

PUBLIC ORDER AND SECURITY BILL, 2001

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MEMORANDUM

[This memorandum does not form part of the proposed Act but is published as part of the Bill.]

This Bill will replace the Law and Order (Maintenance) Act [*Chapter 11:07*] with provisions that protect public order and security in Zimbabwe while paying regard to the fundamental freedoms of assembly, association and expression laid down in Chapter III of the Constitution.

The individual clauses of the Bill provide as follows:

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause will define terms that are used elsewhere in the Bill.

Clause 3

This clause seeks to clarify the mental elements of offences committed under this Bill. Where "intention" is an element of any offence our existing law requires the prosecutor to prove that the accused had—

- (a) an actual intention to commit the offence if he or she intended that result to happen and either actively strove to cause it or engaged in conduct which he or she subjectively foresaw was certain to cause that result; or
- (b) a "legal" or "constructive" intention to commit the offence if he foresaw that the result might possibly happen, and was reckless as to whether or not it did.

The introduction of a test for "realisation of a risk or possibility" as an element of certain offences under this Bill (first proposed in connection with the codification of the criminal law by the 1984 report of the Chief Justice's Advisory Committee on Law Reform) replaces and modifies the existing common law test of "legal intention". It was felt that the test for "realisation of a risk or possibility" would be easier for the courts to apply than the test for legal intention, which requires "foresight of a possibility". Practically speaking, the courts will not attribute legal intention to an accused unless they consider that the accused realised there was a real rather than a possible risk that his or her conduct was criminally liable.

Clause 4

This clause will define what is meant by "regulating authority" in the Bill. Regulating authorities will be senior policemen in charge of police districts. They will have powers under Part III of the Bill to control public gatherings and crowds whenever it is reasonably necessary to do so in order to preserve public safety or public order.

Clause 5

This clause will make provision for the preservation of constitutional government for which provision was previously made under the repealed Preservation of Constitutional Government Act [*Chapter 11:01*].

Clause 6

This clause will make the commission of an act of insurgency, banditry, sabotage or terrorism an offence. The term "act of insurgency, banditry, sabotage or terrorism" is defined in clause 2 of the Bill and covers acts committed in the course of armed insurrection against the Government. An act of insurgency, banditry, sabotage or terrorism will not be an offence under the clause unless it is committed with the purpose of unlawfully furthering a political object in Zimbabwe. Subclause (2) makes it clear that an act of insurgency, banditry, sabotage or terrorism that does not actually result in death, injury or other harm constitutes the offence of attempting to commit an act of insurgency, banditry, sabotage or terrorism. Persons guilty of an act of insurgency, banditry, sabotage or terrorism will be liable to be sentenced to life imprisonment.

Clauses 7 to 11

Clauses 7 to 10 will make it an offence to recruit or train insurgents, bandits, saboteurs or terrorists or to undergo such training, whether inside or outside Zimbabwe, or to supply them with weapons or to possess firearms or explosives for the purpose of insurgency, banditry, sabotage or terrorism. The term "insurgent, bandit, saboteur or terrorist" is defined in clause 2 as, broadly, a person who has committed or will commit or has been trained to commit an act of insurgency, banditry, sabotage or terrorism. The maximum penalty for these offences will be life imprisonment. In clauses 8 and 10 there will be provisions creating rebuttable presumptions as to accused persons' intention or knowledge.

Under clause 11 it will be an offence knowingly to harbour or conceal an insurgent, bandit, saboteur or terrorist or to fail to report an insurgent, bandit, saboteur or terrorist within 72 hours of becoming aware of his or her presence in Zimbabwe. The maximum penalties for these offences will be a fine of \$200,000 or ten years' imprisonment or both, in the case of harbouring or concealing an insurgent, bandit, saboteur or terrorist, a fine of \$50,000 or two years' imprisonment or both for failing to report one, and a fine of \$100,000 or five years' imprisonment or both, in the case of failing to disclose such a person's presence upon being questioned by an official.

Clause 12

This clause re-enacts section 40 of the Law and Order Maintenance Act (which applies only to causing disaffection among the Police Force) and extends its application to the Defence Forces.

Clause 13

Possession of weapons will be an offence under this clause, unless the possessor has a certificate or permit under the Firearms Act or possesses the weapons in the course of his or her duties with the Defence Forces, the Police Force, the Prison Service or in the course of employment with the State. The maximum penalty for this offence will be a fine of \$200,000 or ten years' imprisonment or both.

Clause 14

This clause will empower a regulating authority to prohibit for not more than three months the carrying in public or public display of certain "traditional" weapons or other specified items capable of use as weapons that the regulating authority believes is likely to occasion public disorder or a breach of the peace. The prohibition must be published before it takes effect, and may be appealed against to the Minister.

Clause 15

Subclause (1) of this clause will make it an offence for anyone to publish or communicate any statement which is wholly or materially false with the intention of promoting public disorder, public violence or endangering public safety, adversely affecting the defence or the economic interests of Zimbabwe or interfering with, disrupting or interrupting any essential service. Subclause (2) also renders liable for prosecution any person who publishes or communicates a statement knowing it to be wholly or materially false or not having reasonable grounds for believing it to be true, if the publication or communication of the statement results in any of these harmful consequences, whether or not he or she intended to bring them about.

Clause 16

This clause will re-enact (with a modification to cover abusive, indecent, obscene or deliberately false statements about or concerning the President) the offence of undermining the authority of the President presently contained in section 46 of the Law and Order (Maintenance) Act. These provisions apply also to an acting President. This measure is in addition to the protection afforded to every citizen, including the President, by the common law offence of criminal defamation (of potentially much wider application than this clause).

Clause 17

This clause restates the common law offence of public violence. However, the common-law offence is not repealed, and may be charged alternatively.

Clause 18

This clause re-enacts and combines, with modifications, sections 47 and 48 of the Law and Order Maintenance Act.

Clause 19

This clause will prohibit gatherings, whether private or public, for overtly unlawful purposes conducing to public violence, public disorder or intolerance of any group, section or class of persons in Zimbabwe solely on account of the race, tribe, nationality, place of origin, national or ethnic origin, colour, religion or gender of such group, section or class of persons.

Clause 20

This clause will make it an offence to assault a police officer in circumstances of public violence or where a breach of the peace is likely to occur. Offenders will be liable to a fine of \$200,000 or ten years' imprisonment or both.

Clause 21

This clause re-enacts with modifications section 39 of the Law and Order Maintenance Act.

Clause 22

Under this clause a person who, to further a political objective, intimidates another – that is, threatens another person with unlawful harm to induce that person to do something he or she does not legally have to do or to refrain from doing something he or she is legally entitled to do – will be liable to a fine of \$100,000 or five years' imprisonment or both.

Clause 23

This clause will define the term "organiser" in relation to public gatherings; the term is used frequently in the subsequent clauses of Part IV of the Bill.

Clause 24

Under this clause, organisers of public gatherings will be required to give at least seven days' written notice of their gatherings to a regulating authority – that is, to a senior police officer appointed as the regulating authority for the area concerned. The regulating authority will, however, have a discretion to waive all or part of the period of notice in appropriate cases. Failure to give notice under the clause will be punishable as a criminal offence, and will render the organiser liable for any violence that may occur as a

result of the public gathering: see clause 28. Under subclause (5) gatherings or types of gatherings specified in the Schedule are exempt from the requirements of this clause.

Clause 25

This clause will empower a regulating authority power to issue directions regulating any particular public gathering, if he or she is satisfied on reasonable grounds that the gathering is likely to occasion public disorder, a breach of the peace or a substantial obstruction of traffic. Directions issued under the clause may prescribe the time at which a public gathering may take place, the route through which a procession may pass and measures to prevent the obstruction of roads and public places. Breach of a direction will render the organisers of the gathering liable for any resultant disorder under clause 28. An appeal will lie to the Minister against any decision of a regulating authority made in terms of the clause.

The clause will also give police officers powers to disperse public gatherings if there has been a violation of a direction issued by a regulating authority and there are reasonable grounds for believing that public order is endangered: failure to comply with such an order will be an offence carrying a penalty of a fine of \$10,000 or imprisonment for six months or both

Clause 26

A regulating authority will have power under this clause to prohibit a public gathering if the regulating authority for the area believes on reasonable grounds that the gathering is likely to occasion public disorder. Before prohibiting a gathering the regulating authority will, wherever practicable, give the organiser an opportunity to make representations to him or her, and an appeal against the prohibition will lie to the Minister. Holding a gathering in contravention of a [sic] under the clause will result in a fine of \$10,000 or six months' imprisonment or both.

Clause 27

This clause will give a regulating authority power to prohibit all public gatherings within any area for up to three months, where the regulating authority believes on reasonable grounds that the powers under clauses 25 and 26 will not be sufficient to prevent public disorder being caused by public gatherings. Anyone who organises or attends a public gathering in contravention of a regulating authority's order under this clause will be liable to a fine of \$20,000 or a year's imprisonment or both. A regulating authority will, wherever practicable, afford an opportunity to potential organisers of gatherings to make representations in the matter, and an appeal will lie to the Minister against the regulating authority's decision.

Clause 28

If an organiser of a public gathering fails to give the police notice of the gathering under clause 24, or fails to comply with a direction or order regulating or prohibiting the gathering, the organiser will be liable under this clause to compensate injured parties for any injury, loss or damage they may suffer as a consequence of such failure.

Clause 29

This clause will give policemen and persons assisting them the right to exercise reasonable force to disperse unlawful public gatherings and to arrest people attending them.

Clause 30

Persons who have offensive weapons at public gatherings will be liable under this clause to a fine of \$100,000 or five years' imprisonment or both. The clause will not apply to police officers, soldiers or employees of the State or a local authority acting in their official capacities.

Clause 31

Under this clause, deliberate disruption of public gatherings by disorderly, threatening or abusive conduct will render the offenders liable to a fine of \$50,000 or two years' imprisonment or both.

Clause 32

This clause will require persons to carry an identity document on their persons when in public place and empower police officers to require their production. In order to safeguard the public's constitutional rights, the provision specifies the circumstances under which police officers may request the immediate production of identity documents (for example, at a road block). In circumstances other than those specified, members of the public who [sic] will be afforded a reasonable opportunity to comply with the requirements of this clause.

Clause 33

A police officer over the rank of inspector will have the power under this clause to establish a cordon round any area, where he considers it reasonably necessary to do so in order to contain public violence or disorder or to protect the area from public violence or disorder. Passing through a cordon without authority will render the offender liable to a fine of \$10,000 or to six months' imprisonment or both.

Clause 34

This clause re-enacts with modifications section 59 of the Law and Order Maintenance Act.

Clause 35

This clause provides for the powers of police officers in relation to aircraft, aerodromes and airstrips.

Clause 36

No prosecutions will be capable of being instituted against anyone accused of certain serious offences under the Bill without the authority of the Attorney-General.

Clause 37

This clause provides for the circumstances in which the Defence Forces may be authorised to assist the police, and the conditions applicable to such assistance.

Clause 38

This clause substantially re-enacts section 62 of the Law and Order Maintenance Act.

Clause 39

This clause provides that searches of any person or premises in terms of this Bill will be conducted with strict regard to legality and decency. The powers of seizure, detention and forfeiture of articles contained in the Criminal Procedure and Evidence Act [*Chapter 9:07*] apply also to articles seized in terms of this Bill.

Clause 40

This clause re-enacts section 61 of the Law and Order Maintenance Act.

Clause 41

This clause will empower the Minister to amend the Schedule (“Classes of Public Gatherings to which Section 25 Does Not Apply”). Where the Minister deletes items from the Schedule, Parliamentary approval will be required.

Clause 42

This clause will make it clear that the Bill will not abrogate other laws relating to the dispersal of riotous gatherings or the suppression of unlawful conduct. The Bill will not therefore affect the State’s right to impose martial law, for example.

Clause 43

This clause will amend the Citizenship of Zimbabwe Act [*Chapter 4:01*] by updating a reference to the Law and Order (Maintenance) Act in the list of offences specified in the Schedule to that Act for which a person may be deprived of his or her citizenship.

Clause 44

This clause will amend the Criminal Procedure and Evidence Act [*Chapter 9:07*], mostly in order to remove references to the Law and Order (Maintenance) Act. An amendment of section 32 of the Act will provide for the pre-trial detention of persons suspected of committing certain serious offences under the Bill for up to seven days (instead of 48 hours as at present). Another amendment will extend the powers of search in terms of Part VI of the Act to allow searches to be conducted of premises within an area, where there are reasonable grounds for believing that property relating to an offence is being kept there.

Clause 45

This clause will amend the Miscellaneous Offences Act [*Chapter 9:15*] to increase the penalties for hindering or resisting the Police and for riotous conduct. The clause will also insert a definition in the Act which will clarify the meaning of “constabulary member of the Police Force”.

Clause 46

This clause will repeal the Law and Order (Maintenance) Act [*Chapter 11:07*].

PRESENTED BY THE MINISTER FOR HOME AFFAIRS

BILL

To make provision for the maintenance of public order and security in Zimbabwe; to amend the Citizenship of Zimbabwe Act [*Chapter 4:01*], the Criminal Procedure and Evidence Act [*Chapter 9:07*] and the Miscellaneous Offences Act [*Chapter 9:15*]; to repeal the Law and Order (Maintenance) Act [*Chapter 11:07*]; 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

This Act may be cited as the Public Order and Security Act [*Chapter 11:17*].

2 Interpretation

In this Act—

“**act of insurgency, banditry, sabotage or terrorism**” means any act referred to in subsection (1) of section 6 that is undertaken for a purpose referred to in paragraph (a), (b) or (c) of that subsection;

“**bomb**” means—

- (a) any device consisting of or carrying an explosive charge or fused to detonate upon impact or percussion or through a timing contrivance or by an electrical or electronic device; or
- (b) any other device capable of causing an explosion;

but excludes ammunition for a firearm;

“essential service” means—

- (a) any service relating to the generation, supply or distribution of electricity; or
- (b) any fire brigade or fire service; or
- (c) any health, hospital or ambulance service; or
- (d) any service relating to the production, supply, delivery or distribution of fuel; or
- (e) any service relating to the supply or distribution of water; or
- (f) any communications service; or
- (g) any transport service; or
- (h) any other service or occupation whose interruption would endanger the life, health or safety of the whole or a part of the population and which the Minister may declare by statutory instrument to be an essential service;

“insurgent, bandit, saboteur or terrorist” means a person who—

- (a) is about to commit, is committing or has committed an act of insurgency, banditry, sabotage or terrorism; or
- (b) has attended a course or undergone training, is about to attend a course or undergo training or is attending a course or undergoing training referred to in subsection (1) of section 8;

“law enforcement agency” means the Police Force (including a member of the Police Constabulary as defined in section 2 of the Police Act [*Chapter 11:10*]) or intelligence service maintained by the Government, or any agency assigned by an enactment to maintain and enforce the law;

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

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

“offensive material” means any inflammable, dangerous, noxious, or deleterious substance, material or thing capable of killing or injuring persons, including—

- (a) low or high explosives and the ingredients thereof;
- (b) all types of fuse used in the ignition of explosives;
- (c) detonators;
- (d) timing devices, especially time pencils;
- (e) wire cutters;
- (f) acids;
- (g) ammunition as defined in the Firearms Act [*Chapter 10:09*];
- (h) biological or chemical warfare agents;
- (i) any other substance, material or thing declared by the Minister, by notice in a statutory instrument, to be an offensive material for the purposes of this definition;

“official” means—

- (a) a member of any law enforcement agency; or
- (b) an ancillary member of the Police Force as defined in section 2 of the Police Act [*Chapter 11:10*]; or
- (c) a member of the Defence Forces; or
- (d) a provincial or district administrator or an assistant provincial or district administrator or any other employee of the State acting in that capacity;

“peace officer” has the meaning given to that term in section 2 of the Criminal Procedure and Evidence Act [*Chapter 9:07*];

“police district” means an area designated by the Commissioner of Police as a police district for the purposes of the administration of the Police Force;

“procession” means a procession in a public place;

“public gathering” means a public meeting or a public demonstration;

“public demonstration” means a procession, gathering or assembly in a public place of persons and additionally, or alternatively, of vehicles, where the gathering is in pursuit of a common purpose of demonstrating support for, or opposition to, any person, matter or thing, whether or not the gathering is spontaneous or is confined to persons who are members of a particular organisation, association or other body or to persons who have been invited to attend;

“public meeting” means any meeting in a public place or meeting which the public or any section of the public is permitted to attend, whether on payment or otherwise;

“public place” means any thoroughfare, building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved;

“publication” includes a document, book, magazine, film, sound or visual broadcast, tape, disc or other material, medium or thing whatsoever in which, on which or by means of which a statement may be made;

“regulating authority”, in relation to any area, means the police officer who, in terms of section 4, is the regulating authority for that area;

“statement” means any expression of fact or opinion, whether made orally, in writing, electronically or by visual images;

“thoroughfare” means any road, street, lane, path, pavement, sidewalk or similar place which exists for the free passage of persons or vehicles;

“weaponry” means any of the following kinds of offensive material—

- (a) artillery of all kinds;
- (b) a firearm or other apparatus for the discharge of bullets or other kinds of projectiles which are designed to be lethal, whether solid, explosive or gas diffusing;
- (c) a flame-thrower;
- (d) high or low explosive, whether or not manufactured as a bomb, grenade or similar missile or device and whether capable of use with a firearm or not, including a fuse, detonator or timing device therefor.

3 Realisation of risk or possibility as an element of offences under this Act

(1) Where realisation of a risk or possibility is an element of any offence under this Act, the test is whether or not the person whose conduct is in issue realised or must have realised that there was a risk or possibility, other than a remote risk or possibility, that—

- (a) his act or omission might give rise to the relevant consequence; or
- (b) the relevant fact or circumstance existed when he acted or omitted to act.

(2) For the avoidance of doubt it is declared that the common-law test for constructive or legal intention shall not apply to any offence under this Act of which the realisation of a risk or possibility is an element.

4 Regulating authorities

The police officer in command of each police district shall be the regulating authority for that police district.

PART II

OFFENCES AGAINST CONSTITUTIONAL GOVERNMENT AND PUBLIC SECURITY

5 Subverting constitutional government

In this section—

“coercing” means constraining, compelling or restraining by—

- (a) physical force, violence, boycott, civil disobedience or resistance to any law, whether such resistance is active or passive; or
- (b) threats to apply or employ any of the means described in paragraph (a);

“unconstitutional means” means any process which is not a process provided for in the Constitution and the law.

(2) Any person who, whether inside or outside Zimbabwe—

- (a) organises or sets up or advocates, urges or suggests the organisation or setting up of, any group or body with a view to that group or body—
 - (i) overthrowing or attempting to overthrow the Government by unconstitutional means; or
 - (ii) taking over or attempting to take over Government by unconstitutional means or usurping the functions of the Government of Zimbabwe; or
 - (iii) coercing or attempting to coerce the Government;or
- (b) supports or assists any such group or body in doing or attempting to do any of the things described in subparagraphs (i), (ii) or (iii) of paragraph (a); shall be guilty of an offence and liable to imprisonment for a period not exceeding 20 years without the option of a fine.

6 Insurgency, banditry, sabotage or terrorism

(1) Any person who, for the purpose of—

- (a) causing or furthering an insurrection in Zimbabwe; or
- (b) causing the forcible resistance to the Government or the Defence Forces or any law enforcement agency; or
- (c) procuring by force the alteration of any law or policy of the Government;

commits any act accompanied by the use or threatened use of weaponry with the intention or realising that there is a risk or possibility of—

- (i) killing or injuring any other person; or
- (ii) damaging or destroying any property; or
- (iii) inflicting financial loss upon any other person; or
- (iv) obstructing or endangering the free movement in Zimbabwe of any traffic on land or water or in the air; or
- (v) disrupting or interfering with an essential service;

shall be guilty of an offence, whether or not any purpose referred to in paragraph (a), (b) or (c) is accomplished, and be liable—

- A. where the act of insurgency, banditry, sabotage or terrorism results in the death of a person, to be sentenced to death or to imprisonment for life;
- B. in any other case, to imprisonment for life.

(2) For the avoidance of doubt, where any act of insurgency, banditry, sabotage or terrorism does not result in any of the consequences referred to in subparagraph (i), (ii), (iii), (iv) or (v), the competent charge shall be one of attempting to commit an offence in terms of subsection (1).

7 Recruiting or training insurgents, bandits, saboteurs or terrorists

Any person who intentionally—

- (a) recruits, assists or encourages any other person to undergo training inside or outside Zimbabwe in order to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe; or
- (b) provides training to any person, whether inside or outside Zimbabwe, in order to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe;

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

8 Training as insurgent, bandit, saboteur or terrorist

(1) Any person who attends or undergoes any course of training, whether inside or outside Zimbabwe, for the purpose of enabling him to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe shall be guilty of an offence and liable to imprisonment for life.

(2) If it is proved in a prosecution for an offence under subsection (1) that the accused person attended or underwent a course of training whose effect was to enable him to commit an act of insurgency, banditry, sabotage or terrorism in Zimbabwe, it shall be presumed, unless the contrary is proved on a balance of probabilities, that he did so for that purpose.

9 Supplying weaponry to insurgents, bandits, saboteurs or terrorists

Any person who, inside or outside Zimbabwe, supplies weaponry to an insurgent, bandit, saboteur or terrorist, knowing that the person to whom such weaponry is supplied is an insurgent, bandit, saboteur or terrorist or realising that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist, shall be guilty of an offence and liable to imprisonment for life.

10 Possessing weaponry for insurgency, banditry, sabotage or terrorism

(1) Any person who has any weaponry in his possession or under his control with the intention that such weaponry will be used in the commission of an act of insurgency, banditry, sabotage or terrorism shall be guilty of an offence and liable to imprisonment for life.

(2) If it is proved in a prosecution for an offence under subsection (1) that—

- (a) the accused person was in unlawful possession of any weaponry; and
- (b) the weaponry consists of any weapon, firearm or ammunition—
 - (i) referred to in section 24 of the Firearms Act [*Chapter 10:09*]; or
 - (ii) for the purchase, acquisition or possession of which the person has no good ostensible reason; or
 - (iii) that was part of a cache or was found in the possession the accused person in such a quantity as cannot be accounted for by reason of personal use alone;

it shall be presumed, unless the contrary is proved on a balance of probabilities, that he possessed the weaponry with the intention that it should be used in the commission of an act of insurgency, banditry, sabotage or terrorism.

(3) A person charged with an offence in terms of subsection (1) may be found guilty of the offence specified in subsection (1) or (2) of section 13 if such are the facts proved.

11 Harboursing, concealing or failing to report insurgent, bandit, saboteur or terrorist

(1) Subject to subsection (5), any person who, knowing that another person is an insurgent, bandit, saboteur or terrorist, or realising that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist, intentionally harbours or conceals that other person shall be guilty of an offence and liable to a fine not exceeding 200 thousand dollars or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) Subject to subsection (5), any person who becomes aware of the presence in Zimbabwe of another person whom he knows to be an insurgent, bandit, saboteur or terrorist and who fails, within the period prescribed in subsection (3), to report to an official the presence of that other person in Zimbabwe and any information it is in his power to give in relation to that other person shall be guilty of an offence and liable to a fine not exceeding \$50,000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) A person shall make a report in terms of subsection (2) as soon as is reasonably practicable after he becomes aware of the presence in Zimbabwe of the insurgent, bandit, saboteur or terrorist concerned, and in any event within 72 hours of becoming so aware.

(4) Subject to subsection (5), any person who is aware of the presence in Zimbabwe of another person whom he knows to be an insurgent, bandit, saboteur or terrorist or realises that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist and who, upon being questioned by an official, intentionally—

- (a) omits or refuses to disclose to the official any information it is in his power to give in relation to that other person; or
- (b) gives the official false information in relation to that other person;

shall be guilty of an offence and liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(5) For the avoidance of doubt, a person who—

- (a) has committed an act of insurgency, banditry, sabotage or terrorism; or
- (b) has attended a course or undergone training referred to in subsection (1) of section 8,

for which he has been convicted and sentenced or granted a pardon or amnesty shall not be regarded as an insurgent, bandit, saboteur or terrorist in respect of that conduct.

12 Causing disaffection among Police Force or Defence Forces

If any person causes, or attempts to cause, or does any act calculated to cause disaffection, amongst the members of any Police Force or Defence Forces, or induces, or attempts to induce, or does any act calculated to induce, any member of the Police Force or Defence Forces to withhold his services, loyalty or allegiance or to commit breaches of discipline, he shall be guilty of an offence and liable to a fine not exceeding \$20,000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

13 Possession of dangerous weapons

(1) Any person who has unlawful possession of any of the following weapons—

- (a) artillery of any kind or any shell or other ammunition therefor, or
- (b) a flame thrower; or
- (c) a bomb, grenade or similar missile or device, whether capable of use with a firearm or not, including any fuse, detonator or timing device therefor, or
- (d) a machine-gun or sub-machine-gun; or
- (e) any automatic or semi-automatic firearm, other than a pistol, that is or has been in use in the Defence Forces, the Police Force or the armed or police forces of any neighbouring State;

shall be guilty of an offence and liable to a fine not exceeding \$200,000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) Where any firearm or ammunition in respect of which a firearm certificate is capable of being granted in terms of the Firearms Act [*Chapter 10:09*] is found the possession of any person who does not hold such certificate, the competent charge is contravening section 4 of the Firearms Act [*Chapter 10:09*] and not contravening subsection (1).

(3) A person charged with an offence in terms of subsection (1) may be found guilty of contravening section 4 of the Firearms Act [*Chapter 10:09*] if such are the facts proved.

14 Temporary prohibition of possession of certain weapons within particular police districts

(1) Without derogation from section 13, if a regulating authority believes that the carrying in public (whether openly or by concealment in a public place or public thoroughfare) or public display of any of the following weapons or items capable of use as weapons—

- (a) catapults, machetes, axes, knob-kerries, swords, knives or daggers;
- (b) any traditional weapon whatsoever,

is likely to occasion public disorder or a breach of the peace, he may within his police district prohibit for a specified period of time not exceeding three months the carrying in public or public display of any such weapons or items capable of use as weapons as he shall specify.

(2) A prohibition issued under subsection (1) shall not have effect until it is published—

- (a) in a newspaper circulating in the area to which the prohibition applies; or
- (b) by notices distributed among the public or affixed upon public buildings in the area to which the prohibition applies; or
- (c) by announcement of a police officer broadcast or made orally.

(3) Any person who is aggrieved by a prohibition issued under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the prohibition or give such order or direction in the matter as he thinks just.

(4) Any person who fails to comply with a prohibition made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) A police officer may, without warrant, seize any weapon or item capable of use as a weapon found in the possession of any person in contravention of subsection (1), and shall place in safe custody every

weapon or item so seized so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with section 39.

15 Publishing or communicating false statements prejudicial to the State

(1) Any person who, whether inside or outside Zimbabwe, publishes or communicates to any other person a statement which is wholly or materially false with the intention or realising that there is a risk or possibility of—

- (a) inciting or promoting public disorder or public violence or endangering public safety; or
- (b) adversely affecting the defence or economic interests of Zimbabwe; or
- (c) undermining public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe; or
- (d) interfering with, disrupting or interrupting any essential service;

shall, whether or not the publication or communication results in a consequence referred to in paragraph (a), (b), (c) or (d), be guilty of an offence and liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Any person who, whether inside or outside Zimbabwe and whether with or without the intention or realisation referred to in subsection (1), publishes or communicates to any other person a statement which is wholly or materially false and which—

- (a) he knows to be false; or
- (b) he does not have reasonable grounds for believing to be true; shall, if the publication or communication of the statement—
 - (i) promotes or incites public disorder or public violence or endangers public safety; or
 - (ii) adversely affects the defence or economic interests of Zimbabwe; or
 - (iii) undermines public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe; or
 - (iv) interferes with, disrupts or interrupts any essential service;

shall be guilty of an offence and liable to a fine not exceeding 100 thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

16 Undermining authority of or insulting President

(1) In this section—

“**publicly**”, in relation to making a statement, means—

- (a) making the statement in a public place or any place to which the public or any section of the public have access;
- (b) publishing it in any printed or electronic medium for reception by the public;

“**statement**” includes any act or gesture.

(2) Any person who publicly and intentionally—

- (a) makes any statement about or concerning the President or an acting President knowing or realising that there is a risk or possibility of—
 - (i) engendering feelings of hostility towards; or
 - (ii) causing hatred, contempt or ridicule of;the President or an acting President, whether in person or in respect of his office; or
- (b) makes any abusive, indecent, obscene or false statement about or concerning the President or an acting President, whether in respect of his person or his office;

shall be guilty of an offence and liable to a fine not exceeding \$20,000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

PART III OFFENCES AGAINST PUBLIC ORDER

17 Public violence

(1) Any person who, acting in concert with one or more other persons, forcibly—

- (a) disturbs the peace, security or order of the public or any section of the public; or
- (b) invades the rights of other people;

intending such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur, shall be guilty of public violence and liable to a fine not exceeding \$100,000 or imprisonment for a period not exceeding 10 years or both.

(2) It shall be an aggravating circumstance if, in the course of or as a result of the offence of public violence—

- (a) there was an attack on the police or on other persons in lawful authority; or
- (b) bodily injury or damage to property occurred; or
- (c) the person who has been convicted of the offence instigated an attack on the police or other persons in lawful authority or instigated the infliction of bodily injury or the causing of damage to property.

(3) A person accused of any contravention of subsection (1) may be charged concurrently or alternatively with the common-law offence of public violence.

18 Throwing articles at persons, motor vehicles, etc.

Any person who—

- (a) throws or propels or prepares to throw or propel any missile, article or thing likely to cause damage or injury at any person, motor vehicle, boat, aircraft or building; or
- (b) without lawful excuse, the proof whereof lies on him, overturns or attempts to overturn any motor vehicle, boat or aircraft; or
- (c) otherwise than under and in accordance with any other enactment, leaves or places on or over any road any thing so as to obstruct such road or endanger persons using it;

shall be guilty of an offence and liable to a fine not exceeding \$100,000 or imprisonment for a period not exceeding 10 years or both.

19 Gatherings conducing to riot, disorder or intolerance

(1) Any person who, acting together with one or more other persons present with him in any place or at any meeting—

- (a) forcibly—
 - (i) disturbs the peace, security or order of the public or any section of the public; or
 - (ii) invades the rights of other people; intending to cause such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur; or
- (b) performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked; or
- (c) utters any words or distributes or displays any writing, sign or other visible representation—
 - (i) with the intention to engender, promote or expose to hatred, contempt or ridicule any group, section or class of persons in Zimbabwe solely on account of the race, tribe, nationality, place of origin, national or ethnic origin, colour, religion or gender of such group, section or class of persons; or
 - (ii) realising that there is a risk or possibility that such behaviour might have an effect referred to in subparagraph (i);

shall be guilty of an offence and be liable to a fine not exceeding \$50,000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

(2) An offence under subsection (1) is committed whether the action constituting it is spontaneous or concerted, and whether the place or meeting where it occurred is public or private.

20 Assaulting or resisting peace officer

Any person who assaults or by violent means resists a peace officer acting in the course of his duty and who—

- (a) intends the assault to provoke or encourage public violence or public disorder or a breach of the peace; or
- (b) realises that there is a risk or possibility that the assault will have the effect referred to in paragraph (a);

shall be guilty of an offence and liable to a fine not exceeding \$200,000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

21 Undermining of police authority

Any person who, in a public place and in the presence of—

- (a) a police officer who is present on duty; or
- (b) a police officer who is off duty, knowing that he is a police officer or realising that there is a risk or possibility that he is a police officer;

makes any statement or does any act or thing whatsoever with the intention or realising that there is a risk or possibility of engendering feelings of hostility towards such officer or the Police Force or exposing such officer or the Police Force to contempt, ridicule or disesteem, shall be guilty of an offence and liable to a fine not exceeding \$20,000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

22 Intimidation

Any person who, with the intention of unlawfully furthering a political objective in Zimbabwe, and by means of an express or implied threat of unlawfully inflicted harm, compels or induces another person—

- (a) to do something which he is not legally obliged to do; or
- (b) to refrain from doing something which he is legally entitled to do;

shall be guilty of an offence and liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

**PART IV
PUBLIC GATHERINGS**

23 Interpretation in Part IV

In this Part—

“**organiser**”, in relation to a public gathering, means every person who or organisation or association which executes or assists in executing the arrangements for or promotes the holding of the public gathering.

24 Organiser to notify regulating authority of intention to hold public gathering

(1) Subject to subsection (5), the organiser of a public gathering shall give at least seven clear days’ written notice of the holding of the gathering to the regulating authority for the area in which the gathering is to be held:

Provided that the regulating authority may, in his discretion, permit shorter notice to be given.

(2) For the avoidance of doubt, it is declared that the purpose of the notice required by subsection (1) is—

- (a) to afford the regulating authority a reasonable opportunity of anticipating or preventing any public disorder or a breach of the peace; and
- (b) to facilitate co-operation between the Police Force and the organiser of the gathering concerned; and
- (c) to ensure that the gathering concerned does not unduly interfere with the rights of others or lead to an obstruction of traffic, a breach of the peace or public disorder.

(3) Any Saturday, Sunday or public holiday falling within the seven-day period of notice referred to in subsection (1) shall be counted as part of the period.

(4) Where there are two or more organisers of a public gathering, the giving of notice by any one of them in terms of subsection (1) shall be a discharge of the duty imposed upon the other or others by that subsection.

(5) This section shall not apply to public gatherings of a class described in the Schedule.

(6) Any organiser of a public gathering who fails to notify the regulating authority for the area of the gathering in accordance with subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

25 Regulation of public gatherings

(1) If a regulating authority, having regard to all the circumstances in which a public gathering is taking or is likely to take place, has reasonable grounds for believing that the public gathering will occasion—

- (a) public disorder; or
- (b) a breach of the peace; or
- (c) an obstruction of any thoroughfare;

he may, subject to this section, give such directions as appear to him to be reasonably necessary for the preservation of public order and the public peace and preventing or minimising any obstruction of traffic along any thoroughfare.

(2) Without derogation from the generality of subsection (1), directions under that subsection may provide for any of the following matters—

- (a) prescribing the time at which the public gathering may commence and its maximum duration;
- (b) prohibiting persons taking part in the public gathering from entering any public place specified in the directions;
- (c) precautions to be taken to avoid the obstruction of traffic along any thoroughfare;
- (d) prescribing the route to be taken by any procession;
- (e) requiring the organiser to appoint marshals to assist in the maintenance of order at the public gathering.

(3) Whenever it is practicable to do so, before issuing a direction under subsection (1) a regulating authority shall give the organiser of the public gathering concerned a reasonable opportunity to make representations in the matter.

(4) A direction given under subsection (1) shall have effect immediately it is issued and may be published—

- (a) in a newspaper circulating in the area to which the direction applies; or
- (b) by notices distributed among the public or affixed upon public buildings in the area to which the direction applies; or
- (c) by announcement of a police officer broadcast or made orally.

Provided that, where practicable, the regulating authority shall ensure that the direction is reduced to writing and served on the organiser of the public gathering to which it relates.

(5) Any person who is aggrieved by a direction issued under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the direction or give such order or direction in the matter as he thinks just.

(6) An appeal in terms of subsection (5) shall be dealt with as quickly as possible.

(7) The noting of an appeal in terms of this subsection shall not have the effect of suspending the direction appealed against.

(8) A police officer may order the persons taking part in any public gathering to disperse if—

(a) any direction given under subsection (1) in relation to that gathering has been violated; or

(b) the police officer has reasonable grounds for believing that public order is likely to be endangered if the gathering continues.

(9) Any person who fails to comply with an order given under subsection (8) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

26 Prohibition of public gatherings to avoid public disorder

(1) Without derogation from section 25, if a regulating authority believes on reasonable grounds that a public gathering will occasion public disorder, he may by notice in terms of subsection (3) prohibit the public gathering.

(2) Whenever it is practicable to do so, before acting in terms of subsection (1), a regulating authority shall afford the organiser of the public gathering concerned a reasonable opportunity to make representations in the matter.

(3) A notice given under subsection (1) shall have effect immediately it is issued and shall be published—

(a) in a newspaper circulating in the area to which the direction applies; or

(b) by notices distributed among the public or affixed upon public buildings in the area to which the direction applies; or

(c) by announcement of a police officer that is broadcast or made orally:

Provided that, where practicable, the regulating authority shall ensure that the notice is reduced to writing and served on the organiser of the public gathering to which it relates.

(4) Any person who is aggrieved by a notice given under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the notice or give such other order in the matter as he thinks just:

Provided that the noting of an appeal in terms of this subsection shall not have the effect of suspending any notice appealed against.

(5) Any person who knowingly opposes or fails to comply with a notice given under subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

27 Temporary prohibition of holding of public demonstrations within particular police districts

(1) If a regulating authority for any area believes on reasonable grounds that the powers conferred by sections 25 and 26 will not be sufficient to prevent public disorder being occasioned by the holding of public demonstrations or any class thereof in the area or any part thereof, he may issue an order prohibiting, for a specified period not exceeding three months, the holding of all public demonstrations or any class of public demonstrations in the area or part thereof concerned.

(2) Whenever it is practicable to do so, before acting in terms of subsection (1), a regulating authority shall—

(a) cause notice of the proposed order to be published in the *Gazette* and in a newspaper circulating in the area concerned and to be given to any person whom the regulating authority believes is likely to organise a public demonstration that will be prohibited by the proposed order; and

(b) afford all interested persons a reasonable opportunity to make representations in the matter.

(3) The regulating authority for the area in respect of which an order has been made under subsection (1) shall ensure that the order and any revocation thereof is published—

(a) in the *Gazette*; and

(b) in a newspaper circulating in the area; and

(c) in such other manner as, in his opinion, will ensure that the order or its amendment or revocation, as the case may be, is brought to the attention of persons affected by it.

(4) Any person who is aggrieved by an order given under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the order or give such other order in the matter as he thinks just:

Provided that the noting of an appeal in terms of this subsection shall not have the effect of suspending any order appealed against.

(5) Any person who organises or assists in organising or takes part in or attends any public demonstration held in contravention of an order under subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

28 Civil liability in certain circumstances of organiser of public gathering

(1) If the organiser of a public gathering—

- (a) has not given notice of the holding of the gathering in terms of subsection (1) of section 24, or
- (b) fails or refuses to comply to the best of his ability with any direction, notice or order given in terms of section 25, 26 or 27; or
- (c) incites or encourages persons taking part in the gathering to engage in conduct which amounts to or could reasonably be expected to lead to public disorder or a breach of the peace;

he shall be liable, at the suit of any injured party, for any loss of or damage to property and any injury to or death of a person occasioned by any public disorder or breach of the peace caused by or arising out of or occurring at the gathering.

(2) Where there is more than one organiser of a public gathering, their liability under that section shall be joint and several.

(3) In any proceedings in which it is alleged that an organiser of a public gathering is liable in terms of subsection (1) for any loss, damage, injury or death, the organiser shall bear the onus of proving on a balance of probabilities—

- (a) that he gave notice of the holding of the gathering in terms of section 24;
- (b) that he complied to the best of his ability with any direction or order that is proved to have been made in relation to the gathering.

(4) This section shall be construed as adding to, and not as derogating from, any other law under which an organiser of a public gathering or any other person may be liable for any loss, damage, injury or death caused by or arising out of or occurring at such a gathering.

(5) Subject to Part XIX of the Criminal Procedure and Evidence Act [*Chapter 9:07*], a court which has convicted a person of any offence in terms of section 24, 25, 26 or 27 that involves any loss, damage, injury or death for which that person is liable in terms of this section shall forthwith award compensation to any person who has suffered personal injury or whose right or interest in property of any description has been lost or diminished as a direct result of the offence.

29 Dispersal of unlawful public gatherings

(1) A police officer and any person assisting him may do all things reasonably necessary for—

- (a) dispersing the persons present at a public gathering the holding or continuance of which is unlawful by virtue of any direction or order under section 25, 26 or 27; and
- (b) apprehending any such persons;

and, if any such person makes resistance, the police officer or the person assisting him may use such force as is reasonably justifiable in the circumstances of the case for overcoming any such resistance.

(2) If a person is killed as a result of the use of reasonably justifiable force in terms of subsection (1), where the force is directed at overcoming that person's resistance to a lawful measure taken in terms of that subsection, the killing shall be lawful.

30 Prohibition of offensive weapons at public gatherings

(1) In this section—

“offensive weapon” means—

- (a) any weaponry; or
- (b) any object made or adapted to be used for causing injury to the person; or
- (c) any stone.

(2) Any person who, while present at a public gathering, has with him any offensive weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence and liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) For the purposes of subsection (2), a person shall be deemed to be acting in pursuance of lawful authority only if he is acting in his capacity as a police officer, a member of the Defence Forces or an employee of the State or a local authority.

31 Disrupting public gatherings

Any person who, at a public gathering—

- (a) engages in disorderly or riotous conduct; or
- (b) uses threatening, abusive or insulting words; or
- (c) behaves in a threatening, abusive or insulting manner;

intending to prevent the transaction of the business for which the gathering was called together, or realising that there is a risk or possibility that the transaction of business may be prevented, shall be guilty of an

offence and liable to a fine not exceeding \$50,000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

PART V ENFORCEMENT AND PRESERVATION OF PUBLIC ORDER AND SECURITY

32 Persons to carry identity documents

(1) In this section—

“**arrestable offence**” means an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*];

“**identity document**” means—

- (a) a document issued to a person in terms of section 7 of the National Registration Act [*Chapter 10:17*], or a passport or drivers licence issued by or on behalf of the Government of Zimbabwe; or
- (b) any visitor’s entry certificate or other certificate or permit issued to a person in terms of the Immigration Act [*Chapter 4:02*], or in terms of any enactment relating to refugees; or
- (c) any passport, identity document or driver’s licence issued by a foreign government.

(2) Subject to this section, every person shall, when in a public place, carry an identity document on his person.

(3) Subject to this section, a police officer may at any time require a person in a public place to produce an identity document.

(4) Any person who fails to produce his identity document immediately on request by a police officer—

- (a) acting in good faith in the course of investigating or preventing an arrestable offence; or
- (b) at the scene or in the immediate vicinity of the commission of an arrestable offence committed within the preceding 48 hours; or
- (c) within a police cordon; or
- (d) at a police road block; or
- (e) in the immediate vicinity of any area controlled or protected in terms of the Defence Act [*Chapter 11:02*], the Protected Places and Areas Act [*Chapter 11:12*] or the Parks and Wild Life Act [*Chapter 20:14*]; or
- (f) at a public gathering or a public meeting of a political nature;

shall be guilty of an offence and liable to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) Any person who is found without an identity document on his person in circumstances other than those specified in subsection (4) shall be afforded an opportunity, within seven days thereafter, of producing his identity document at a police station specified by the police officer concerned.

(6) Any person who, on being required to do so in terms subsection (5), fails to produce his identity document at a police station specified in terms of that subsection, shall be guilty of an offence and liable to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

33 Cordon and search

(1) A police officer of or above the rank of inspector may establish a cordon round any area if he considers it reasonably necessary—

- (a) to contain any public disorder or public violence within the area; or
- (b) to protect the area from any public disorder or public violence.

(2) Any person who, otherwise than in terms of a written permit issued by a police officer, knowingly enters or leaves any area round which a cordon has been established under subsection (1) shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) A peace officer may without a warrant, within the area round which a cordon has been established in terms of subsection (1)—

- (a) conduct a search for—
 - (i) any person reasonably suspected of having committed an offence relating to or arising out of public disorder or public violence which gave rise to the establishment of the cordon; or
 - (ii) any evidence relating to an offence referred to in subparagraph (i);or
- (b) arrest any person referred to in paragraph (a).

34 Powers of stopping and searching

(1) A police officer may stop and, without warrant—

- (a) search any person, vehicle or vessel entering or leaving Zimbabwe and any person in or upon such vehicle or vessel; and

(b) seize anything as to which he has reasonable grounds for believing that it will afford evidence as to the commission of an offence under any law.

(2) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of the public safety, public order or public health to exercise without warrant the powers referred to in subsection (1) in respect of vehicles, vessels and persons in or upon such vehicles or vessels anywhere in Zimbabwe, he may authorise the erection of a road block or checkpoint for the purposes of stopping vehicles or vessels so that they can be searched, and thereupon such powers may be so exercised.

(3) Any person who fails or refuses to stop when so required in terms of this section or takes any measures to prevent being stopped or searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

35 Powers of police officers in relation to aircraft, aerodromes and airstrips

(1) In this section—

“**aerodrome**” has the meaning given to it by section 2 of the Civil Aviation Act [*Chapter 13:16*];

“**airstrip**” means a cleared area for the landing and taking-off of aircraft.

(2) A police officer may and, without warrant—

(a) board any aircraft that has landed at or is about to depart from Zimbabwe and search it and any person in or upon such aircraft; and

(b) for the purpose of paragraph (a) but subject to subsection (4)—

(i) enter upon and search any aerodrome or airstrip; and

(ii) remain at any aerodrome or airstrip for so long as he considers it necessary for the proper performance of his duties;

and

(c) search any person present within the aerodrome or airstrip or in the immediate vicinity of the aerodrome or airstrip; and

(d) seize any thing as to which he has reasonable grounds for believing that it will afford evidence as to the commission of an offence under any law.

(3) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of public safety, public order or public health to exercise without warrant the powers referred to in subsection (2) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, he may, subject to subsection (4), authorise the presence of any police officer at such aerodrome or airstrip and thereupon such powers may be so exercised.

(4) Subject to subsection (5), no police officer shall, for the purposes of subsection (2) or (3), be authorised to remain at an aerodrome or airstrip for more than 48 hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(5) If the Minister is of the opinion that it is desirable in the interests of defence public safety, public order or public health to do so, he may, by notice in a statutory instrument, declare that during such period as may be specified in such notice, police officers may, without warrant, exercise the powers referred to in subsection (2) or (3) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, and for that purpose to remain at an aerodrome or airstrip for more than 48 hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(6) Any person who hinders or obstructs any police officer in the exercise of his powers in terms of this section or takes any measures to prevent an aerodrome, airstrip or aircraft or any person in or upon such aircraft being searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

PART VI GENERAL

36 Attorney-General to authorise prosecutions under this Act

No proceedings shall be instituted or continued against any person in respect of an offence in terms of section 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17 or 18, other than proceedings for the purposes of remand, without the authority of the Attorney-General.

37 When Defence Forces may assist Police Force under this Act

(1) If, upon a request made by the Commissioner of Police, the Minister is satisfied that any regulating authority requires the assistance of the Defence Forces for the purpose of suppressing any civil commotion or disturbance in any police district, he may request the Minister responsible for defence to authorise the Defence Forces to assist the police in the exercise of their functions under this Act in the police district concerned.

- (2) Where authority is given under subsection (1) for the Defence Forces to assist the police—
- (a) every member of the Defence Forces who has been detailed to assist the police in any police district in the exercise of their functions under this Act shall be under the command of the regulating authority concerned; and
- (b) a member of the Defence Forces who is assisting a police officer in the exercise of his functions under this Act shall have the same powers, functions and authority, and be subject to the same responsibilities, discipline and penalties, as a member of the Police Force, and liable in respect of acts done or omitted to be done to the same extent as he would have been liable in the same circumstances if he were a member of the Police Force, and shall have the benefit of any indemnity to which a member of the Police Force would in the same circumstances be entitled.

38 Powers of seizure and forfeiture in relation to vehicles, aircraft and vessels

(1) Where any person is convicted of an offence under this Act, the court may order that any vehicle, aircraft or vessel used for the purpose of or in connection with the commission of the offence shall be forfeited to the State:

Provided that, if it is proved that such vehicle, aircraft or vessel is not the property of the person convicted and that its owner was—

- (a) unaware that the vehicle, aircraft or vessel, as the case may be, was being so used; or
 - (b) unable to prevent its use for the purpose of or in connection with the commission of the offence;
- the court shall not make any such order in respect thereof.

(2) Subject to subsection (3), where a police officer believes on reasonable grounds that any vehicle, aircraft or vessel which is liable to forfeiture in terms of subsection (1) is likely to be removed from Zimbabwe unless it is detained, he may seize and detain any such vehicle, aircraft or vessel so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with subsection (1).

(3) A magistrate may, on application by the owner of a vehicle, aircraft or vessel seized in terms of subsection (2), permit such owner, or such sureties as the magistrate may approve—

- (a) to enter into a bond for an amount approved by the magistrate; and
- (b) to deposit with the clerk of court such sum, if any, as may be fixed by the magistrate to satisfy any judgement which may be given on the bond;

whereupon the vehicle, aircraft or vessel shall be returned to the owner.

(4) A bond entered into in terms of subsection (3) shall be subject to the condition that the owner shall submit the vehicle, aircraft or vessel to the jurisdiction of the court trying the offence concerned when so required, and may be subject to such other conditions as the magistrate thinks fit to impose in the circumstances.

(5) Upon breach of any condition of a bond entered into in terms of this subsection (2), any court may, on application by the Minister, give judgement against such person or his sureties in accordance with the provisions of the bond.

39 Powers of search, seizure and forfeiture generally

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

- (a) an arrest or search of any person or premises or of any person or premises in any area in terms of this Act shall be conducted in accordance with Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] or any other enactment which regulates such arrest or search, and, in particular, subsection (4) of section 41 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to the search of any woman;
- (b) except to the extent expressly provided in this Act, Part VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to any weapon, item capable of use as a weapon, publication, equipment, vehicle, aircraft, vessel or other article seized or detained in terms of this Act.

(2) The powers conferred by Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] on a police officer may be exercised by any peace officer within the area round which a cordon has been established in terms of subsection (1) of section 33.

40 Special jurisdiction of magistrates

(1) Notwithstanding anything in the Magistrates' Court Act [*Chapter 7:10*] or in any other enactment, where a person is convicted of a contravention of any of the provisions of this Act—

- (a) a court of a magistrate, other than a regional, provincial or senior magistrate, shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding \$5,000 or imprisonment for a period not exceeding three years;
- (b) a court of a senior or provincial magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding \$200,000 or imprisonment for a period not exceeding 10 years;
- (c) a court of a regional magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding \$300,000 dollars or imprisonment for a period not exceeding 15 years.

- (2) Subsection (1) shall apply in relation to a person who is convicted of—
 - (a) attempting to contravene or inciting another person or conspiring with another person to contravene any of the provisions of this Act; or
 - (b) being an accessory after the fact to the commission of the crime of contravening any of the provisions of this Act;

as though he had been convicted of a contravention of any of the provisions of this Act.

(3) Nothing in this section shall be construed as authorising a court to impose for any contravention of any provision of this Act a punishment greater than may, under the relevant provision of this Act, be imposed therefor, or as preventing a court from imposing, as often as it is specially authorised by any enactment to do so, any other punishment than the punishment mentioned in this section.

(4) The President may, by proclamation, suspend the operation of subsection (1) and may, in similar manner, restore its operation.

41 Amendment of Schedule

(1) Subject to subsection (2), the Minister may, by notice in a statutory instrument, at any time add to, amend or replace the Schedule.

(2) Where the Minister seeks to amend the Schedule by reducing the classes of public gathering described in the Schedule, the Minister shall, within the next 14 days on which Parliament sits after he makes a statutory instrument in terms of subsection (1), lay it before Parliament, and the statutory instrument shall not come into force unless approved by resolution of Parliament.

42 Saving of other laws as to riotous gatherings, etc.

Nothing in this Act shall be construed as affecting the right or duty of any person under any other law to disperse riotous gatherings and to prevent or suppress other unlawful acts, or to assist in such dispersal, prevention or suppression.

43 Amendment of Cap. 4:01

The Citizenship of Zimbabwe Act [*Chapter 4:01*] is amended in the Schedule by the repeal of paragraph (a) of paragraph 5 and the substitution of—

- “(a) any provision of the Public Order and Security Act [*Chapter 11:17*], or the Law and Order (Maintenance) Act [*Chapter 11: 07*] before its repeal by the Public Order and Security Act [*Chapter 11:17*];”.

44 Amendment of Cap. 9:07

The Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended—

- (a) in section 32 by the insertion in subsection (2) after “may be detained for a period not exceeding 48 hours” of “or, in the case of an offence referred to in paragraph 10 of the Third Schedule, not exceeding seven days.”;
- (b) in section 50—
 - (i) in subsection (1) by the insertion in paragraph (a) after “premises” of “or area”;
 - (ii) in subsection (2) by the insertion in paragraph (a) after “warrant” of “, or any premises within an area identified in the warrant.”;
- (c) in section 116 by the deletion from subsection (2) of “Law and Order (Maintenance) Act [*Chapter 11:07*]” and the substitution of “Public Order and Security Act [*Chapter 11:17*]”;
- (d) in section 121 in subsection (1) by the repeal of paragraph (a) of the proviso;
- (e) in section 123 by the deletion from subsection (2) of “Law and Order (Maintenance) Act [*Chapter 11:07*]” and the substitution of “Public Order and Security Act [*Chapter 11:17*]”;
- (f) in section 124 by the repeal of subsection (8);
- (g) by the repeal of the Third Schedule and the substitution of—

“THIRD SCHEDULE (Sections 116 and 123)

OFFENCES IN RESPECT OF WHICH POWER TO ADMIT PERSONS TO BAIL IS EXCLUDED OR QUALIFIED

1. Treason.
 2. Murder.
 3. Rape.
 4. Robbery accompanied by the use of a firearm or lethal weapon.
 5. Kidnapping.
 6. Arson.
 7. Theft of a motor vehicle as defined in section 2 of the Road Traffic Act [*Chapter 13:11*].
 8. A conspiracy, incitement or attempt to commit any offence referred to in paragraph 5 or 6.
 9. Any offence where the Attorney-General has notified a magistrate of his intention to indict the person concerned in terms of subsection (1) of section 101 or subsection (1) of section 110.
 10. Contravening section 5, 6, 7, 8, 9, 10 or 11 of the Public Order and Security Act [*Chapter 11:17*].”;
- (h) by the repeal of the Fourth Schedule.

45 Amendment of Cap. 9:15

The Miscellaneous Offences Act [*Chapter 9:15*] is amended—

- (a) in section 2 by the insertion of the following definition—
“**constabulary member of the Police Force**” means a member of the Police Constabulary established in terms of section 27 of the Police Act [*Chapter 11:10*];”;
- (b) in section 6 by the deletion from subsection (1) of “\$500” and “three years” and the substitution of “\$10,000” and “two years” respectively;
- (c) in section 7 by the deletion of “\$200” and “12 months” and the substitution of “\$5,000” and “one year” respectively.

46 Repeal of Cap. 11:07

The Law and Order (Maintenance) Act [*Chapter 11:07*] is repealed.

SCHEDULE (*Sections 24(5) and 41*)

CLASSES OF PUBLIC GATHERING TO WHICH SECTION 24 DOES NOT APPLY

Public gatherings—

- (a) held exclusively for *bona fide* religious, educational, recreational, sporting or charitable purposes or any two or more such purposes;
- (b) held exclusively for the purposes of—
 - (i) baptism; or
 - (ii) wedding; or
 - (iii) funeral; or
 - (iv) cremation;
- (c) of members of professional, vocational or occupational bodies held for purposes which are not political;
- (d) for the purposes of agricultural shows;
- (e) at any *bona fide* theatrical, cinematographic or musical entertainment or any circus or fireworks display;
- (f) at any *bona fide* sale of goods or animals;
- (g) at a draw for prizes in any lottery held in terms of the Lotteries and Gaming Act [*Chapter 10:26*];
- (h) for the purposes of a luncheon, dinner or dance given or held by any club, association or organisation which is not of a political nature;
- (i) held by any club, association or organisation which is not of a political nature and at which the discussions and matters dealt with are not of a political nature;
- (j) held by a registered trade union for *bona fide* trade union purposes for the conduct of business in accordance with the Labour Relations Act [*Chapter 28:01*];
- (k) held to form any club, association or organisation which is not of a political nature;
- (l) for the purposes of an industrial show.

Published as General Notice 644 of 2001 in the Zimbabwean Government Gazette of 14 December 2001.