

REPUBLIC OF ZAMBIA

THE ZAMBIA REVENUE AUTHORITY ACT

CHAPTER 321 OF THE LAWS OF ZAMBIA

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THE ZAMBIA REVENUE AUTHORITY ACT

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PRELIMINARY

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CHAPTER 321

ZAMBIA REVENUE AUTHORITY ACT

Act No.
28 of 1993
13 of 1994
32 of 1996

An Act to establish the Zambia Revenue Authority; to define the functions and powers of the Governing Board of the Authority; to transfer from the Government to the Authority the functions and powers of the Department of Taxes and the Department of Customs and Excise; to transfer from the Government to the Authority the assets and liabilities used by the said Departments; and to provide for matters connected with or incidental to the foregoing.

[30th April , 1993]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Zambia Revenue Authority Act. Short title
2. (1) In this Act, unless the context otherwise requires- Interpretation
- "appointed date" means 1st April 1994;
- "Authority" means the Zambia Revenue Authority established by section *nine*;
- "Chairman" means the Chairman elected under section *ten*;
- "Commissioner-General" means the Commissioner-General appointed under section *nineteen*;
- "Department" means the Department of Taxes or the Department of Customs and Excise;
- "Governing Board" means the Governing Board of the Authority constituted under section *ten*;
- "member" means a member of the Governing Board appointed under section *ten*; and
- "revenue" means taxes, duties, fees, levies, fines or other monies charged or collected pursuant to the laws specified under subsection (1) of section *eleven*;
- "Secretary" means the Secretary of the Authority appointed under section *twenty*.

(2) Wherever in this Act reference is made to the property, rights, liabilities and obligations of the Departments, such reference shall be read and construed as a reference to the property, rights, liabilities and obligations of the Government, in so far as such property, rights, liabilities and obligations relate to the Departments.

PART II DISENGAGEMENT OF DEPARTMENTS OF TAXES AND OF CUSTOMS AND
EXCISE AND INCIDENTAL MATTERS PART II

DISENGAGEMENT OF DEPARTMENTS OF TAXES AND OF CUSTOMS AND EXCISE AND
INCIDENTAL MATTERS

3. When the Minister is satisfied that all necessary agreements and arrangements have been made for the disengagement of the Departments from the Government, he shall issue a statutory instrument under section *one*.

Disengagement of
Departments

4. (1) On the appointed date there shall be transferred to, and vest in, or subsist against, the Authority by virtue of this Act and without further assurance-

Transfer of assets and
liabilities of
Departments to
Authority

(a) the affairs of the Departments; and

(b) subject to this Act, all property, rights, liabilities and obligations which immediately before the appointed date were the property, rights, liabilities and obligations of the Departments.

(2) Except as provided in this Act, every deed, bond or agreement (other than an agreement for personal service) to which either of the Departments was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof; as if-

(a) the Authority had been a party thereto;

(b) for any reference to either of the Departments there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to the Board;

(c) for any reference to any other officer of either of the Departments not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Authority as the Governing Board shall designate.

(3) Subject to subsection (2), documents other than those referred to in that subsection which refer specifically or generally to either of the Departments shall be construed in accordance with the said subsection as far as applicable.

5. Where under this Act, any property, rights, liabilities or obligations of either of the Departments are deemed transferred in respect of which transfer any written law provides for registration, the Department concerned shall make an application in writing to the appropriate registration authority for the registration of such transfer and such authority shall make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, issue to the transferee concerned a certificate of title in respect of the said property or make necessary amendments to the register, as the case may be, and if presented therefor, make endorsement on the deeds relating to the title, right or obligation concerned and no registration fee or other duties shall be payable in respect of it.

Registration of
property transferred by
Departments

6. (1) Before the appointed date, the Government shall notify such of the employees of the Departments as it wishes to retain for the purpose of transfer to the Authority and such employees shall be engaged on such conditions as the Governing Board shall determine.

Employees of
Departments

(2) Employees not engaged under subsection (1) shall, before the appointed date, be notified to that effect by the Government and may be retained by the Government.

7. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in, or subsists against, the Authority by virtue of this Act, the Authority and all other persons affected thereby shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Authority.

Legal proceedings

(2) Any legal proceedings or applications to any authority pending immediately before the commencement of this Act by or against either of the Departments may be continued by or against the Authority.

(3) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred, suffered by, or subsisted against either of the Departments may be instituted by or against the Authority.

8. On or after the appointed date, reference in any written law or any other legal document to the Commissioner of Taxes, the Commissioner of Sales Tax or the Controller of Customs and Excise shall be read and construed as references to the Commissioner-General appointed under section *nineteen* of this Act:

References to
Commissioner or
Controller

Provided that the Commissioner-General may delegate to the Commissioner of Taxes, the Commissioner of Sales Tax and the Controller of Customs and Excise such of his duties as are respectively appropriate to each officer.

PART III ZAMBIA REVENUE AUTHORITYPART III

ZAMBIA REVENUE AUTHORITY

9. There is hereby established the Zambia Revenue Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

Establishment of Authority

10. (1) There is hereby established the Governing Board for the Authority, which shall consist of-

Establishment and composition of Governing Board

- (a) the Secretary to the Treasury in the Ministry responsible for finance;
- (b) the Permanent Secretary in the Ministry responsible for legal affairs;
- (c) the Governor of the Bank of Zambia;
- (d) a representative of the Law Association of Zambia;
- (e) three persons, each representing the Zambia Confederation of Chambers of Commerce and Industry, the Zambia Institute of Certified Accountants and the Bankers' Association of Zambia; and
- (f) two other members appointed by the Minister.

(2) The members referred to in paragraphs (d) and (e) shall be nominated by their respective organisations and shall be formally appointed by the Minister.

(3) The Chairman and Vice-Chairman shall be elected by the Governing Board from among its members.

(As amended by Act No. 32 of 1996)

11. (1) The functions of the Governing Board shall be-

Functions of Governing Board

- (a) to assess, charge, levy and collect all revenue due to the Government under such laws as the Minister may, by statutory instrument, specify;

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- (b) to ensure that all revenue collected is, as soon as reasonably practicable, credited to the Treasury and in this regard sections *twenty-four* and *twenty-five* shall apply with necessary modifications;
- (c) subject only to the laws specified under paragraph (a), to perform such other functions as the Minister may determine.

(2) The Minister may give to the Governing Board such general directives with respect to the carrying out of its functions under this Act as he considers necessary or expedient and the Board shall give effect to such directives, but only the Authority shall have power to give effect to the laws specified under paragraph (a) of subsection (1).

(3) The Governing Board may delegate to the Commissioner or to any member or committee, the power and authority to carry out, on behalf of the Authority, such functions of the Board as the Board may determine.

12. (1) The members referred to in paragraphs (a), (e) and (f) of subsection (1) of section *ten* shall hold office for a period of three years from the date of appointment and may be re-appointed for one further term of three years.

Tenure of office and
vacancy

(2) A member referred to in paragraphs (d) and (e) of subsection (1) of section *ten* may resign upon giving one month's notice in writing to the organisation which nominated him and to the Minister.

(3) The office of a member shall become vacant-

- (a) upon his death;
- (b) if he is absent without reasonable excuse from three consecutive meetings of the Governing Board of which he has had notice;
- (c) on ceasing to be a representative of the organisation which nominated him;
- (d) if he is an undischarged bankrupt; or
- (e) if he contravenes section *seventeen*.

(4) Members referred to in paragraphs (a), (e) and (f) of subsection (1) of section *ten* may resign upon giving one month's notice in writing to the Minister, but members referred to in paragraphs (d) and (e) shall in addition give notice to the organisation which nominated them.

(5) The Governing Board may delegate to the Commissioner-General or to any member or committee the power and authority to carry out, on behalf of the Authority, such functions of the Authority as the Authority may determine.

13. (1) The seal of the Authority shall be such device as may be determined by the Governing Board and shall be kept by the Secretary. Seal of Authority

(2) The Governing Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman and the Secretary or some other person authorised in that behalf by a resolution of the Governing Board.

(4) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed without seal on behalf of the Authority by the Secretary or any other person generally or specifically authorised by the Governing Board in that behalf.

(5) Any document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be executed or issued, as the case may be, without further proof, unless the contrary is proved.

14. A member shall be paid such remuneration or allowances as the Minister may determine. Remuneration and allowances

15. (1) Subject to the other provisions of this Act, the Governing Board may regulate its own procedure. Proceedings of Governing Board

(2) The Governing Board shall meet for the transaction of business at least once every month at such places and at such times as the Chairman may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Governing Board may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Seven members shall form a quorum at any meeting of the Governing Board.

(5) There shall preside at any meeting of the Governing Board-

- (a) the Chairman; or
- (b) in the absence of the Chairman, the Vice-Chairman; or
- (c) in the absence of the Chairman and Vice-Chairman, such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Governing Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Governing Board may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Authority but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Governing Board shall not be affected by any vacancy in the membership of the Authority or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Governing Board shall cause minutes to be kept of the proceedings of every meeting of the Authority and of every meeting of any committee established by the Authority.

16. (1) The Governing Board may, for the purpose of performing its functions under this Act, establish committees of members of the Authority and delegate to any such committee such of its functions as it thinks fit.

Committees of
Governing Board

(2) The Governing Board may appoint the Commissioner-General as a member of a committee established under subsection (1).

(3) Subject to any specific or general direction of the Governing Board, any committee established under subsection (1) may regulate its own procedure.

(4) A committee may invite any person whose presence is in its opinion desirable to attend and participate in the deliberations of a meeting of a committee but such person shall have no vote.

17. (1) If any person is present at a meeting of the Governing Board or any committee of the Authority at which any matter is the subject of consideration and in which matter that person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Authority otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

18. No action or other proceedings shall lie or be instituted against any member or member of a committee for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity of members

PART IV ADMINISTRATIONPART IV

ADMINISTRATION

19. (1) Subject to subsection (2), the President shall appoint a Commissioner-General, who shall be the chief executive officer of the Authority, and who shall be responsible for the execution of the functions of the Governing Board and the implementation of the decisions of the Board.

Commissioner-General

(2) The Commissioner-General may, subject to the approval of the Governing Board, establish such organisational structures as he may consider necessary for the discharge of the functions of the Board.

(3) The Commissioner-General shall be removable by the President.

20. (1) There shall be a Secretary to the Authority who shall be appointed by the Governing Board on such terms and conditions as the Board may determine.

Secretary and other staff

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the Governing Board under the general supervision of the Commissioner-General.

(3) The Governing Board may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

(4) Members of staff appointed under subsection (3) shall exercise such functions and perform such duties as are conferred upon them by the laws specified by the Minister under section *eleven* or as are delegated or assigned to them by the Commissioner-General.

21. (1) No person shall, without the consent in writing given by or on behalf of the Authority, publish or disclose to any person, other than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act.

Prohibition of publication or disclosure of information to unauthorised persons

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding five years or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Nothing in this section, in section *one hundred and seventy-five* of the Customs and Excise Act or in section *eight* of the Income Tax Act, shall prevent the passing of information between the Departments or between the Departments and the Governing Board or between the Departments and the Authority.

Cap. 322
Cap. 323

(As amended by Act No. 13 of 1994)

PART V FINANCIAL AND OTHER PROVISIONS

FINANCIAL AND OTHER PROVISIONS

22. (1) The funds of the Authority shall consist of such moneys as may-

Funds of Authority

(a) be appropriated by Parliament for the purpose of the Authority;

(b) be paid to the Authority by way of grants or donations; and

(c) vest in or accrue to the Authority.

(2) The Authority may-

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- (a) accept money by way of grants or donations from any source in Zambia;
- (b) raise money by way of loans or otherwise from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
- (c) charge and collect fees in respect of programmes, publications, seminars, consultancy services and other services provided by the Authority.

(3) There shall be paid from the funds of the Authority-

- (a) the salaries, allowances and loans of the staff of the Authority;
- (b) such reasonable travelling, transport and subsistence allowance for members or members of any committee of the Governing Board when engaged on the business of the Board at such rates as the Board may determine; and
- (c) any other expenses incurred by the Authority in the performance of its duties.

(4) The Executive Board may invest in such manner as it thinks fit such of its funds not being revenue as it does not immediately require for the performance of its functions.

23. The financial year of the Authority shall be the period of twelve months ending on 31st December in each year. Financial year

24. (1) The Governing Board shall cause to be kept proper books of account and other records relating to the accounts of the Authority. Accounts

(2) The accounts of the Authority shall be audited annually by independent auditors appointed by the Authority.

(3) The auditors' fees shall be paid by the Authority.

25. (1) As soon as practicable, but not later than six months after the expiry of the financial year, the Governing Board shall submit to the Minister a report concerning its activities during that financial year. Annual Reports

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Authority and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly and publish it as soon as reasonably practicable thereafter.

26. Subject to the provisions of this Act, any right of any person, including a right of appeal, subsisting against the Commissioner of Taxes, the Commissioner of Sales Tax or the Controller of Customs and Excise immediately before the commencement of this Act shall after commencement be treated as subsisting against the Commissioner-General in so far as that right relates to the duties of the Commissioner-General under this Act. Savings

27. The Minister may make regulations for better carrying out of the provisions of this Act. Regulations