of the rules referred to in paragraph (b) or for unprofessional, improper or disgraceful conduct on the part of registered human resources practitioners who are members of the constituent body:

Provided that no such penalty shall exceed a fine of level six.

(2) Rules made in terms of this section shall not have effect until they have been approved by the Council.

24 Amendment of First Schedule

On the recommendation of the Council, the Minister may by statutory instrument amend the First Schedule.

25 Transitional provisions

- (1) In this section—

“fixed date” means the date fixed in terms of section 1(2) as the date of commencement of this Act.

(2) Until the members of the first Council are appointed in terms of this Act, the members of the National Council of the Institute of People Management of Zimbabwe shall constitute the Council.

(3) Until the Council appoints a Secretary, the National Director of the Institute of People Management of Zimbabwe shall be the Secretary of the Council.

(4) Every person who, on the fixed date, was a member in good standing of a constituent body shall be entered in the Register or, where the Register is divided into parts, into the appropriate part of the Register.

FIRST SCHEDULE (Sections 2 and 24)

HUMAN RESOURCES PROFESSION

The Human Resources Profession is concerned with the management of people, particularly people within an organisation. Human resources management involves selecting people for employment, developing their capacities, and utilising, maintaining and compensating their services in line with the requirements of an organisation and their place within it.

A human resources practitioner gives expert advice and assistance to the management of an organisation within seven broad areas of expertise, namely:

1. Human Resource Planning

This involves forecasting the human resources required by the organisation in relation to their skills and numbers; compiling and safeguarding an inventory of skills within the organisation; and analysing or auditing those skills.

2. *Resourcing*

This involves advising on, and planning, the organisation's recruitment and selection processes to ensure that the right people are selected for each post.

3. *Learning and development*

This involves identifying the organisation's training needs; developing programmes to orient and motivate employees and enhance their skills and effectiveness; designing and monitoring programmes for appraising and enhancing the performance of employees; career management; and succession planning.

4. *Compensation/reward management*

This entails determining and managing the levels of wages and remuneration throughout the organisation and advising on appropriate benefits and incentives.

5. *Labour relations*

This involves advising on all aspects of labour relations within the organisation, which necessitates a sound knowledge of applicable labour law. It also involves responsibility for resolving disputes and managing the organisation's disciplinary and grievance processes.

6. *Safety, health and environmental management*

This entails advising on programmes and issues regarding the safety and health of employees within the organisation, and the impact of the organisation's activities on the environment.

7. *Organisational issues*

These involve advising on the organisation's culture and structure, to optimise its human resources and its capacity to adapt to change.

Human resources practitioners usually practise their profession within organisations, but they may do so as independent consultants.

SECOND SCHEDULE (Section 4(2))

ANCILLARY POWERS OF COUNCIL

1. To purchase, hire or otherwise acquire immovable property and to construct buildings.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of the Council's functions.
3. To maintain, alter or improve its property.
4. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any property which is not required for the Council's purposes, for such consideration, if any, as the Council may determine.
5. To raise or borrow money in such manner as the Council thinks fit.

6. To invest, in such manner and on such security, if any, as the Council may determine, any of its funds which are not immediately required and to vary or realise any investments so made.
7. To insure against losses, damages, risks and liabilities which the Council may incur.
8. To fix the conditions of service of its employees appointed under paragraph 14 of the Second Schedule, to pay them such remuneration and allowances and grant them such leave of absence and to make them such gifts, bonuses and the like as the Council thinks fit and, where the Council considers it appropriate, to suspend or discharge them.
9. To provide benefits for its employees and their dependants on the employees' retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as the Council thinks necessary to secure for the employees and their dependants the benefits referred to in this paragraph.
10. Generally, to do anything that is calculated to facilitate or is incidental or conducive to the performance of the Council's functions under this Act or any other enactment.

THIRD SCHEDULE (Section 5)

PROVISIONS RELATING TO MEMBERSHIP, PROCEDURE, STAFF AND FINANCES OF COUNCIL

ARRANGEMENT OF PARAGRAPHS

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PART I

MEMBERSHIP OF COUNCIL

Membership of Council

1.(1) The number of councillors shall vary according to the number of constituent bodies, as provided in this paragraph.

- (2) Where there is one constituent body, the Council shall consist of—
 - (a) six councillors appointed by the Minister from a list of not fewer than ten registered human resources practitioners submitted by that constituent body; and
 - (b) one councillor appointed by the Minister for his or her knowledge of or experience in the human resources profession or for his or her suitability otherwise for appointment.
- (3) Where there are two constituent bodies, the Council shall consist of—
 - (a) fourteen councillors appointed by the Minister from two lists of not fewer than ten registered human resources practitioners, one such list being submitted by each of those constituent bodies and the number of councillors chosen from each list being proportional to the relative membership of the constituent bodies; and
 - (b) one councillor appointed by the Minister for his or her knowledge of or experience in the human resources profession or for his or her suitability otherwise for appointment.
- (4) Where there are three constituent bodies, the Council shall consist of—
 - (a) eighteen councillors appointed by the Minister from three lists of not fewer than ten registered human resources practitioners, one such list being submitted by each of those constituent bodies and the number of councillors chosen from each list being proportional to the relative membership of the constituent bodies; and
 - (b) one councillor appointed by the Minister for his or her knowledge of or experience in the human resources profession or for his or her suitability otherwise for appointment.
- (5) Where there are more than three constituent bodies, the Council shall consist of—

- (a) five additional councillors for each additional constituent body above three, all the councillors being chosen by the Minister from lists of not fewer than ten registered human resources practitioners, one such list being submitted by each constituent body and the number of councillors chosen from each list being proportional to the relative membership of the constituent bodies; and
 - (b) one councillor appointed by the Minister for his or her knowledge of or experience in the human resources profession or for his or her suitability otherwise for appointment.
- (6) If a constituent body fails to submit a list of names in terms of the subparagraph (2), (3), (4) or (5) within a reasonable time after being called upon to do so, the Minister may appoint any registered human resources practitioner to be a councillor.

Disqualifications for membership of Council

2. A person shall not be appointed as a councillor, and no person shall be qualified to hold office as a councillor, if—

- (a) 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
- (b) 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
- (c) the Council has, in terms of this Act—
 - (i) directed the deletion of his or her name from the Register; or
 - (ii) ordered his or her suspension from practice;
 and his name or her has not been restored to the Register or the period of his or her suspension or prohibition has not elapsed, as the case may be; or
- (d) within the period of ten years immediately before the date of his or her proposed appointment, he or she has been convicted in any country of any offence and sentenced to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended.

Tenure of office and conditions of service of councillors

3.(1) Subject to subparagraph (2), councillors shall hold office for three years from the date of their appointment.

(2) On the expiry of a councillor's term of office, 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 councillor shall not hold office in terms of this subparagraph for more than six months.

- (3) A councillor shall—
 - (a) hold office on such conditions; and
 - (b) be paid out of the funds of the Council such remuneration and allowances, if any;
 as the Minister, with the approval of the Council, may fix for councillors generally.
- (4) A councillor who resigns or retires shall be eligible for re-election or re-appointment:

Provided that a person who has served as councillor for a continuous period of six years or more shall not be re-elected or re-appointed until a period of three years has elapsed since he or she last served as councillor.

Vacation of office by councillor

4.(1) The office of a councillor shall become vacant—

- (a) one month after he or she gives the Secretary notice in writing of his or her intention to resign his office or after such shorter period of notice as the Council and the councillor may agree; or
- (b) if he or she becomes disqualified in terms of paragraph 2(a), (b) or (c) to hold office as a councillor; or
- (c) thirty days after he or she is sentenced to the imprisonment referred to in paragraph 2(d):

Provided that if, during that period of thirty days, an appeal is filed, the question whether the councillor is to vacate his or her office shall not be determined until the final disposal of the appeal, whereupon the councillor's office shall become vacant unless his or her conviction is set aside or the sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted, as the case may be; or

- (d) if he or she is required in terms of subparagraph (2) to vacate his or her office; or
- (e) in the case of a councillor appointed on the nomination of a constituent body, if he or she ceases to be a registered human resources practitioner; or
- (f) if he or she is absent without the permission of the Council from three consecutive meetings of the Council, of which he or she has been given at least seven days' notice to attend.

(2) The Minister, with the approval of the Council, may require a councillor to vacate his or her office if the councillor—

- (a) has been guilty of conduct which renders him or her unfit to be a councillor; or
- (b) has failed to comply with the conditions of his or her office fixed by the Minister in terms of paragraph 3(3); or
- (c) is mentally or physically incapable of efficiently performing his or her duties.

Filling of vacancies on Council

5.(1) On the death of or the vacation of office by—

- (a) a councillor who was nominated by a constituent body, the constituent body shall without delay submit to the Minister a list of not fewer than two names of registered human resources practitioners, and the Minister shall appoint one of them to replace the former councillor;
- (b) the councillor who was appointed by the Minister, otherwise than on the nomination of a constituent body, the Minister shall appoint another qualified person to replace the former councillor;

and the person so appointed shall fill the vacancy on the Council for the remainder of the former councillor's term of office:

Provided that, if the remainder of the former councillor's term of office is less than six months, the Council may co-opt a registered human resources practitioner to fill the vacancy.

(2) If a councillor is granted leave of absence by the Council, the Council may co-opt a registered human resources practitioner to fill the vacancy during his or her absence.

Chairperson and vice-chairperson of Council

6.(1) At the first meeting of the Council, councillors shall elect one of their number to be chairperson and another to be vice-chairperson of the Council.

(2) The chairperson and vice-chairperson of the Council shall hold office as such for so long as they remain councillors, unless—

- (a) they resign their office as such; or
- (b) the Council resolves that they should cease to hold office as such.

(3) Whenever a vacancy occurs in the office of chairperson or vice-chairperson of the Council, the Council shall at its next meeting elect a councillor to fill the vacancy.

(4) Subject to any restrictions or conditions imposed by the Council, the chairperson of the Council may, in cases of urgency or emergency, take such action or decision as he or she thinks appropriate on behalf of the Council:

Provided that he or she shall report to the Council at its next meeting on any action or decision he or she has taken in terms of this subparagraph, and the Council may confirm, vary or revoke the action or decision concerned.

(5) If the office of chairperson of the Council is vacant, or if the chairperson is unable to exercise his or her functions through illness, absence from Zimbabwe or for any other reason, the vice-chairperson shall exercise those functions.

PART II

PROCEDURE OF COUNCIL

Meetings and procedure of Council

7.(1) The Council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter, subject to this Act, the Council shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Council shall meet at least four times a year.

(2) The chairperson of the Council may at any time and shall, at the request of not fewer than four councillors, convene a special meeting of the Council, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after receipt of the request.

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

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

(5) A majority of councillors shall form a quorum at any meeting of the Council.

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

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

Provided that, in the event of an equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.

(8) Any proposal circulated among all councillors and agreed to by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the Council:

Provided that, if a councillor requires that any such proposal be placed before the Council, this subparagraph shall not apply to the proposal.

Committees of Council

8.(1) For the better exercise of its functions, the Council may establish committees to which it may delegate, either absolutely or subject to conditions, such of its functions as it thinks fit:

Provided that—

- (i) such a delegation shall not prevent the Council from exercising the functions concerned;
- (ii) the Council may amend or withdraw any decision of a committee in the exercise of its delegated functions.

(2) The Council may appoint persons who are not councillors to be members of any committee and, with the approval of the Minister, may fix the terms and conditions of office of such persons.

(3) The procedure of any committee shall be as fixed by the Council.

(4) Subject to this paragraph, paragraph 7(4) to (8) shall apply, with any necessary changes, to committees and their members as those provisions apply to the Council and councillors.

Minutes of proceedings of Council and committees

9.(1) The Council shall cause minutes of all proceedings of and decisions taken at all meetings of the Council and of its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) 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 Council or of the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

Validity of decisions and acts of Council

10. No decision or act of the Council or act done under the authority of the Council shall be invalid only because—

- (a) the Council did not consist of the full number of councillors for which provision is made in paragraph 1; or
- (b) a disqualified person acted as a councillor at the time the decision was taken or the act was done or authorised.

Execution of instruments by Council

11. Any agreement, certificate, notification or instrument approved by the Council may be entered into or executed by any person generally or specially authorised by the Council for that purpose.

PART III

STAFF OF COUNCIL

Secretary and other staff of Council

12. The Council shall appoint a Secretary and such members of staff as will enable the Council to carry out its functions in terms of this Act:

Provided that the Minister, with the approval of the Public Service Commission, may assign persons employed in his Ministry to act as the Council's Secretary and members of staff.

Assignment of functions to members of Council's staff

13. The Council may assign any of its functions to its Secretary or other member of staff referred to in paragraph 12, and any such assignment—

- (a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Council may determine;
- (b) may be revoked by the Council at any time;
- (c) shall not preclude the Council itself from exercising the function concerned.

PART IV

FINANCIAL PROVISIONS

Funds of Council

14. The funds of the Council shall consist of—

- (a) fees paid for registration, for the issue of practising certificates and for other matters under this Act; and
- (b) levies paid to the Council by constituent bodies; and
- (c) any moneys to which the Council may be entitled from time to time, whether by way of fees, gifts or otherwise.

Financial year of Council

15. The Council's financial year shall be the period of twelve months ending on the 31st December in each year.

Accounts of Council

16.(1) The Council shall keep proper books of account and other records relating thereto in respect of all its activities, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Council shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct.

(3) The Council shall—

- (a) appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*]; and
- (b) ensure that the accounts kept in terms of subparagraph (1) are examined once in each financial year by the auditors, in accordance with such directions as the Minister may give the Council from time to time.

