Chapter 20:27
ENVIRONMENTAL MANAGEMENT ACT
Act 13 of 2002.
Amended by Act 5/2004
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ACT
To provide for the sustainable management of natural resources and protection of the environment; the prevention of pollution and environmental degradation; the preparation of a National Environmental Plan and other plans for the management and protection of the environment; the establishment of an Environmental Management Agency and an Environment Fund; to amend references to intensive conservation areas and committees and associated matters in various Acts; to repeal the Natural Resources Act [Chapter 20:13]; the Atmospheric Pollution Prevention Act

[Chapter 20:03], the Hazardous Substances and Articles Act [Chapter 15:05] and the Noxious Weeds Act [Chapter 19:07], and to provide for matters connected with or incidental to the foregoing.
[DATE OF COMMENCEMENT : 17TH MARCH, 2003—BUT SEE NOTE AFTER SECTION 1(2) BELOW—EDITOR.]
ENACTED by the President and Parliament of Zimbabwe.
PART I
PRELIMINARY
1 Short title and date of commencement
(1) This Act may be cited as the Environmental Management Act [Chapter 20:27].
(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.
[S.I. 103 of 2003- which excluded section 144 and paragraph I of Part II of the Sixth Schedule—which shall come into force on another later date still to be fixed—Editor.]
2 Interpretation
In this Act—
"Agency" means the Environment Management Agency established in terms of section nine;
"appropriate authority"—
(a) in relation to forest land, means the Forestry Commission established in terms of the Forest Act [Chapter 19:05];
(b) in relation to parks and wild life land, means the Department of National Parks and Wild Life Management established in terms of the Parks and Wild Life Act [Chapter 20:14];
(c) in relation to Communal Land or resettlement land, means the rural district council within whose area the land is situated, where the Minister has assigned environmental management functions to that council in terms of section one hundred and thirty-three;
(d) relation to water pollution, means the person whom the Minister, by notice in the Gazette, has specified as the appropriate authority for those waters or, if no person has been so specified, the appropriate authority for the land riparian to those waters;
in relation to alienated land, means¾¾
(i) the occupier of the land; or
(ii) if the land has no occupier, the user of the land; or
(iii) if the land has neither an occupier nor a user, the owner of the land;
and includes any person appointed by the occupier, user or owner, as the case may be, to be the appropriate authority for the land;
"biological diversity" means Biological Diversity as defined in the United Nations Convention on Biological Diversity adopted in 1992;
"Board " means the Environment Management Board established by section eleven;
"construct" includes to do, maintain, repair, carry out, reconstruct or alter;
" Council" means the National Environment Council established by section seven;
"developer " means any person who proposes or undertakes to implement a project;
"Director-General" means the Director-General of the Agency ;
"dust" means any solid matter in a fine or disintegrated form which is capable of being dispersed or being suspended in the atmosphere;
"effluent" means waste water or other fluid originating from domestic, agricultural or industrial activity, whether the water or fluid is treated or untreated and whether it is discharged directly or indirectly into the environment;
"emission" means gas, fumes, smoke, dust or odour originating from domestic, agricultural or industrial activity, vehicles, engines and processes.
"environment" means—

(a) the natural and man-made resources physical resources, both biotic and abiotic, occurring in the lithosphere and atmosphere, water, soil, minerals and living organisms whether indigenous or exotic, and the interaction between them;

(b) ecosystems, habitats, spatial surroundings and their constituent parts whether natural or modified or constructed by people and communities, including urbanised areas, agricultural areas, rural landscapes, and places of cultural significance;

(c) the economic, social, cultural or aesthetic conditions and qualities that contribute to the value of the matters set out in paragraphs (a) and (b);

"environmental audit " means the systematic documentation and periodic objective evaluation of the protection and management of the environment;

"environment committee" means an environment committee of a rural district council appointed in terms of the Rural District Councils Act [Chapter 29:13];

"environmental impact assessment" means an evaluation of a project to determine its impact on the environment and human health and to set out the required environmental monitoring and management procedures and plans;

"environmental impact assessment report" means a report on an environmental impact assessment that is referred to in section one hundred;

"fixed date" means the date fixed in terms of subsection (2) of section one as the date on which this Act shall come into operation;

"government agency" means any Ministry, department, organ or agency of the State or government, including a local authority;

"hazardous substance" means any waste, liquid, or gaseous matter, medicine, drug, plant, animal or organism which is injurious to human health or the environment;

"hazardous waste" means waste which is poisonous, corrosive, noxious, explosive, inflammable, radioactive, toxic or harmful to the environment;

"inspector" means an inspector appointed in terms of section thirty-five;

"invasive alien species" means exotic plants which have become naturalised and threaten the existence of indigenous species by penetrating and replacing indigenous vegetation, and , in particular, shall have the meaning given to that term in section one hundred and eighteen;

"licensing authority" means any person on whom power is conferred under any enactment to issue a licence in respect of any activity required under that enactment to be done or carried out with a licence;

"manage", in relation to the environment , means to manage with a view to securing its protection, conservation, regulations, rehabilitation or sustainable use, or any combination or all of the foregoing;

"Minister" means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"monitor" means to assess, continuously or periodically, the state and trends of developments on any part of the environment as well as the actual or potential impact of any activity on the environment and human health;

"National Plan" means a National Environmental Plan prepared in terms of Part X;

"natural resource" includes—

(a) the air, soil, waters and minerals of Zimbabwe;

(b) the mammal, bird, fish and other animal life of Zimbabwe;

(c) the trees, grasses and other vegetation of Zimbabwe;

(d) the springs, vleis, sponges, reed-beds, marshes, swamps and public streams of Zimbabwe;

(e) any other thing that the President may, by statutory instrument, declare to be a natural resource, including a landscape or scenery which, in his opinion, should be preserved on account of its aesthetic appeal or scenic value;

"noxious or offensive gas" means the gases, fumes, dust, odours and smokes specified in Part IV of the Fifth Schedule;

“occupier”, in relation to land or premises, means any person lawfully occupying or controlling the land or premises;
“officer” means an officer appointed in terms of section thirty- five;
“owner”, in relation to land or premises, means¾¾
(a) the person registered in the Deeds Registry as the owner of the land or premises; or
(b) in the case of State land , other than¾¾
(i) communal land; or;
(ii) forest land; or
(iii) land referred to in paragraph (e);
the Minister responsible for the management or administration of the land; or
(c) in the case of communal land, the Minister responsible for the administration of the Communal Land Act [Chapter 20:04]; or
(d) in the case of forest land, the Forestry Commission; or
(e) any person who lawfully holds or occupies land, including State land, in accordance with an agreement or enactment under which he is entitled to obtain title to the land on the fulfilment of conditions prescribed in the agreement or enactment;
and includes¾¾
(i) the legal representative of an owner referred to in paragraph (a) or (e); and
(ii) the liquidator of a company which is an owner referred to in paragraph (a) or (e) and which is in liquidation;
“pollutant” means a substance which, when released from any process, is capable of causing pollution;
“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of the environment caused by the discharge, emission or deposit of a substance into the environment in such quantity and for such duration and under such conditions as to cause an actual or potential danger to the environment or to human health;
“premises” means any building or structure, including the land on which such building or structure is situated;
“project” means an activity which has or is likely to have an impact on the environment and which is specified in the First Schedule;
“responsible Minister”, in relation to environmental matters, means any Minister or Vice-President who, in terms of any enactment, is empowered or required to exercise any function in respect of the environment;
“Secretary” means the Secretary of the Ministry for which the Minister is responsible;
“smoke” includes fly ash, soot, grit and gritty particles emitted in smoke;
“State land” means land vested in the President;
“sustainable utilization” means the use or exploitation of the environment which guards against the extinction, depletion or degradation of any natural resource and permits the replenishment of natural resources by natural means or otherwise;
“transport conveyance” means any motor vehicle, train, boat, aircraft or other similar conveyance;
“user”, in relation to land, means a person, other than an owner or occupier, who has or exercises any rights in, over or upon land or who makes use of land in any way;
“water” includes—
(a) surface water; and
(b) all water which rises naturally on any private land or drains or falls naturally on to any private land, even if it does not visibly join any public stream; and

(c) all ground water;

"waste" includes domestic, commercial or industrial material , whether in a liquid, solid, gaseous or radioactive form, which is discharged, emitted or deposited into the environment in such volume, composition or manner as to cause pollution;

"wetland" means any area of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing ,fresh ,brackish or salt, and includes riparian land adjacent to the wetland;

"works" means measures taken or to be taken or anything whatsoever constructed or to be constructed with a view to managing the environment.

3 Application of this Act in relation to other laws

(1) Except where it is expressly provided to the contrary, this Act shall be construed as being in addition to and not in substitution for any other law which is not in conflict or inconsistent with this Act.

(2) If any other law is in conflict or inconsistent with this Act, this Act shall prevail.

PART II

GENERAL PRINCIPLES OF ENVIRONMENTAL MANAGEMENT AND FUNCTIONS OF MINISTER.

4 Environmental rights and principles of environmental management

(1) Every person shall have a right to—

(a) a clean environment that is not harmful to health; and

(b) access to environmental information, and protect the environment for the benefit of present and future generations and to participate in the implementation of the promulgation of reasonable legislative, policy and other measures that—

(i) prevent pollution and environmental degradation; and

(ii) secure ecologically sustainable management and use of natural resources while promoting justifiable economic and social development.

(2) Subject to this Act, the following principles of environmental management shall apply to the actions of all persons and all government agencies, where those actions significantly affect the environment—

(a) all elements of the environment are linked and inter-related, therefore environmental management must be integrated and the best practicable environmental option pursued;

(b) environmental management must place people and their needs at the forefront of its concern;

(c) the participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation;

(d) environmental education, environmental awareness and the sharing of knowledge and experience must be promoted in order to increase the capacity of communities to address environmental issues and engender values, attitudes, skills and behaviour consistent with sustainable environmental management;

(e) development must be socially, environmentally and economically sustainable;

(f) anticipated negative impact on the environment and on people's environmental rights shall be prevented, and where they can not be altogether prevented , be minimized and remedied;

(g) any person who causes pollution or environmental degradation shall meet the cost of remedying such pollution or environmental degradation and any resultant adverse health effects, as well as the cost of preventing, controlling or minimizing further pollution, environmental damage or adverse health effects;

(h) global and international responsibilities relating to the environment must be discharged in the national interest;

(i) sensitive, vulnerable and highly dynamic or stressed ecosystems require specific attention in management and planning procedures , especially where they are subject to significant human resource usage and development pressure.

(3) The environmental rights and principles of environmental management set out in subsections (1) and (2) shall—

(a) serve as the general framework within which plans for the management of the environment shall be formulated; and

(b) serve as guidelines for the exercise of any function concerning the protection or management of the environment in terms of this Act or any other enactment; and

(c) guide the interpretation, administration and implementation of any other law concerning the protection or management of the environment .

5 General functions of Minister

(1) Subject to this Act, it shall be the duty of the Minister¾¾

(a) to regulate the management of the environment and to promote, co-ordinate and monitor the protection of the environment and the control of pollution; and

(b) to regulate the activities of all government agencies and other agencies to the extent that their activities impact on the environment; and

(c) to lay before Parliament a report on the state of the environment at the end of every period of five years; and

(d) to monitor the environment and trends in the utilization of natural resources and the impact of such utilization on the environment or any segment thereof; and

(e) to co-ordinate the promotion of public awareness and education on environmental management; and

(f) to impose penalties on any persons who cause harm to the environment; and

(g) to ensure that persons or institutions that are responsible for causing environmental harm will meet the cost of remedying that harm;

and the Minister, in consultation with the Board and responsible Ministers, shall have such powers as are necessary to carry out this duty.

(2) Without limiting the generality of subsection (1) , the Minister shall have the following functions in addition to the other functions assigned to him in terms of this Act—

(a) to formulate and cause to be implemented policies for environment management; and

(b) to recommend to Government which international and regional conventions on the environment Zimbabwe should become a party to and to secure the incorporation of such conventions into domestic law.

6 Delegation of powers by the Minister

The Minister may delegate to the Agency or the Council such of his functions under this Act as he thinks fit.

PART III

NATIONAL ENVIRONMENTAL COUNCIL

7 Establishment of a National Environment Council

(1) There is hereby established a council to be known as the National Environmental Council which shall consists of—

(a) the Permanent Secretaries in the Ministries for the time being responsible for the matters of areas specified in the Second Schedule;

(b) two representatives of universities to be appointed by the Minister after consultation with the relevant universities;

(c) two representatives of specialised research institutions to be appointed by the Minister after consultation with such institutions;

(d) three representatives of the business community, to be appointed by the Minister after consultations with business organizations;

(e) two representatives of local non-governmental organisations active in the environmental field to be appointed by the Minister after consultations with relevant organisations;

(f) the Director-General, who shall be the secretary to the Council; and

(g) such other members as may, from time to time, be co-opted by the Council with the approval of the Minister.

(2) The Minister shall designate one member as chairman of the Council and one member as vice-chairman of the Council and the vice-chairman shall exercise the functions of the chairman during any period that the chairman is unable to exercise them.

(3) The Minister shall publish the names of the persons appointed in terms of paragraphs (b), (c), (d), (e) and (g) of subsection (1) by notice in the Gazette.

(4) The appointments made in terms of subsection (1) shall be for a renewable period of three years, but shall cease if the appointee—

(a) serves the Minister with a written notice of resignation; or

(b) is absent from three consecutive meetings of the Council without the permission of the chairman; or

(c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding level four; or

(d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council; or

(e) conducts himself in a manner deemed by the Minister, in consultation with the Council, to be inconsistent with membership of the Council; or

(f) is adjudged bankrupt or has entered into a scheme or arrangement with his creditors.

8 Duties and Functions of the Council

(1) The following shall be the functions of the Council —

(a) to advise on policy formulation and give directions on the implementation of this Act ; and

(b) to advise on national goals and objectives and determine policies and priorities for the protection of the environment; and

(c) to promote co-operation among public departments, local authorities, private sector, non-governmental organisations and such other organisations engaged in environmental protection programmes; and

(d) to make recommendations to all appropriate persons and authorities regarding the harmonization of functions related to the environment; and

(e) to review and recommend to the Minister guidelines for environmental management plans and environmental action plans; and

(f) to review the national environmental plan; and

(g) to review and recommend incentives for the protection of the environment ; and

(h) to perform such other functions as are assigned to it by the Minister under this Act.

(2) The Council shall meet at least four times in every financial year, at such place as it may deem appropriate for the transaction of its business.

(3) The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Council.

(4) The secretary to the Council shall prepare and keep all the records of the proceedings of meetings of the Council.

(5) The powers of the Council shall not be affected by any vacancy in the membership thereof nor by any defect in the appointment of a person who is a member of the Council.

(6) Subject to this section, the Council shall regulate its own procedure.

PART IV

ENVIRONMENTAL MANAGEMENT AGENCY

9 Establishment of Environmental Management Agency

There is hereby established an Agency, to be known as the Environmental Management Agency, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

10 Functions and powers of Agency

(1) Subject to this Act and any other enactment, the functions of the Agency shall be—

(a) to formulate quality standards on air, water, soil, noise, vibration, radiation and waste management;

(b) to assist and participate in any matter pertaining to the management of the environments; and in particular —

(i) to develop guidelines for the preparation of the National Plan, environmental management plans and local environmental management action plans;

(ii) to regulate and monitor the collection, disposal, treatment and recycling of waste;

(iii) to regulate and monitor the discharge or emission of any pollutant or hazardous substance into the environment;

(iv) to keep records in the form of registers of all licences and permits issued under this Act;

(v) to regulate and monitor the control of invasive alien species;

(vi) to regulate, monitor, review, and approve environmental impact assessments;

(vii) to regulate and monitor the management and utilisation of ecologically fragile ecosystems;

(viii) to make model by-laws and to establish measures for the management of the environment within the jurisdiction of the local authorities;

(ix) to develop and implement incentives for the protection of the environment;

(x) to recommend to the Government the conventions which the country may join, and incorporate their provisions into national law;

(xi) to co-ordinate the production of a report on the state of the environment every five years for the purpose of paragraph (c) of subsection (i) of section five ;

(xii) to undertake any works deemed necessary or desirable for the protection or management of the environment where it appears to be in the public interest or where in its opinion an appropriate authority has neglected to do so;

(xiii) to serve written orders on any persons requiring them to undertake or adopt such measures as are specified in the orders to protect the environment;

(xiv) to carry out periodic environment audits of any projects including projects whose implementation started before the fixed date for the purpose of ensuring that their implementation complies with the requirements of this Act;

(xv) to regulate and monitor access by any person to the biological and genetic resources of Zimbabwe;

(xvi) to recommend to the Minister the formulation of any regulations pertaining to the provisions of this Act.

(xvii) to carry out any other duties and functions as directed by the Minister.

(2) Before formulating the quality standards in terms of paragraph (a) of subsection (1), the Agency shall consult any other Minister, association, agency or authority it considers has responsibilities relating to the standards concerned.
(3) After any consultation in terms of subsection (2), the Agency shall—
(a) give notice in the Gazette and in a newspaper with wide circulation of the places at which the proposed quality standards will be publicly exhibited and the period within which objections or representations in connection with the standards may be made to the Agency; and
(b) for a period of not less than thirty days after giving notice in terms of paragraph (a), exhibit a copy of the proposed quality standards at each of the places specified in the notice.
(4) When formulating quality standards in terms of subsection (1), the Agency shall take into consideration any objections or representations received in response to the notice in terms of paragraph (a) of subsection (3)
(5) The quality standards formulated under subsection (1) shall be minimum standards which shall serve as guidelines by reference to which any authority or person shall exercise his functions concerning the protection of the environment in terms of this Act or any other enactment.
(6) For the better exercise of its functions, the Agency shall have the power, subject to this Act, to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Third Schedule, either absolutely or conditionally and either solely or jointly with others.

PART V

ENVIRONMENT MANAGEMENT BOARD

11 Establishment of Environment Management Board

The operations of the Agency shall, subject to this Act, be controlled and managed by a Board called the Environment Management Board.

12 Composition of Board

(1) Subject to this section and section thirteen, the Board shall consist of not fewer than nine and not more than fifteen members appointed by the Minister after consultation with the President.
(2) Of the members appointed in terms of subsection (1)—
(a) there shall be at least one expert in each of the following areas—
(i) environmental planning and management;
(ii) environmental economics;
(iii) ecology;
(iv) pollution;
(v) waste management;
(vi) soil science;
(vii) hazardous substances;
(viii) water;
(ix) sanitation;
(b) one shall be a legal practitioner registered in terms of the Legal Practitioners Act [Chapter 27:07]; and
(c) one shall be the secretary for the Ministry responsible for the environment.
(3) Whenever a vacancy on the Board is to be filled, the Minister shall—
(a) call upon any organisation which, in his opinion, has expertise, that should be represented on the Board to submit to him a list of names of persons suitable for appointment to the Board; and
(b) refer to the President any list submitted to him in response to a request made in terms of paragraph (a);

and the President shall give due consideration to any such list when appointing a person to fill the vacancy.

13 Disqualifications for membership of Board

(1) A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as a member, if—

(a) he is neither a citizen of Zimbabwe nor ordinarily resident in Zimbabwe; or

(b) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or

(c) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or

(d) he has been sentenced—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

(e) he has been convicted—

(i) in Zimbabwe of an offence involving dishonesty; or

(ii) outside Zimbabwe, in respect of any conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty;

and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.

(2) A person who is—

(a) a member of Parliament; or

(b) a member of two or more other statutory bodies;

shall not be appointed as a member of the Board nor shall he be qualified to hold office as a member.

(3) For the purposes of paragraph (b) of subsection (2), a person who is appointed to a council, board or other Agency which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body.

14 Terms of office and conditions of service of members of Board

(1) A member of the Board shall hold office for such period, not exceeding three years, as the President may fix at the time of his appointment.

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

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

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

(4) Members shall hold office on such conditions as the President may fix.

15 Vacation of office by members of Board

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

(a) one month after the date he gives notice in writing to the President, through the Minister, of his intention to resign his office, or after the expiry of such other period of notice as he and the Minister may agree; or

(b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence; and

(c) if he becomes disqualified in terms of section thirteen to hold office as a member; or

(d) if he is required in terms of subsection (2) or (3) to vacate his office as a member.

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

(a) has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or

(b) has failed to comply with any condition of his office fixed in terms of section fourteen; or

(c) is mentally or physically incapable of efficiently exercising his functions as a member.

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

16 Filling of vacancies on Board

Subject to this Part, on the death of, or the vacation of office by, a member of the Board, the President may appoint a person to fill the vacancy:

Provided that, if the number of members is fewer than the minimum number of members specified in section twelve , the President shall appoint a person to fill the vacancy.

17 Chairman and vice-chairman of Board

(1) The Minister shall designate one member of the Board as chairman of the Board and another member as vice-chairman.

(2) The vice-chairman of the Board shall exercise the functions of the chairman whenever there is a vacancy in the office of chairman or the chairman is for any reason unable to exercise his functions.

18 Co-opted members of Board

With the approval of the Minister, the Board may co-opt any person to the Board:

Provided that¾¾

(a) a person shall not be co-opted to the Board if he is disqualified from membership of the Board in terms of section thirteen;

(b) a co-opted person shall have no vote in any decision by the Board.

19 Meetings and procedure of Board

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

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

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

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

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

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

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

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

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

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

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

20 Committees of Board

(1) For the better exercise of its functions, the Board may establish committees in which it may vest such of its functions as it thinks fit:
Provided that the vesting of a function in a committee shall not prevent the Board itself from exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On establishing a committee, the Board may appoint to the committee persons who are not members of the Board.

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

(4) Subject to this section, subsections (2) to (8) of section nineteen shall apply, mutatis mutandis, to committees and their members as they apply to the Board and its members.

21 Minutes of proceedings of Board and of committees

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

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as prima facie proof of the proceedings of and decisions taken at that meeting.

(3) The Board shall ensure that copies of all minutes of its meetings are sent to the Minister for his information, without delay after they have been signed in terms of subsection (2) .

22 Remuneration and allowances of members of Board and of committees

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

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

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

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

23 Directions to Board

(1) The Minister may give directions of policy to the Board, and the Board shall take all necessary steps to comply with them.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within

thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal its views on the proposal and the possible effects which the proposal may have on the finances, commercial interests and other resources and functioning of the Agency.
(3) After receipt of the views of the Board submitted in terms of subsection (2), the Minister may confirm, alter or withdraw any proposed direction to the Board and, where the Minister has confirmed a direction, whether altered or not, the Board shall forthwith comply with the direction.
(4) When any direction has been received by the Board in terms of this section, the Board shall set out in its annual report the direction received by it, the views expressed by it in terms of subsection (2), and the final direction given to it in terms of subsection (3).
(5) If the Board fails to carry out any duty imposed upon it by or under this Act or any other law, the Minister may direct the Board to take such action as he considers necessary to rectify the matter within such time as he may specify:
Provided that before doing so, the Minister shall give the Board an opportunity to make any representations it may wish to make in the matter.
(6) If the Board fails to take action in accordance with a direction in terms of subsection (2) within the time specified by the Minister, the Minister may take appropriate action on behalf of the Board to rectify the matter.
(7) The Board shall, in its report referred to in section twenty-four, set out the nature and substance of every direction given to it in terms of subsections (1) and (2), together with any comments the Board may wish to make regarding the direction.

24 Reports of Board

(1) As soon as possible after the end of each year, the Board shall submit to the Minister an annual report on matters dealt with by the Board during that year.
(2) At any time the Board may submit to the Minister a special report on any matter upon which the Board considers it desirable to report.
(3) The Minister shall lay before Parliament, on one of the fourteen days on which Parliament next sits after the report is received by him—
(a) the annual report submitted to him in terms of subsection (1); and
(b) any special report submitted to him in terms of subsection (2) which the Board has requested should be laid before Parliament.

25 Board to have access to all Ministers

In carrying out its functions, the Board, through its chairman, shall have direct access to every Minister and shall keep the Minister responsible for the environment informed of these meetings.

26 Board to consult experts on technical questions

When any matter arises which entails the consideration of any professional or technical question, the Board shall consult such persons as, in the Board's opinion, are qualified to advise on the question.

27 Hearings by Board

(1) The Board may and, if directed to do so by the Minister, shall hold a hearing into any matter which, under this Act or any other enactment, it is required or permitted to consider or on which it is required or permitted to take any action.
(2) Where the Board is to hold a hearing, anyone who has an interest in the subject-matter of the hearing shall, as far as reasonably practicable, be notified of the questions at issue and given facilities for making such representations on those questions as he may wish.

28 Powers of Board to summon witnesses and take evidence at hearings

(1) For the purposes of any hearing, the Board shall have the same powers as a magistrates court to summon witnesses, to cause the oath to be administered to them, to examine them and to call for the production of documents.

(2) A subpoena for the attendance of a witness or for the production of any book, document or record before the Board shall be signed and issued by the chairman of the Board, and shall be served in the same way as a subpoena for the attendance of a witness at a criminal trial in a magistrates court.
(3) Any person subpoenaed to give evidence or to produce any book, document or record or giving evidence before the Board shall be entitled to the same privileges and immunities as if he were subpoenaed to attend or were giving evidence at a criminal trial in a magistrates court.
29 Penalty for witness failing to attend hearing or give evidence or produce documents
(1) Any person who has been subpoenaed to give evidence or to produce any book, document or record at a hearing of the Board and who¾¾
(a) fails, without reasonable excuse, to attend in obedience to the subpoena; or
(b) at the hearing¾¾
(i) refuses, without reasonable excuse, to be sworn as a witness; or
(ii) having been sworn, refuses, without reasonable excuse, to answer fully and satisfactorily any question lawfully put to him; or
(iii) refuses, without reasonable excuse, to produce any such book, document or record he is lawfully required to produce;
shall be guilty of an offence and liable to a fine not exceeding level two or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
(2) The court convicting a person of an offence under subsection (1) may, in addition to any penalty, order the person to be detained in custody as if he were a prisoner awaiting trial until he consents to be sworn or to answer fully and satisfactorily all questions lawfully put to him or to produce the book, document or record, as the case may be.
30 Penalty for giving false evidence at hearing
Any person who, after having been duly sworn at a hearing of the Board, wilfully gives false evidence before the Board, knowing the evidence to be false or not having reasonable grounds for believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
31 Board may refer questions of law to High Court
(1) If any question of law arises from a decision of the Board , the Board may, on its own initiative or at the request of any person directly affected by the order, reserve that question for the decision of the High Court.
(2) Where a question has been reserved in terms of subsection (1), the Board shall state the question in the form of a special case and file it with the Registrar of the High Court.
(3) The procedure to be followed on a special case stated in terms of subsection (2), and the powers of the High Court in regard to it, shall be as set out in the High Court Act [Chapter 7:06] and rules made under that Act in regard to special cases.
32 Proof of recommendations and decisions of Board
A document which purports to set out a recommendation or decision of the Board or of a committee of the Board and which is purportedly signed by the secretary of the Board shall be prima facie proof of its contents and admissible in any court on its production by any person.
33 Safeguarding State interests
Any Minister may nominate any person to present his views to the Board when the Board is considering any matter affecting a Ministry or department under his administration, and the Board shall entertain any representations made to it by such a person.

PART Vi

Staff of the Agency

34 Appointment and functions of Director-General

(1) The Board , with the approval of the Minister, shall appoint the Director-General of the Agency from among persons with qualifications and experience relevant to the functions of the Agency:

Provided that no person shall be appointed as Director-General and no person shall be qualified to hold office as such if he would be disqualified for appointment to the Board in terms of section thirteen or if he would be required to vacate office as a member of the Board in terms of paragraph (a) (b) or (c) of subsection (1) of section fifteen had those sections applied to him.

(2) The Director-General shall hold office for such period and upon such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the Minister responsible for Finance.

(3) Subject to the control of the Board, the Director-General shall—

(a) exercise such of the Agency's functions as the Board, with the approval of the Minister, may assign to him; and

(b) be responsible for the efficient management of the activities, funds and property of the Agency; and

(c) exercise general authority over the conduct and discipline of the Agency's staff; and

(d) perform such other functions as the Board may assign to him or as may be conferred or imposed on him by or under this Act or any other enactment.

(4) An assignment of functions by the Board in terms of subsection (3)—

(a) may be made generally or specifically and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;

(b) may be revoked by the Board at any time;

(c) shall not preclude the Board itself from exercising the functions.

35 Inspectors and other officers

(1) The Board shall appoint¾¾

(a) such number of inspectors as it considers necessary to carry out inspections and ensure the proper enforcement of this Act; and

(b) such number of environmental officers, licensing officers and other officers to carry out such duties as it considers necessary for the purposes of this Act.

(2) Persons appointed under subsection (1) shall be subject to the supervision and control of the Director-General.

(3) The Agency shall ensure that every inspector is provided with a document identifying him as an inspector.

36 Monitoring functions of Director- General, inspectors and other officers

The Director-General, inspectors and other officers shall exercise their functions under this Act to ensure, through monitoring, that—

(a) the State and any other person or agency that is vested under any enactment with functions aimed at promoting a healthy, clean and safe environment duly exercises those functions; and

(b) environmental management plans are prepared in terms of section ninety-six and implemented in accordance with the principles of this Act; and

(c) the following actions ,situations and circumstances are avoided, minimized, mangaged or regulated, so far as is practicable and permissible to do so under any law—

(i) the disturbance of ecosystems and loss of biological diversity;

(ii) pollution and degradation of land, air and water;

(iii) the disturbance of landscapes and sites that constitute the nation's cultural heritage;

and

(d) waste is re-used and recycled where possible and otherwise disposed of in a responsible manner; and

(e) policies and programmes in respect of land, air, water and soil pollution and hazardous waste management are co-ordinated; and

(f) environmental quality standards are co-ordinated and adhered to; and

(g) generally any activity that may have an adverse effect on the environment is avoided.

37 Powers of officers and inspectors

(1) Subject to this section, an officer or inspector may, for purposes of enforcing this Act and any regulations made under it, at all reasonable times and without warrant or previous notice¾¾

(a) enter any land, premises, vessel, vehicle or any other place in Zimbabwe to determine whether the provisions of this Act are being complied with;

(b) examine any activity which the officer or inspector reasonably considers to be detrimental to the environment or natural resources;

(c) take or remove samples of any substance or article for purposes of test or analysis in terms of this Act:

Provided that the owner or occupier of any land, premises, vessel, vehicle or other place shall be notified of any samples so taken or removed;

(d) seize any article, vessel, plant, equipment or other thing which is reasonably believed to have been used in the commission of an offence under this Act;

(e) require the production of, inspect, examine or make copies of any permit, licence, records or other documents issued or required to be kept or exhibited in terms of this Act or any other enactment.

(2) The powers of an inspector under paragraph (a) of subsection (1) shall not be used in respect of any place that is a private dwelling or any part of a place that is designed to be used and is being used as a dwelling place except¾¾

(a) with the consent of the occupier of the dwelling place;

(b) in terms of a warrant issued by the Agency.

(3) An owner or occupier of any place intended to be entered by an inspector shall at all reasonable times furnish such facilities as are required by the inspector for entering the premises to exercise his powers under subsection (1).

(4) An inspector may, if he or she considers that it is necessary to act immediately for the protection of the environment ,do either or both of the following ¾¾

(a) close any premises for a period not exceeding three weeks where an activity which pollutes the environment contrary to the provisions of this Act or any standard issued under it is carried out ;

(b) serve an order in writing on the owner, user or occupier of any land or premises requiring that owner, user or occupier to take such measures as may be specified in the order for the prevention of harm to the environment and natural resources.

(5) Subject to this section, an order in terms of paragraph (b) of subsection (4) shall be of full force and effect until it is withdrawn, set aside or superseded by an environmental protection order.

(6) An officer or inspector shall, within fourteen days of serving an order, forward a copy of the order together with details of the circumstances that gave rise to the need for the order to the Director-General.

(7) The Director-General shall review within thirty days any order sent to him in terms of subsection (4), whether or not the owner, occupier or user of any premises has appealed and he may vary or set aside the order.

38 Execution of contracts and instruments by Agency

An agreement, contract or instrument approved by the Board may be entered into or executed on the Agency's behalf by any person generally or specially authorised by the Board for that purpose.

39 Reports of Agency

(1) In addition to any annual report which the Agency may be required to submit to the Minister in terms of Act or the Audit and Exchequer Act [Chapter 22:03], the Board—

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Board considers desirable;

in regard to the operations, undertakings and activities of the Agency.

(2) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Agency that the Minister may at any time require.

40 Minister may require statistics and information

The Minister may from time to time direct the Board to furnish him with such information and statistics as the Minister may require in regard to revenues and additionally, or alternatively, the activities, funds and property of the Agency, and the Board shall forthwith comply with any such direction.

41 Investigation into affairs of Agency

(1) The Minister may at any time cause an investigation to be made into the affairs of the Agency , including its administration of the Fund in terms of Part VII, by one or more persons appointed by him in writing.

(2) Any person appointed in terms of subsection (1) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, mutatis mutandis, in relation to an investigation made in terms of subsection (1) and to any person summoned to give or giving evidence at that investigation.

PART VII

FINANCIAL PROVISIONS RELATING TO AGENCY

42 Funds of Agency

The funds of the Agency shall consist of—

(a) any moneys that may be payable to the Agency from moneys appropriated for the purpose by Act of Parliament; and

(b) any loans, donations and grants made to the Agency by any person or Agency or by any government of any country; and

(c) any fees or charges in respect of any services rendered by the Agency or received by the Agency in terms of this Act ; and

(d) any other moneys that may accrue to the Agency, whether in the course of its operations or otherwise; and

(e) proceeds of the carbon tax collected in terms of the Twenty-Eighth Schedule to the Income Tax Act [Chapter23:06].

43 Investment of moneys not immediately required by Agency

Moneys not immediately required by the Agency may be invested in such manner as the Board , in consultation with the Minister, may approve.

44 Financial year of Agency

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

45 Accounts of Agency

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

(2) As soon as possible after the end of each financial year, the Agency shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

46 Audit of Agency's accounts

(1) The accounts of the Agency shall be audited by the Comptroller and Auditor-General, who for the purpose shall have all the functions conferred on him by sections 8 and 9 of the Audit and Exchequer Act [Chapter22:03], as though the assets of the Agency were public moneys and the members of the Board and employees and agents of the Agency were officers as defined in that Act .

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

(a) fails or refuses to provide the Comptroller and Auditor-General with any explanation or information required by him for the purpose of an audit in terms of subsection (1) ; or

(b) hinders or obstructs the Comptroller and Auditor-General in theconduct of an audit in terms of subsection (1) ;

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

(3) Notwithstanding subsection (1), the Comptroller and Auditor-General may appoint a suitably qhalified person to audit the accounts of the Agency and, if he does so—

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

(b) any expenses incurred by the person so appointed in carrying out his audit shall be met from the funds of the Agency.

47 Internal Auditor

Section 19 of the Audit and Exchequer Act [Chapter 22:03] shall apply, mutatis mutandis, to the appointment of an internal auditor to the Agency in all respects as if the Agency were a department of the Ministry for which the Minister is responsible.

PART VIII

ENVIRONMENT FUND

48 Establishment of Environment Fund

(1) There is hereby established a fund, to be known as the Environment Fund, whose management and control shall be vested, subject to this Act, in the Minister as trustee of the Fund.

49 Composition of Fund

The Fund shall consist of—

(a) environment levies payable in terms of section fifty; and

(b) any moneys that may be payable to the Fund from moneys appropriated for the purpose by Act of Parliament; and

(c) any monies that the Fund may obtain, with the approval of the Minister and the Minister responsible for Finance, by way of donations, loans or other financial assistance ; and

(d) any moneys that may vest in or accrue to the Fund, whether in terms of this Act or otherwise.

50 Environment levy

(1) The Minister, in consultation with the Board and with the approval of the Minister responsible for finance, may by notice in a statutory instrument, impose an environment levy on any person or class of persons whose activities impact on the environment.

(2) In prescribing an environment levy in terms of subsection (1), the Minister shall prescribe—

(a) the persons responsible for the payment, collection and remittal of the levy; and

(b) the manner in which and the times at which the levy shall be paid, collected and remitted; and

(c) the basis upon which the levy shall be calculated; and

(d) surcharges, interest and other amounts payable by way of penalty for non-payment or late payment of the levy; and

(e) the date from which it shall be collected:

Provided that such date shall not be earlier than the date of publication of the statutory instrument in the Gazette.

(3) The Minister shall, on the next sitting day of Parliament after he makes a statutory instrument in terms of subsection (1), lay it before Parliament, where it shall be subject to annulment in pursuance of a resolution of Parliament made within thirty days after the date on which it was laid before it:

Provided that the annulment of the statutory instrument shall not affect the validity of anything done under it in the interval between the date when it came into operation and the date of its annulment.

(4) The Minister may, by proceedings in a competent court, recover the amount of any environment levy which is due in terms of this section from any person required to pay the levy or to collect or remit the levy.

(5) All amounts remitted or collected by way of environment levy, together with any surcharges, interest and other amounts payable in connection with such a levy, shall be paid into the Fund.

51 Administration of Fund

Subject to this Act, the Fund shall be administered by the Agency in accordance with the Minister's directions.

52 Objects of Fund

The objects of the fund shall be—

(a) for the standardisation of environmental management services and the maintenance of high standards of quality in the provision of such services;

(b) to make grants to local authorities or their appointed agents for the purpose of assisting needy persons to obtain access to natural resources without affecting the environment;

(c) to finance or assist in financing the extension of environmental management services to under-serviced areas;

(d) to promote or contribute towards research and development in the field of environmental management services;

(e) to assist in training persons in the provision of environmental services; and

(f) to encourage and facilitate, for the benefit of Zimbabwe, the transfer of environmental management services technology from foreign providers of such technology;

(g) to rehabilitate degraded environments;

(h) to clean up polluted environments;

(i) to promote public awareness of environmental management issues; and

(j) any other object which the Minister may determine by notice in a statutory instrument.

53 Financial year of Fund

The financial year of the Fund shall be a period of twelve months ending on the 31st December in each year.

54 Books of account and audit of Fund

(1) The Minister shall ensure that—

(a) proper accounts and other records relating thereto are kept in relation to all the financial transactions of the Fund; and

(b) in respect of each financial year—

(i) a balance-sheet; and

(ii) a statement of the transactions referred to in paragraph (a);

are prepared without undue delay.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him by section 9 of the Audit and Exchequer Act [Chapter 22:03] as though the assets of the Fund were public moneys or State property.

PART IX

ENVIRONMENTAL quality STANDARDS

55 Establishment of a Standards and Enforcement Committee

(1) There is hereby established a Standards and Enforcement Committee to be a committee of the Board.

(2) The Standards and Enforcement Committee shall consist of members set out in the Fourth Schedule.

(3) The Permanent secretary for the Ministry responsible for the administration of this Act shall be the chairperson of the Standards and Enforcement Committee. [Wording altered to make grammatical sense—Editor.]

(4) The Standards and Enforcement Committee shall regulate its own meetings and procedure as it thinks fit.

(5) The Standards and Enforcement Committee may co-opt any person to attend its meetings, and a person co-opted shall participate at the deliberations of the Committee but shall have no vote.

56 Functions of the Standards Enforcement Committee

The Standards and Enforcement Committee shall, in consultation with the Agency—

(a) advise the Board on how to establish criteria and procedures for the measurement of water quality;

(b) recommend to the Board minimum water quality standards for different uses, including—

(i) drinking water;

(ii) water for industrial purposes;

(iii) water for agricultural purposes

(iv) water for recreational purposes ;

(v) water for fisheries and wildlife;

(vi) any other prescribed water use.

(c) analyse and submit to the Board conditions for discharge of effluents into the environment;

(d) prepare and recommend to the Board guidelines or regulations for the preservation of fishing areas, aquatic areas , water sources and reservoirs and other areas where water may need special protection;

(e) identify and recommend to the Board areas of research on the effect of water pollution on the environment, human beings, flora and fauna;

(f) advise the Board to carry out investigations of actual or suspected water pollution including the collection of data;

(g) advise the Board to take steps or authorise any works to be carried out which appear to be necessary to prevent or abate water pollution from natural causes or from abandoned works or undertakings;

(h) document the analytical methods by which water quality and pollution controls standards can be determined and appoint laboratories for the analytical services required or request the Board to establish such laboratories;

(i) collect, maintain and interpret data from industries and local authorities on the pre-treatment, nature and levels of effluents;

(j) recommend to the Board measures necessary for the treatment of effluent before being discharged into the sewerage system;

(k) recommend to the Board works necessary for the treatment of effluents before being discharged into the water;

(l) submit to the Board all such recommendations as may appear necessary for the monitoring and control of water pollution.

57 Water pollution prohibition

(1) Any person, who discharges or applies any poison or toxic, noxious or obstructing matter, radioactive waste or other pollutants or permits any person to dump or discharge such matter into the aquatic environment in contravention of water pollution control standards shall be guilty of an offence and liable for imprisonment for a period not exceeding five years, or to a fine not exceeding five million dollars, or to both such fine and such imprisonment.

(2) A person found guilty under subsection (1) shall, in addition to any sentence or fine imposed on him —

(a) pay the cost of the removal of any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants, including the cost of restoration of the damaged environment, which may be incurred by a government agency;

(b) pay third parties such reparation, cost of restoration, restitution or compensation as may be determined by court on application by such third parties.

58 Duty to supply plant information to the Board

All owners or operators of irrigation project schemes, sewerage systems, industrial production workshops or any other undertakings which may discharge effluents or other pollutants or have been discharging effluents or other pollutants shall submit on demand to the Board accurate information about the quantity and quality of such effluent or other pollutants.

59 Effluent to be discharged only into sewerage system

(1) Every owner or operator of a trade or industrial undertaking shall discharge any effluent or other pollutants originating from the trade or industrial undertaking only into an existing sewerage system, and the local authority operating or supervising such sewerage system shall issue, at a prescribed fee, the necessary licence for the discharge.

(2) The proponent or owner of a trade or an industrial undertaking shall prior to being granted a licence to discharge effluents into the environment, install an appropriate plant for the treatment of such effluents before they are discharged into the environment.

60 Licence to discharge effluents

(1) No local authority operating a sewerage system or owner or operator of any trade or industrial undertaking operating within the jurisdiction of two or contiguous local authorities shall discharge any effluents or other pollutants into the environment without an effluent discharge licence issued by the Board.

(2) Every owner or operator of a trade or industrial undertaking referred to in subsection (1) which discharges any effluents or other pollutants into the environment before the commencement of this Act shall, within twelve months of such commencement apply to the Board for an effluent discharge licence.

(3) Every application for an effluent discharge licence shall be in the prescribed form and accompanied by the prescribed fee.

(4) Before the issuance of a licence under subsections (1) and (2), the Board shall—

(a) solicit the views of the local authorities concerned and such organizations and persons as it may deem fit;

(b) take into consideration the possible effects of effluents or pollutants to be discharged on the quality of an affected water course or other source of water; and

(c) take into consideration the existing licences affecting the concerned water course or other source; and

(d) take into consideration the water requirements of riparian residents ecosystems, human settlements, and agricultural schemes which depend on the affected water course.

(5) Where the Board rejects an application for the grant of an effluent discharge licence, it shall within twenty-one days notify the applicant of its decision and state in writing its reasons for rejecting the application.

(6) An effluent discharge licence issued under this Act shall be in a prescribed form, be subject to such conditions as may be prescribed or as may be specified in the licence and shall remain valid for such period and may be renewed for such further period as may be prescribed or specified in the licence.

61 Cancellation of effluent discharge licence

The Board may, in writing, cancel any effluent discharge licence—

(a) if the holder of the licence contravenes any provision of this Act; or

(b) if the holder fails to comply with any condition specified in the licence; or

(c) if the Board considers it in the interest of the environment or in the public interest so to do.

62 Register of effluent discharge licences

(1) The Board shall maintain a register of all effluent discharge licences issued under this Act.

(2) The register shall be a public document and may be inspected at any reasonable hour at any premises of the Agency by any person on the payment of the prescribed fee.

63 Air quality standards

(1) The Standards and Enforcement Committee shall—

(a) advise the Board on how to establish criteria and procedure for the measurement of air quality;

(b) recommend to the Board—

(i) ambient air quality standards;

(ii) occupational air quality standards;

(iii) emission standards for various sources;

(iv) criteria and guidelines for air pollution control for both mobile and stationary sources;

(v) any other air quality standards.

(c) advise the Board on measures necessary to reduce existing sources of air pollution by requiring the redesign of plants or the installation of new technology or both, to meet the requirements of standards established under this section;

(d) recommend to the Board guidelines to minimize emission of greenhouse gases and identify suitable technologies to minimize air pollution;

(e) advise the Board on emissions' concentration and nature of pollutants emitted;

(f) recommend to the Board the best practicable technology available in controlling pollutants during the emission process;

(g) determine for consideration by the Board the analytical methods for monitoring air contaminants and recommend for the establishment of such number of laboratories for analytical services as may be needed;

(h) request the Board to carry out investigations of actual or suspected air pollution including pollution produced by aircraft and other self-propelled vehicles and by factories and power-generating stations;

(i) request the Board to order any industrial or other source of air pollution to file such returns and provide such information as it may require; and

(j) do all such things as appear necessary for the monitoring and controlling of air pollution.

(2) Any person who emits any substances which cause substantial air pollution (that is, by the emission of substances in excess of a prescribed amount for a particular source) in contravention of emission standards established under this Part shall be guilty of an offence and liable to imprisonment for a period of not more than five years or to a fine of not more than fifteen million dollars or to both such fine and such imprisonment.

(3) A person found guilty under subsection (2) shall, in addition to any sentence or fine imposed on him—

(a) pay the cost of the removal of the pollution, including any cost which may be incurred by any Government agency or organ in the restoration of the environment damaged or destroyed as a result of the emission, and

(b) render to third parties affected by the offence such reparation, restoration, restitution or compensation as may be determined by court upon application by such third parties.

64 Licensing emissions

No owner or operator of a trade or any establishment shall emit a substance or energy which causes or is likely to cause air pollution without an emission licence issued by the Board.

65 Application for emission licence

(1) An application for an emission licence shall be made to the Board in the prescribed form and be accompanied by the prescribed fee.

(2) Before issuing a licence in respect of emissions, the Board shall—

(a) consider the possible effects of the emissions on the quality of ambient air;

(b) consider existing licences affecting the same air resource;

(c) give due regards to the requirements of residents, human settlements and other industrial and commercial activities.

(3) An emission licence issued under this Act shall be subject to such conditions as may be prescribed or as may be specified in the licence and shall remain valid for such period and may be renewed for such further period as may be prescribed or specified in the licence.

(4) Where the Board rejects an application for the grant of an emission licence, it shall within twenty-one days of its decision, notify the applicant in writing of its reasons for such refusal.

66 Cancellation of emission licence

The Board may, in writing, cancel any emission licence —

(a) if the holder of the licence contravenes any provision of this Act or regulations made thereunder;

(b) if the holder fails to comply with any conditions specified in the licence; or

(c) if the Board considers it in the interest of the environment or in the public interest so to do.

67 Register of emission licences

The Board shall maintain a register of all emission licences issued under this Act. The register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee.

68 Emission by motor vehicles and other conveyances

(1) No owner or operator of a transport conveyance shall operate it in such a manner or condition as to cause air pollution in contravention of prescribed emission standards for the class of transport conveyance concerned.

(2) Subject to this section, any operator of a transport conveyance who pollutes the environment by contravening the emission standards referred to in subsection (1) commits an offence and shall—

(a) on conviction for a first offence, be liable to a fine not exceeding level three;

(b) on conviction for second or subsequent offence, be liable to a fine not exceeding level six or, in default of payment, to imprisonment for a period not exceeding six months.

(3) Any operator of a transport conveyance who admits or is prepared to admit to a police officer or inspector that he is guilty of committing the offence referred to in subsection (2) shall, if he has not been previously convicted of the offence and has not previously been given a warning in terms of this subsection, be given a written warning by the police officer or inspector to undertake, within such period (not less than 3 months) as may be agreed between him and the police officer or inspector, such work or steps as may be necessary to prevent the contravention by the transport conveyance of the emission standards prescribed for the class of transport conveyance to which it belongs;

(4) Where, in respect of an offence referred to in subsection (2) —

(a) Any person—

(i) has not complied with a written warning issued in terms of subsection (3); or

(ii) has been previously convicted of the offence referred to in subsection (3);

and

(b) the police officer or inspector has reasonable grounds for believing that the magistrates court which will try the person referred to in paragraph (a) for such offence will, on convicting that person of such offence , not impose a sentence of imprisonment or a fine exceeding level three;

(c) the person referred to in paragraph (a) may sign and deliver to the police officer or inspector referred to in paragraph (b) a document admitting that he is guilty of the said offence and deposit with such officer or inspector such sum of money as the latter may fix, not exceeding level three, and such person shall thereupon, subject to subsection (5), not be required to appear in court to answer the charge of having committed the said offence.

(5) Section 356 of the Criminal Procedure and Evidence Act [Chapter 9:07] shall apply to the procedure to be followed on relation to an admission of guilt made under subsection (4).

(6) Any sum deposited in terms of subsection (4) shall, if deposited with an inspector, form part of the funds of the Agency

Provided that any balance in excess of a sum deposited which is recovered in terms of section 348 of the Criminal Procedure and Evidence Act [Chapter 9:07] shall not form part of the funds of the Agency.

69 Standards for waste

The Standards and Enforcement Committee shall recommend to the Board—

(a) measures necessary to identify materials and processes that are dangerous to human health and the environment;

(b) the issuance of guidelines and the prescribing of measures for the management of the materials and processes identified under subsection (a);

(c) the prescribing of standards for waste, their classification and analyses, and advise on standards of disposal methods and means for such waste;

(d) the prescribing of measures for the handling, storage, transportation, segregation and destruction of any waste.

70 Prohibition against discharge of wastes

(1) No person shall discharge or dispose of any wastes, whether generated within or outside Zimbabwe, in such a manner as to cause pollution to the environment or ill health to any person.
(2) No person shall transport any waste other than—
(a) in accordance with a valid licence to transport wastes issued by the Board
and
(b) to a wastes disposal site established in accordance with a licence issued by the Board
(3) Every person whose activities generate waste shall employ measures essential to minimise wastes through treatment, reclamation and recycling.
(4) The Minister or an inspector may by order issued in terms of section one hundred and seventeen and one hundred and eighteen, as the case may be, require a person referred to in subsection (3) to take such measures as are specified in the order to minimize wastes through treatment, reclamation and recycling.
(5) Any person who—
(a) discharges or disposes of any wastes in contravention of any measure or standard prescribed in terms of section sixty-nine; or
(b) transports any waste otherwise than in accordance with a valid licence issued in terms of paragraph (a) of subsection (1), or otherwise than to a llicensed wastes disposal site;
(c) shall be guilty of an offence and shall be liable to imprisonment for a period of not more than five years or to a fine of not more than five million dollars or to both such fine and such imprisonment.

71 Application for waste licence

(1) Any person who intends to transport wastes within Zimbabwe, or to operate a wastes disposal site or plant or to generate hazardous waste of a prescribed type or quantity, shall prior to doing so, apply to the Board for the grant of an appropriate waste licence.
(2) An application for a waste licence shall be made in the prescribed form and be accompanied by the prescribed fee.
(3) Where the Board rejects an application made under this section it shall within twenty one days of its decision, notify the applicant of the decision specifying the reasons therefor.
(4) Any person who, at the commencement of this Act, owns or operates a waste disposal site or plant or generates hazardous waste, shall apply to the Board for a waste licence under this section within six months after the commencement of this Act.

72 Hazardous waste

(1) The Standards and Enforcement Committee shall, in consultation with the Agency, recommend to the Board standard criteria for the classification of hazardous wastes with regard to determining—
(a) hazardous waste;
(b) corrosive waste;
(c) flammable waste;
(d) toxic waste;
(e) radioactive waste;
(f) any other category of waste the Board may consider necessary.
[The paragraph numbering has been altered into sequence—Editor.]
The Board shall, on the recommendation of the Standards and Enforcement Committee, issue guidelines and recommend to the Minister the making of regulations for the management of each category of hazardous waste determined under subsection (1).

(2) Regulations referred to in subsection (2) may prescribe the procedure and criteria for—

(a) the control of imports and exports of toxic and hazardous chemicals and materials permitted to be so imported or exported;

(b) the distribution, storage, transportation and handling of chemicals and materials.

73 Prohibition of discharge of hazardous substances, chemicals and materials or oil into the environment

(1) No person shall discharge any hazardous substance, chemical, oil or a mixture containing oil into any waters or any other or any parts of the environment contrary to any criteria prescribed in terms of section seventy-two.

(2) A person who discharges a hazardous substance, chemical, oil or a mixture containing oil into any waters or any parts of the environment in contravention of subsection (1) commits an offence and if convicted of that offence shall—

(a) pay the cost of the removal of the hazardous substance, chemical, oil or a mixture containing oil including any cost which may be incurred by any Government agency or organ in the restoration of the environment damaged or destroyed as a result of the discharge; and

(b) pay the cost of third parties in the form of reparation, restoration, restitution or compensation as may be determined court on application of such third parties.

(3) The owner or operator of a production or storage facility or transport conveyance from which a discharge occurs in contravention of subsection (1) shall—

(a) be required to give immediate notice of the discharge to the Board or relevant Government officers; and

(b) be required to immediately begin clean-up operations using the best available clean-up methods; and

(c) be required to comply with such directions Board may from time to time issue or cause to be prescribed.

(4) Where the owner or operator of a production or storage facility or transport conveyance has refused , neglected or failed to take appropriate action in terms of subsection (3) upon the expiry of such period, not exceeding six months, as the Board may direct —

(a) the Board may take temporary possession of the production or storage facility or transport conveyance for the purpose of taking or causing to be taken the necessary remedial measures to stop the discharge of the hazardous substance, chemical, oil or a mixture containing oil concerned and restore any damage to the environment caused thereby; and

(b) meet the costs of any measures taken in accordance with paragraph (a) by disposing of the production or storage facility or transport conveyance.

74 Standards of pesticides and toxic substances

(1) The Standards and Enforcement Committee, in consultation with the Agency, shall recommend to the Board draft standards or measures to be prescribed—

(a) for the concentration of pesticides residues in raw agriculture commodities, processed foods and animal feed;

(b) to regulate the importation, exportation, manufacture, storage, distribution, sale, use, packaging, transportation and advertisement of pesticides and toxic substances;

(c) to ensure proper labelling and packaging of pesticides and toxic substances;

(d) for monitoring the effects of pesticides and toxic substances on the environment;

(e) for the establishment of enforcement procedures and regulations for the storage, packaging and transportation of pesticides and toxic substances;

(f) generally for the monitoring and control of pesticides and toxic substances.

75 Application for registration of pesticides and toxic substances

(1) Any person who intends to manufacture, import or process a new pesticide or toxic substance or who intends to reprocess an existing pesticide or toxic substance, must apply to the Board in the prescribed manner for the registration of the pesticide or toxic substance, before importing, manufacturing, processing, or reprocessing such pesticides or toxic substance.

(2) The application referred to in subsection (1) shall include the name, trade mark, and the molecular structure, proposed categories of use, estimate quantity of the pesticides or toxic substances and any data related to health and other environmental effects that the Board may require.

(3) Any person who has been manufacturing, importing or processing a pesticide or toxic substance before this Act, shall apply to the Board in the prescribed manner for registration of such pesticide or toxic substance within one year after the commencement of this Act.

76 Registration of pesticides and toxic substances

(1) The Board may, upon application in terms of section seventy-five, register a pesticide or toxic substance subject to such conditions as may be prescribed or as the Board may determine.

(2) Every pesticide or toxic substance shall be registered for a period of ten years unless other period is prescribed or specified by the Board.

(3) The registration may be renewed for a further period of ten years at a time or such other period as may be prescribed or specified by the Board.

(4) Where the Board refuses to register any pesticide or toxic substance, the notice of refusal shall state the reasons for such refusal.

77 Offences relating to pesticides and toxic substances

(1) No person shall—

(a) use or dispose into the environment a pesticide or toxic substance in contravention of any standards or measures prescribed in terms of section seventy-four;

(b) change the composition of a pesticide or toxic substance, contrary to any standards or measures referred to in paragraph (a);

(c) detach, alter or destroy any labelling on a pesticide or toxic substance contrary to any standards or measures referred to in paragraph (a);

(2) No person shall sell, offer for sale, hold for sale, import, deliver for importation to, or receive from, deliver or offer to deliver to any other person any pesticide or toxic substance that he knows is not registered in terms of section seventy-six or does not have reasonable cause for believing is so registered.

(3) Any person who contravenes any provision of this section shall be guilty of an offence and shall be liable upon conviction to a fine of not exceeding ten million dollars or to imprisonment for a period of not exceeding ten years or to both such fine and such imprisonment.

78 Seizure of pesticides and toxic substances

(1) Any pesticide or toxic substance which the Agency reasonably suspects to be the subject matter of an offence under this Act shall be liable to seizure by the Board.

(2) Where any pesticide or toxic substance is seized under subsection (1), it shall be released, if after a period of twelve months—

(a) no prosecution has been instituted with regard to the pesticide or toxic substance;

(b) no person is convicted of an offence in relation to such pesticide or toxic substance.

79 Standards for noise

The Standards and Enforcement Committee shall, in consultation with the Agency recommend to the Board —

(a) minimum standards to be prescribed for the emissions of noise and vibration pollution into the environment as are necessary to preserve and maintain public health and the environment;

(b) criteria and procedures for the measurement of noise and vibration pollution into the environment;

(c) criteria and procedures for the measurement of sub-sonic vibration;

(d) noise level and noise emission standards to be prescribed that are applicable to construction sites, plants machinery, motor vehicles, aircraft including sonic booms ["bonus" changed to read "booms" –Editor] , industrial and commercial activities;

(e) guidelines to be prescribed for the abatement of unreasonable noise and vibration pollution emitted into the environment from any source.

80 Noise in excess of established standards prohibited

Any person who emits noise in excess of the noise emission standards prescribed in terms of section seventy-nine shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

81 Exemptions in respect of noise standards

(1) Notwithstanding section eighty, the Board may on request grant a temporary permit, not exceeding three months, allowing emission of noise in excess of prescribed standards for such activities as fireworks, demolitions, firing ranges and specific heavy industry undertakings on such terms and conditions as the Board may determine.

(2) Where an exemption has been granted under subsection (1), workers exposed to excessive levels of noise shall be adequately protected in accordance with prescribed measures or the directives issued by the Board.

82 Standards for the control of noxious smells

The Standards and Enforcement Committee shall in consultation with the Agency, recommend the Board—

(a) procedures to be prescribed for the measurement and determination of noxious smells;

(b) minimum standards to be prescribed for the control of pollution of the environment by noxious smells ; or

(c) guidelines to be prescribed for measures leading to the abatement of noxious smells, whether from human activities or from naturally occurring phenomena.

83 Prohibition against littering

(1) No person shall discard, dump or leave any litter on any land or water surface, street, road or site in or at any place except in a container provided for that purpose or at a place which has been specially designated, indicated, provided or set apart for such purpose.

(2) An owner of a transport conveyance shall ensure that no litter is thrown from his transport conveyance.

(3) Every person or authority in control of or responsible for the maintenance of any place shall at all times ensure that containers or places are provided which will normally be adequate and suitable for the discarding of litter.

(4) Any person who contravenes subsections (1) and (2) shall (unless any by-laws within the area of jurisdiction of the local authority concerned provide for the offence in question), be guilty of an offence and liable to a fine not exceeding level three.

84 [Repealed by the Radiation Protection Act 5/2004 with effect from the 1st July, 2005.]

85 [Repealed by Act 5/2004 with effect from the 1st July, 2005.]
86 [Repealed by Act 5/2004 with effect from the 1st July, 2005.]
PART X
ENVIRONMENTAL PLANS
87 National Environmental Plan
(1) For the purpose of promoting and facilitating the co-ordination of strategies, plans and activities relating to the environment and ensuring the protection and sustainable management of Zimbabwe's environment, the Minister shall prepare a National Environmental Plan.
(2) In preparing a National Plan, the Minister shall—
(a) consult such authorities, agencies and persons as he considers necessary or desirable; and
(b) obtain evidence, information or advice from any person who, in the Minister's opinion, possesses expert knowledge which is relevant to the preparation of the Plan.
88 Contents of National Plan
A National Plan shall formulate strategies and measures for the management, protection, restoration and rehabilitation of the environment, including measures for¾¾
(a) the protection of ecological processes, natural systems and the natural beauty as well as the preservation of biotic diversity in the natural environment;
(b) the promotion of sustained utilisation of species and ecosystems and the effective application and re-use of natural resources;
(c) the prevention or mitigation of activities contributing to global climatic change and the protection of the ozone layer;
(d) the protection of the environment against disturbance, deterioration, defacement, poisoning or destruction as a result of man-made structures, installations, processes or products or human activities;
(e) the implementation of international conventions to which Zimbabwe is a party;
(f) the protection of the environment against pollution and against the harmful and uncontrolled use of hazardous substances;
(g) generally ensuring an integrated approach to the maintenance and improvement of the environment so as to afford an acceptable quality of life.
89 Invitation of public comment
On completion of a National Plan, the Minister shall—
(a) give notice in the Gazette and in newspapers with wide circulation of the places at which the National Plan will be publicly exhibited and the period within which objections or representations in connection with the plan may be made; and
(b) for a period of not less than thirty days after giving notice in terms of paragraph (a), exhibit a copy of the National Plan at each of the places specified in the notice.
90 Confirmation of National Plan
(1) If, after the period specified in a notice in terms of paragraph (a) of section eighty- nine—
(a) no objections or representations have been received in response to the notice, the Minister may confirm the National Plan and fix the date on which it shall come into operation;
(b) objections or representations have been received in response to the notice, the Minister shall consider all the objections and representations and may either—
(i) confirm the National Plan and fix the date on which it shall come into operation; or

(ii) carry out such further consultations as he considers necessary.

(2) After carrying out such further consultations, the Minister shall make whatever changes he considers necessary to the National Plan in the light of those further consultations.

(3) When a National Plan is resubmitted to him in terms of subsection (2), the Minister may—

(a) confirm the National Plan and fix the date on which it shall come into operation; or

(b) carry out such further consultations as he considers necessary;

and subsection (2) and this subsection shall apply to any further such consultations and resubmissions until the Minister confirms the National Plan.

(4) The Minister shall cause notice to be given in the Gazette of the date fixed by him for the National Plan to come into operation.

91 Operative National Plan to be open to public inspection

The Minister shall ensure that a National Plan that has come into operation in terms of section ninety is open to inspection by the public, free of charge, during normal business hours at the offices of the Secretary and at such other places in Zimbabwe as the Minister may direct.

92 Effect of operative National Plan

(1) A National Plan that has come into operation in terms of section ninety shall be binding on all persons, including the State.

(2) Every person and authority upon whom any function has been conferred or imposed in connection with the environment by or under any enactment shall, in exercising such function, have regard to a National Plan that has come into operation in terms of section ninety.

(3) Without limiting the generality of subsections (1) and (2)—

(a) a National Plan that has come into operation in terms of section ninety shall be taken into account in the preparation and implementation of regional and master plans in terms of the Regional, Town and Country Planning Act [Chapter 29:12]; and

(b) no person shall implement a project otherwise than in compliance with a National Plan that has come into operation in terms of section ninety.

93 Changes to operative National Plan

(1) If it appears to the Minister that a National Plan that has come into operation in terms of section ninety-two should be changed, the Minister shall—

(a) give notice in the Gazette and in a newspaper with wide circulation of the proposal to change the National Plan and of the places at which the National Plan embodying the proposed changes will be publicly exhibited and the period within which objections or representations in connection with the proposal may be made; and

(b) for a period of not less than thirty days after giving notice in terms of paragraph (a), exhibit a copy of the National Plan embodying the proposed changes at each of the places specified in the notice.

(2) After taking into account any objections or representations received in response to a notice in terms of subsection (1), the Minister may confirm the proposed changes to the National Plan and the plan shall thereafter incorporate such changes.

94 Review and replacement of operative National Plan

(1) Not more than ten years after a National Plan came into operation in terms of section ninety, or after such longer period as the Minister may specify and thereafter at intervals of not more than ten years, the Minister shall review the National Plan and decide whether or not a new plan should be prepared in terms of subsection (1) of section eighty-eight.

(2) Sections eighty-seven to eighty-nine shall apply to the preparation of a new National Plan in terms of subsection (1).

(3) A National Plan shall cease to have effect on the date on which a new plan comes into operation in terms of section ninety.

95 Local authority environmental action plans

(1) Every local authority shall prepare an environmental action plan for the area under its jurisdiction in accordance with such directions as the Minister may give.

(2) The Minister, after consultation with the Minister responsible for local government, shall prescribe the contents of plans to be prepared in terms of subsection (1) and the procedure for their preparation.

(3) The local authority shall—

(a) place on public exhibition a copy of the environmental action plan with a statement indicating the time within which representations in connection with the plan may be made to that authority;

(b) give public notice of the place or places at which and the period for which the plan will be exhibited in terms of paragraph (a) and the time within which representations in connection with the plan may be made to the authority.

96 Environmental management plans

(1) In this section—

"specified authority" means any government agency, person or class of persons that—

(a) exercises functions, or engages in operations, which may affect the environment or which involve the management of the environment; and

(b) is specified by the Agency by notice in the Gazette.

(2) Every specified authority shall prepare an environmental management plan within such period as the Minister may specify.

(3) Every environmental management plan prepared in terms of subsection (2) shall contain the following—

(a) a description of the functions exercised by the specified authority in respect of the environment; and

(b) a description of the environmental standards set or applied; and

(c) a description of the policies, plans and programmes that are designed to give effect to the plan; and

(d) the degree of compliance required of other persons; and

(e) arrangements for co-operation with other persons on environmental management; and

(f) a description of the manner in which the specified authority will ensure that its functions are exercised in a way that will ensure compliance with this Act, other relevant enactments, and environmental standards so as to achieve the management and protection of the environment.

(4) The procedure and other matters relating to the making, development and implementation of management plans shall be as prescribed.

PART XI

ENVIRONMENTAL IMPACT ASSESSMENT, AUDIT AND MONITORING OF PROJECTS

97 Projects for which environmental impact assessment required

(1) The projects listed in the First Schedule are projects which must not be implemented unless in each case, subject to this Part¾¾

(a) the Director-General has issued a certificate in respect of the project in terms of section one hundred, following the submission of an environmental impact assessment report in terms of section ninety-nine; and

(b) the certificate remains valid; and

(c) any conditions imposed by the Director-General in regard to the issue of the certificate are complied with.

(2) Subject to subsection (4) any person who knowingly implements a project in contravention of subsection (1) shall be guilty of an offence and liable to a fine not

exceeding ten million dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.
(3) The Agency may serve an order in terms of subparagraph (xiii) of subsection (i) of section ten on a person who knowingly implements a project in contravention of subsection (1) ordering that person —

(a) to mitigate the effects of any adverse environmental impact in the manner specified in the order;

(b) where in the opinion of the Agency, it is not possible to mitigate any adverse environmental impact, ordering that person to destroy any works undertaken in connection with the projects.

(4) Before serving an order in terms of subsection (3), the Agency shall notify the person, in writing, of the nature of the adverse environmental impact of the project and shall give the person an adequate opportunity to make representations in the matter.
(5) A licensing authority shall not issue a licence under any enactment with respect to a project referred to in subsection (1) unless the Director-General has issued a certificate in respect of the project in terms of section one hundred or the project is deemed to have been approved in terms of subsection (1) of section one hundred .
98 Developer to submit prospectus
(1) Before doing an environmental impact assessment for a project, a developer shall submit a prospectus to the Director-General containing such information regarding the assessment and the project as may be prescribed.
(2) The Director-General shall examine every prospectus submitted in terms of subsection (1) without delay and, on completion of his examination, shall—

(a) ask the developer to submit such further information as the Director-General may reasonably require; or

(b) if he is satisfied that the proposed environmental impact assessment will be capable of evaluating the project's impact on the environment, approve the prospectus and ask the developer to proceed to prepare an environmental impact assessment; or

(c) if he is not satisfied as provided in paragraph (b), reject the prospectus and give the developer such directions as may be necessary for the preparation of a fresh prospectus.

(3) When approving a prospectus in terms of subsection (2), the Director-General may fix conditions relating to the scope of the assessment, and the developer concerned shall comply with any such conditions including a requirement that the developer shall engage a person independent of the development who is an expert in environmental planning and management services to prepare the environmental impact assessment.
(4) The Director-General may refuse to consider an environmental assessment report on a project if the developer concerned has not submitted a prospectus in terms of this section for that project and its assessment.
99 Contents of environmental impact assessment report
An environmental impact assessment report on a project shall¾¾

(a) give a detailed description of the project and the activities to be undertaken in implementing it; and

(b) state the reasons for selecting the proposed site of the project; and

(c) give a detailed description of the likely impact the project may have on the environment or any segment thereof, covering the direct, indirect, cumulative, short-term and long-term effects of the project; and

(d) specify the measures proposed for eliminating, reducing or mitigating any anticipated adverse effects the project may have on the environment, identifying ways of monitoring and managing the environmental effects of the project; and

(e) indicate whether the environment of any other country is likely to be affected by the project and any measures to be taken to minimise any damage to that environment; and

(f) where applicable, indicate how the developer proposes to integrate biological diversity in the project; and

(g) describe concisely the methodology used by the developer to compile the environmental impact assessment report.

100 Consideration of environmental impact assessment report and issue of certificate

(1) Within sixty days after receiving an environmental impact assessment report, the Director-General shall¾¾

(a) consider the report and reach a decision on it in terms of this section; and

(b) cause the developer to be notified of his decision;

and, if he fails to do so, the project shall be deemed to have been approved.

(2) Upon considering an environmental impact assessment report, the Director-General may do any of the following—

(a) subject to subsection (3), approve the project to which the environmental impact assessment report relates; or

(b) require the developer to conduct a further environmental impact assessment of the whole or part of the project; or

(c) require the developer to supply such further information or do such other thing as the Director-General considers necessary or desirable, taking into account the need to achieve the objectives of this Act.

(3) In considering whether or not to approve a project to which an environmental impact assessment report relates, the Director-General—

(a) shall take into account any likely impact of the project on the environment and the actual impact of any existing similar project on the environment;

(b) shall have regard to the extent to which the project complies with the National Plan and any applicable local authority environmental management plan;

(c) may consult any authority, organisation, community, agency or person which or who, in his opinion, has an interest in the project.

(4) The Director-General may impose such conditions as he considers appropriate on his approval of any project in terms of subsection (2).

(5) Upon approving a project in terms of subsection (1), the Director-General shall issue to the developer a certificate in the prescribed form—

(a) identifying the project; and

(b) stating the name and address of the developer and, where the developer is a company, the company's registered office; and

(c) stating the date of issue of the certificate and the date of its expiry; and

(d) setting out any conditions fixed by the Director-General in terms of subsection (4); and

(e) setting out such other matters as may be prescribed.

101 Period of validity of certificate

(1) A certificate issued by the Director-General in terms of section one hundred shall be valid for two years from the date of its issue:

Provided that, for good cause shown, the Director-General may extend the validity of a certificate for not more than one year for a project that has been commenced within the stipulated period but not yet completed .

(2) The Director-General shall not extend the validity of a certificate on a project that has not been commenced within the stipulated period when the validity of the certificate expires.

102 Register of certificates

(1) The Director-General shall maintain a register of certificates issued in terms of section one hundred, in which he shall record, in relation to each certificate¾¾¾

(a) the project in respect of which the certificate was issued; and

(b) the developer to whom the certificate was issued; and

(c) the certificate's dates of issue and expiry; and

(d) any conditions subject to which the certificate was issued; and

(e) any amendment, suspension or cancellation of the certificate; and

(f) such other particulars as may be prescribed.

(2) The register kept in terms of subsection (1) shall be open to inspection by members of the public at all reasonable times at the Director-General's office, on payment of the prescribed fee, if any.

103 Transfer of certificates prohibited

(1) A developer to whom a certificate has been issued in terms of section one hundred shall not assign, cede or otherwise transfer the certificate to any other person without the prior approval of the Director-General:

Provided that if a developer to whom a certificate has been issued dies or, in the case of a company, is placed in liquidation, the certificate shall be deemed to have been transferred to the executor of the developer's estate or the developer's liquidator, as the case may be, and the Director-General's approval shall not be required for any such transfer.

(2) A certificate shall become void upon its assignment, cession or transfer in contravention of subsection (1).

104 Amendment, suspension or cancellation of certificate

(1) If, while a project is being implemented, the Director-General is satisfied, on the basis of new evidence or any report by the developer, that the project is likely to be a source of pollution or otherwise to pose a threat to the environment, the Director-General may, subject to subsection (3)¾¾¾

(a) cancel the certificate issued in respect of the project in terms of section one hundred and order the preparation of a new environmental impact assessment report; or

(b) amend the certificate or any conditions subject to which it was issued; or

(c) give such directions as he considers necessary to prevent or minimise the pollution or threat to the environment, including directions relating to the following matters¾¾¾

(i) the methods of execution and planning of the project;

(ii) works or actions required to eliminate, reduce or mitigate the adverse effects of the project on the environment;

(iii) research and monitoring programmes related to the project;

(iv) periodic reports on the environmental impact of the project.

(2) Subject to subsection (3), the Director-General may suspend or cancel any certificate issued in terms of section one hundred if he is satisfied that the developer—

(a) obtained the certificate on the basis of fraud or negligent misrepresentation or any false or misleading statement; or

(b) has failed to comply with any condition imposed on the issue of the certificate; or

(c) has contravened section one hundred and five, subsection (2) of section one hundred and six or section one hundred and seven.

(3) Before taking any action in terms of subsection (1) or (2), the Director-General shall notify the developer concerned of the action he proposes to take and of his reasons for taking it, and shall afford the developer a reasonable opportunity to make representations in the matter.

105 Developer to notify Director-General if project not implemented or altered
Every developer to whom a certificate has been issued in terms of section one hundred shall inform the Director-General without delay¾¾¾

(a) if it becomes apparent that he will not be able to implement the project before the certificate's period of validity expires; or

(b) if there is any change in the project which is likely materially to alter the project's effect on the environment; or

(c) if it appears that the project may have an effect on the environment that differs materially, in kind or degree, from the effect outlined in the environmental impact assessment report prepared for the project.

106 Environmental audits of projects

(1) The Director-General, in consultation with such authorities as he considers appropriate, shall carry out or cause to be carried out periodic environmental audits of any projects, including projects whose implementation started before the fixed date, for the purpose of ensuring that their implementation complies with the requirements of this Act.

(2) For the purposes of subsection (1), a developer shall keep such records and submit such reports to the Director-General as the Director-General may specify.

107 Developers to minimise adverse effect of projects on environment

(1) Every developer shall take all reasonable measures to prevent or, if prevention is not practicable, to mitigate any undesirable effect on the environment that may arise from the implementation of his project.

(2) A developer shall report to the Director-General without delay any measures taken in terms of subsection (1), unless the measures have already been described in an environmental impact assessment report or reported in terms of section one hundred and five.

108 Inspection of environmental impact assessment reports

An environmental impact assessment report shall be open for public inspection at all reasonable times at the Director-General's office, on payment of the prescribed fee, if any:

Provided that no person shall use any information contained therein for personal benefit except for purposes of civil proceedings brought under this Act or under any other law in a matter relating to the protection and management of the environment.

PART XII

CONSERVATION AND IMPROVEMENT OF ENVIRONMENT

109 President may set aside State land or acquire other land for environmental purposes

(1) For the purposes of this section—

"land" includes any interest in or right over land.

(2) If the President is satisfied, on the recommendation of the Minister, that such course would be in the interests of the public generally or in the interests of any section of the public, he may set aside State land or acquire other land for the improvement or proper management of the environment.

(3) In the absence of agreement between the President and the owner of the land, the President may compulsorily acquire land for the purposes of subsection (2), and in that event the Land Acquisition Act [Chapter 20:10] shall apply, mutatis mutandis, in relation to the acquisition.

110 President may set aside areas of Communal Land for environmental purposes

(1) The President may set aside any area of Communal Land for the conservation or improvement of natural resources or for the protection of irrigation works or sources of water supplies:

Provided that no such area shall be set aside until the Minister responsible for the administration of the Communal Land Act [Chapter 20:04] is satisfied that suitable

provision has been made elsewhere for the inhabitants who will be affected by the setting aside of the area.
(2) In the event of any conflict between regulations made in terms of section one hundred and forty in respect of any area set aside under subsection (1) and any by-laws or regulations that are applicable to the area in terms of the Communal Land Act [Chapter 20:04] or the Rural District Councils Act [Chapter 29:13], the regulations made under this Act shall prevail.
111 Minister may construct works
(1) Notwithstanding any other law, the Minister may cause works to be constructed for the protection or management of the environment, if—
(a) he considers the works to be necessary or desirable in the public interest; and
(b) the authority or person responsible for the land has failed or refused to construct the works.
(2) Without limiting the generality of subsection (1), the Minister may in terms of that subsection cause works to be constructed for any of the following purposes—
(a) the preservation or protection of the bed, banks or course of a public stream or any source of water; and
(b) the disposal or control of storm-water; and
(c) the mitigation or prevention of soil erosion; and
(d) the conservation of water; and
(e) waste disposal and management; and
(f) the control of water tables and the disposal of irrigation drainage water.
(3) Before causing the construction of works in terms of subsection (1) that are likely to have a direct and material effect on the operations or finances of a local authority, the Minister shall consult that authority.
(4) The cost of constructing works in terms of subsection (1) shall, in the first instance, be paid from moneys appropriated for the purpose by Act of Parliament.
112 Apportionment of costs of works constructed in terms of section 111
(1) If, in regard to works constructed in terms of section one hundred and eleven, the Minister considers that—
(a) any person will benefit from the works in his capacity as an owner, occupier or user of land or that construction of the works has been rendered necessary by the acts or omissions of any person in his capacity as an owner, occupier or user of land; and
(b) having regard to all the circumstances, it is just and equitable that a person referred to in paragraph (a) should pay the whole or part of the cost of the works;
the Minister may serve a written notice on the person calling on him to pay the State an amount specified in the notice, being an amount equal to the whole or part of the cost of the works, as the case may be.
(2) If, within five years after serving a notice in terms of subsection (1), the Minister is satisfied that, because of changed circumstances, the person on whom the notice was served has benefited by the works concerned to a substantially greater or lesser extent than was apparent when the notice was served, the Minister may serve a further notice on the person increasing or decreasing, as the case may be, the amount which he is called upon to pay.
(3) If a person on whom a notice has been served in terms of subsection (1) or (2) admits liability for the amount specified in the notice, or such other amount as he and the Minister may agree—
(a) the amount so admitted shall be a debt due and payable by that person to the State; and

(b) from the date on which the notice was served until the amount so admitted has been paid to the State, interest shall be paid on the outstanding amount at the prescribed rate:

Provided that, where a notice under subsection (2) has called upon the person to pay a lesser amount than an earlier notice, the amount of the debt shall be reduced accordingly, and the Minister shall cause the person to be refunded any excess he may have paid the State.

(4) If a person on whom a notice has been served in terms of subsection (1) or (2) does not admit liability for the amount specified in the notice, the Minister may apply to the Administrative Court for an order compelling the person to pay the amount to the State, and if the Administrative Court is satisfied that—

(a) the person benefited from the works concerned in his capacity as an owner, occupier or user of land or that construction of the works was rendered necessary by the person's acts or omissions in his capacity as an owner, occupier or user of land; and

(b) having regard to all the circumstances, it is just and equitable that the person should pay the whole or part of the cost of the works concerned;

the Administrative Court shall order that person to pay such amount as the Court considers just and equitable.

113 Protection of wetlands

(1) The Minister may declare any wetland to be an ecologically sensitive area and may impose limitations on development in or around such area.

(2) No person shall, except in accordance with the express written authorization of the Agency, given in consultation with the Board and the Minister responsible for water resources¾¾

(a) reclaim or drain any wetland;

(b) disturb any wetland by drilling or tunnelling in a manner that has or is likely to have an adverse impact on any wetland or adversely affect any animal or plant life therein;

(c) introduce any exotic animal or plant species into the wetland.

(3) Any person who contravenes subsection (2) shall be liable to a fine not exceeding level eight or imprisonment not exceeding two years or to both such fine and such imprisonment.

114 Minister may make order for protection of environment

(1) Subject to this section, the Minister may serve a written order on the owner, occupier or user of any land requiring the owner, occupier or user—

(a) to undertake or adopt such measures; or

(b) within such reasonable time as the Minister may fix, to construct such works; or

(c) to refrain from carrying out such activity;

as the Minister considers necessary to protect the environment from the acts or omissions of the owner, occupier or user on whom the order is served.

(2) The Minister may serve an order on the owner, occupier or user of any land superceding an order of an inspector made in terms of section one hundred and fifteen.

(3) Without limiting subsections (1) and (2), an order may be issued in respect of one or more of the following matters—

(a) requiring the construction or maintenance of soil or water conservation works;

(b) requiring the preservation or protection of the beds, banks or course of a public stream or a source of water;

(c) prohibiting or restricting the depasturing or movement of stock;

(d) controlling water, including storm water;

(e) prohibiting or restricting the excavation or removal of clay, gravel or sand deposits, including any overburden or topsoil;

(f) prohibiting or restricting the cultivation or use, or method of cultivation or use , of the land;

(g) prohibiting any excavation or the erection of any building at any place which the Minister considers to be too near a public stream or a source of water;

(h) controlling water tables and the disposal of irrigation drainage water;

(i) prohibiting or limiting the cutting, felling or destruction of or injury to any vegetation whatsoever;

(j) requiring the removal and disposal of any chemical residue, effluent, waste or hazardous substance;

(k) limiting the use of agricultural pesticides;

(l) reducing or minimising pollution of any kind;

(m) removing and disposing of litter or other refuse or waste from any land or premises;

(n) requiring the rehabilitation of a mining site;

and, notwithstanding any other law to the contrary, an order may require the person against whom it is made to—

(i) take such measures as are necessary for the restoration of any land degraded by reason of the activities of the person against whom the order is made including the replacement of soil, the replanting of trees and other flora, and the restoration, as far as may be possible, of unique geological, physical, ecological, archaeological or historical features of the land, and the establishment or relocation of waste disposal sites;

(ii) stop, prevent or modify any action or conduct which causes or contributes or is likely to cause or contribute to pollution;

(iii) pay such compensation as may be specified in the order to any person whose land is degraded by the action or conduct of the person against whom the order is made.

(4) An order in terms of subsection (1) or (2) shall specify—

(a) the activity considered by the Minister to be detrimental to the protection and management of the environment; and

(b) the particulars of the person against whom it is made; and

(c) the period within which anything required to be done by the person against whom it is made shall be done; and

(d) the penalties which may be imposed for non-compliance with the order.

(5) If—

(a) the whereabouts of an owner, occupier or user of land upon whom an order in terms of subsection (1) or (2) is to be served cannot be ascertained after diligent inquiry; or

(b) an attempt has been made to serve an order in terms of subsection (1) or (2) on the owner, occupier or user of land by registered post but the order has been returned undelivered;

the order may be published in the Gazette and in a newspaper circulating in the area in which the land affected by the order is situated, and the order shall thereafter be deemed to have been served on the owner, occupier or user of the land.

(6) The Minister shall not issue an order in terms of subsection (1) or (2) unless, after—

(a) an inspection of the land concerned; or

(b) consideration of any information or advice supplied by an inspector or an environment committee or by any other person considered by the Minister to be competent to advise in the matter;

the Minister considers that in all the circumstances the order is necessary for the protection of or prevention of injury to the environment.
(7) No order shall be issued in terms of subsection (1) or (2)—
(a) which, in the Minister's opinion, will directly affect a local authority unless that authority has been consulted; or
(b) which will require an owner, occupier or user of land to construct any works, unless the condition sought to be ameliorated by the order was brought about or contributed to by an act or omission of that owner, occupier or user; or
(c) if the order requires a person to breach or demolish any water works as defined in the Water Act [Chapter 20:24] unless the Minister as defined in that Act has consented to the order; or
(d) in regard to any matter which, in the Minister's opinion, will directly affect the working of a mining location as defined in section 5 of the Mines and Minerals Act [Chapter 21:05], unless the Minister responsible for the administration of that Act has been consulted.
(8) An order in terms of subsection (1) or (2) may be varied or set aside by notice served upon the owner, occupier or user of land upon whom the order was served, and this section shall apply, mutatis mutandis, in relation to any such variation or setting aside.
(9) An order in terms of subsection (1) or (2) shall remain in effect, subject to any variation by the Minister in terms of subsection (8), until it is set aside by the Minister in terms of subsection (7) or by the Administrative Court on appeal in terms of Part XIV.
(10) Any person who refuses or wilfully fails to comply with an order in terms of subsection (1) or (2) which is binding on him shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.
(11) A conviction for an offence under subsection (10) shall not be a bar to further prosecution for a continuation of the offence.
115 Inspector may make order for protection of environment
(1) If an inspector considers that it is necessary to act immediately for the protection of the environment, he may serve an order in writing on the owner, user or occupier of any land or premises requiring that owner, user or occupier to take such measures as may be specified in the order for the prevention of harm to the environment.
(2) Subject to this section, an order in terms of subsection (1) shall have effect until it is withdrawn or set aside or superceded by an order of the Minister.
(3) After serving an order in terms of subsection (1), an inspector shall without delay forward a copy of the order to the Minister, together with a written statement detailing the circumstances that gave rise to the need for the order.
(4) After receiving an order in terms of subsection (3), the Minister shall either confirm, withdraw or substitute the order.
(5) Any person who refuses or wilfully fails to comply with an order of an inspector in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
116 Conservation of and access to biological diversity
(1) The Minister shall take such measures as may be necessary for the conservation of biological diversity and the implementation of Zimbabwe's obligations under the United Nations Convention on Biological Diversity adopted in 1992 and may, in so doing¾¾

(a) identify the components of the biological diversity of Zimbabwe;

(b) determine the components of biological diversity which are threatened with extinction;

(c) prepare and maintain an inventory of the biological diversity of Zimbabwe;

(d) determine actual and potential threats to the biological diversity and devise such measures as are necessary for preventing, removing or mitigating the effect of those threats;

(e) devise measures for better protection and conservation of rare and endemic species of wild fauna and flora;

(f) develop national strategies, plans and programmes for the conservation of the biological diversity of Zimbabwe;

(g) promote the integration of conservation and sustainable use of biological diversity into relevant sectoral policies, plans and programmes;

(h) require in writing any developer, including the government, to integrate the conservation and sustainable utilisation of the biological diversity in any project the implementation of which has or is likely to have detrimental effects to the biological diversity of Zimbabwe;

(i) protect indigenous property rights of local communities in respect of biological diversity with scientific knowledge;

(j) support the integration of traditional knowledge on conservation of biological diversity with scientific knowledge;

(k) prohibit or restrict access by any person to or the exportation of any component of the biological diversity of Zimbabwe.

(2) The Minister may, on the advice of the Board and in consultation with the responsible Minister, take such action or measures as may be necessary for the conservation of the biological diversity of a specific locality and may, in so doing¾¾

(a) promote such land use methods as are compatible with the conservation of the biological diversity of that locality;

(b) select and manage environmental protection areas for the conservation of the various terrestrial and aquatic ecological systems;

(c) establish and manage buffer zones near environmental protection areas;

(d) prohibit or control the importation of and introduction into the wild of exotic animal and plant species;

(e) identify, promote and integrate traditional knowledge into the conservation and sustainable utilisation of the biological diversity of that locality; and

(f) determine special measures for the protection of species, ecosystems and habitats faced with extinction.

(3) The Minister, in consultation with the relevant appropriate authority, may prescribe measures for the conservation of biological diversity not specific to any locality, including measures for the establishment and management of germplasm banks, botanical gardens, zoos, animal sanctuaries and such other similar facility.

(4) Where the Minister considers it desirable to do so, he may, on the advice of the Board, recommend to the responsible Minister, the release of any animal or animal species conserved in a particular locality or in terms of subsection (3) into its natural habitat or ecological system.

117 Regulation of biological and genetic resources

(1) The Minister, on the recommendations of the Agency, may, by regulations, control or restrict access by any person to the biological and genetic resources of Zimbabwe.

(2) Without prejudice to the generality of subsection (1), the regulations specified in subsection (1) may¾¾

(a) prohibit the exportation and importation of germplasm, except in accordance with a licence issued by the Minister and subject to such conditions as the Minister may impose;

(b) provide for the equitable sharing of benefits arising from the technological exploitation of germplasm originating from Zimbabwe between the owner of the technology and the government;

(c) provide for fees payable in respect of an export licence issued under paragraph (a) and for a charge payable for accessing germplasm;

(d) provide for the use, handling, movement, packing and import and export of genetically modified organisms.

PART XIII

CONTROL OF INVASIVE ALIEN SPECIES

118 Interpretation in Part XIII

In this section¾¾¾

"clear " in relation to invasive alien species, means to dig up or pull out and burn invasive alien species, or to employ other means of destruction authorised by the Minister;

"invasive alien species " means, in relation to—

(a) the whole of Zimbabwe, the plants specified in Part I of the Fifth Schedule;

(b) any area specified in Part II in the third column of the Fifth Schedule, the plant specified opposite thereto in the first and second columns of that Part;

"local authority" means a city, town or municipal council or a rural district council;

"owner" in relation to unoccupied land, includes—

(a) in the case of a company or an association, the manager, director or similar office-bearer of the company or association;

(b) in the case of a partnership, any member of the partnership;

"responsible person " in relation to land, means—

(a) the occupier of land or, in the case of unoccupied land, the registered owner thereof;

(b) in the case of a mining location, the holder of such location;

(c) in the case of State land over which grazing or other rights have been granted, the holder of such rights;

(d) in the case of communal land, the occupier or the person who has use of such land, or the Chief or headman who has jurisdiction over the land, or all or any of the inhabitants of the nearest village;

(e) in the case of commonage or town lands or roads or other areas, the local authority under whose control or within whose jurisdiction such land, road or other area is situate.

119 Duty of responsible persons to clear invasive alien species

(1) Every responsible person shall have a duty to—

(a) clear or cause to be cleared any invasive alien species growing or occurring on the land in respect of which he is responsible; and

(b) report forthwith to an inspector the occurrence of any invasive alien species on any land in respect of which such person is responsible.

(2) A responsible person who fails to clear or cause to be cleared any invasive alien species —

(a) specified in Part III of the Fifth Schedule, shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year;

(b) other than invasive alien species specified in Part III of the Fifth Schedule, shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for period not exceeding six months; or

(c) or to both such fine and imprisonment.

(3) Any responsible person who admits or is prepared to admit to a police officer or inspector that he is guilty of contravening paragraph (a) of subsection (1) shall, if he has not been previously convicted of the offence and has not previously been given a warning in terms of this subsection, be given a written warning by the police officer or inspector to undertake, within such period (not less than three months) as may be agreed between him and the police officer or inspector, such work or steps as may be necessary to clear or cause to be cleared any invasive alien species growing or occurring on the land in respect of which he is responsible.

(4) Where—

(a) any responsible person —

(i) has not complied with a written warning issued in terms of subsection (3); or

(ii) has been previously convicted of the offence referred to in subsection (3);

and

(b) the police officer or inspector has reasonable grounds for believing that the magistrates court which will try the person referred to in paragraph (a) for such offence will, on convicting that person of such offence, not impose a sentence of imprisonment or a fine exceeding level four;

(c) the person referred to in paragraph (a) may sign and deliver to the police officer or inspector referred to in paragraph (b) a document admitting that he is guilty of the said offence and deposit with such officer or inspector such sum of money as the latter may fix, not exceeding level four, and such person shall thereupon, subject to subsection (5), not be required to appear in court to answer the charge of having committed the said offence.

(5) Section 356 of the Criminal Procedure and Evidence Act [Chapter 9:07] shall apply to the procedure to be followed on relation to an admission of guilt made under subsection (4).

(6) Any sum deposited in terms of subsection (4) shall, if deposited with an inspector, form part of the funds of the Agency:

Provided that any balance in excess of a sum so deposited which is recovered in terms of section 348 of the Criminal Procedure and Evidence Act [Chapter 9:07] shall not form part of the funds of the Agency.

120 Power to enter upon land

An inspector may at all reasonable times, enter upon any land, whether enclosed or not, for the purpose of ascertaining if any invasive alien species are growing thereon.

121 Manner in which warnings may be served

(1) Any warning made in terms of subsection (3) of section one hundred and nineteen shall be in writing and signed by the person giving such warning.

(2) Such warning shall be deemed to be duly served—

(a) if served personally upon the person responsible; or

(b) if left addressed to the person responsible at his usual or last known place of abode; or

(c) if posted in a prepaid registered letter addressed to the person responsible at his last known place of abode or business.

122 An inspector may clear land at expense of person responsible

(1) If a person responsible fails to clear land in accordance with a warning made in terms of subsection (3) of section one hundred and nineteen, an inspector may, upon receiving written authority from the Minister, enter upon the land with or without assistance and eradicate any invasive alien species found therein.

(2) Nothing contained in subsection (1) shall relieve the person responsible from any penalty he may have incurred under this Part, and the Minister may recover the cost, charges and expenses of clearing the infected land by action in a competent court.

123 Prohibition on placement of invasive alien species in any watercourse or any road

(1) No person shall place or cause or permit to be placed any invasive alien species or the seed of any invasive alien species—

(a) in any river, stream or irrigation canal or any other watercourse; or

(b) on any road or land.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable if the offence involves—

(a) an invasive alien species or seed of an invasive alien species specified in Part III of the Fifth Schedule, to the penalties specified in paragraph (a) of subsection (2) of section one hundred and nineteen; or

(b) an invasive alien species or seed of an invasive alien species other than an invasive alien species specified in Part III of the Fifth Schedule, to the penalties prescribed by paragraph (b) of subsection (2) of section one hundred and nineteen.

124 Power to take samples of seed and treatment of plant, seed or grain offered for sale

(1) An inspector may, at all reasonable times enter any premises where any plant, seed or grain is offered for sale, and may take samples thereof.

(2) If an inspector finds offered for sale any plant, seed or grain, which is likely to propagate or spread the growth of an invasive alien species, such plant, seed or grain shall, when considered necessary by the inspector, be treated by or at the expense of the consignee or vendor, in the manner prescribed by or to the satisfaction of the inspector.

(3) If the plant, seed or grain is not treated in terms of subsection (1) or if such treatment is deemed ineffectual, the Minister may by written order served on the consignee or vendor , cause such plant, seed or grain to be destroyed.

125 Local authorities authorised to make by-laws

Every local authority shall have power to make by-laws compelling occupiers of land within the area of the local authority to keep their land free from invasive alien species.

126 A responsible person may petition Minister to have a plant declared invasive alien species

(1) An owner or occupier may, in the prescribed manner, petition the Minister to declare any plant to be an invasive alien species for the purposes of this Part.

(2) On receipt of such a petition, the Minister shall give written notice in the Gazette and in a newspaper circulating widely in the district or portion of area of application and the notice shall—

(a) set out the nature of the petition;

(b) specify the relevant district or portion thereof of application;

(c) call upon any persons responsible in the said district or portion of district to lodge written submissions of any objections to the petition being acceded to;

(d) give not less than thirty days in which submissions may be made.

(3) The Minister shall take into consideration all submissions lodged in accordance with subsection (2) and shall thereafter, make a decision within thirty working days after the period fixed for receiving objections expires, whether or not to grant or refuse the petition.

(4) The Minister shall give written notice and reasons for his decision under subsection (3) and shall publish such decision in the Gazette and in a newspaper with wide circulation in the district of application.

127 Alteration of Third Schedule

The Minister may, in consultation with the Agency, at any time, by statutory instrument, add to or amend the Third Schedule or replace the whole or any part of that Schedule.

PART XIV

APPEALS

128 Interpretation in Part XIV

In this Part and section one hundred and thirty-three—

"authority" means the Minister, the Secretary, the Agency, the Director-General, or a local authority.

129 Appeal against decision of inspector

(1) Subject to this section, any person who is aggrieved by any action, decision or order of an inspector may appeal against it to the Director-General.

(2) An appeal in terms of subsection (1) shall be made in the form and manner prescribed and shall be lodged with the Director-General within thirty days after the appellant was notified of the action, decision or order appealed against.

(3) On an appeal in terms of subsection (1), the Director-General may conduct or cause to be conducted such inquiry into the matter as he thinks appropriate and may confirm, vary or set aside the action, decision or order appealed against:

Provided that the Director-General shall ensure that the appellant and the inspector are given an adequate opportunity to make representations in the matter.

(4) The Director-General shall ensure that the appellant and the inspector are notified of the decision reached by him in terms of subsection (3).

130 Appeal against decision of authority

(1) Subject to this section, any person who is aggrieved by any decision of any authority in terms of this Act, may within twenty-eight days after being notified of the decision or action of the authority concerned, appeal in writing to the Minister, submitting with his appeal such fee as may be prescribed :

Provided that such appeal shall not suspend the operation of any order, decision or action of the authority.

(2) For the purpose of determining an appeal noted in terms of subsection (1), the Minister (if he is not the authority concerned in the appeal) may require the authority to furnish him with the reasons for the decision or action that is the subject of the appeal and a copy of any evidence upon which the reasons are based.

(3) The Minister, after due and expeditious inquiry, may make such order on any appeal noted in terms of subsection (1) as he considers just.

(4) An appeal shall lie to the Administrative Court against any order of the Minister in terms of subsection (4).

(5) An appeal in terms of subsection (3), shall be made in the form and manner and within the period prescribed in the rules of court.

(6) On appeal in terms of subsection (4), the Administrative Court may confirm, vary or set aside the decision or action appealed against and may make such order, whether as to costs or otherwise, as the court thinks just.

[The numbering of these subsections may be incorrect—Editor.]

131 Composition of Administrative Court for purposes of this Act

(1) For the purpose of hearing an appeal in terms of this Part or matter referred to it in terms of section one hundred and twelve, the Administrative Court shall consist of a Senior President of the Court and at least two assessors appointed in terms of subsection (2).

(2) Subject to subsection (3), of the assessors referred to in subsection (1)—

(a) one shall be appointed from a list of persons approved by the Chief Justice, who are or have been Government environmental officers for a period of not less than five years; and

(b) one shall be appointed from a list of persons who are not members of the Public Service, nominated by the Senior Presidents of the Administrative Court and approved by the Chief Justice.

(3) Whenever the Administrative Court is required to hear and determine any matter the determination of which may require special knowledge not ordinarily possessed by an assessor referred to in paragraph (b) of subsection (2), the Senior President of the Administrative Court may, after consultation with the Chief Justice, appoint a special assessor in lieu of or in addition to the assessor referred to in paragraph (b) of subsection (2).

PART XV

INTERNATIONAL OBLIGATIONS AND COMMITMENTS

132 International obligations and commitments

(1) Where the Government is not yet party to an international environmental instrument,

(hereinafter in this Part referred to as "an instrument"), the Minister may recommend to Cabinet and Parliament to sign, ratify or accede to the instrument.

(2) The recommendation to be made by the Minister in terms of subsection (1) shall include the following—

(a) available resources to ensure implementation;

(b) the views of interested and affected parties;

(c) the benefits to the nation;

(d) the disadvantages to the nation;

(e) the estimated date when the instrument is to come into effect;

(f) the minimum number of governments and states required to sign the instrument in order for it to come into effect;

(g) the respective responsibilities of all national departments involved;

(h) the potential impact of accession on national matters;

(i) reservations to be made, if any;

(k) any other matter which in the opinion of the Minister is relevant.

(3) Where the Government is a party to an instrument the Minister, after compliance with the provisions of the Constitution, shall(unless the instrument is enacted by Act of Parliament), publish the provisions of such instrument in the Gazette, including any amendments or additions.

(4) The Minister may make regulations for—

(a) the co-ordination of the implementation of the instruments ;

(b) the allocation of responsibilities in terms of the instrument, including as between organs of State;

(c) the gathering of information, including the gathering of information for the purposes of compiling and updating reports required in terms of the instrument and for submission to Parliament;

(d) the dissemination of information related to the instrument and reports of international meetings held in connection with any instrument;

(e) initiatives and steps regarding research, education, training, raising awareness and capacity building required in connection with any instrument;

(f) ensuring public participation in any aspect of an instrument in which public participation is necessary or desirable;

(g) implementation of and compliance with the provisions of an instrument, including the creation of offences and the prescription of penalties where applicable; and

(h) any other matter necessary to give effect to any instrument.

(4) The Minister may, prior to a recommendation referred to in subsection (1), publish a notice in the Gazette, stating his intention to make such recommendation and inviting written comments.

PART XVI

GENERAL

133 Functions of local authority

The Minister may, by statutory instrument, assign to any local authority any functions assigned in this Act to another authority for the purpose of managing the environment within its area of jurisdiction:

Provided that, where a natural resource is regulated by or under any other enactment , the Minister shall obtain the consent of the Minister responsible for the administration of that enactment before assigning functions relating to that natural resource.

134 Powers of Minister, etc., in respect of Communal Land preserved

(1) Nothing in this Act shall be regarded as limiting the powers in respect of the natural resources of Communal land which are conferred by the Rural District Councils Act [Chapter 29:13] on rural district councils.

(2) The advice and co-operation of the Minister, the Secretary and the Agency shall be available to any person exercising powers referred to in subsection (1).

135 Incentives for environmental management

The Minister, on the recommendation of the Agency and in consultation with the Minister responsible for finance, shall determine¾¾

(a) such fiscal, economic or social incentives as are necessary for promoting the protection and management of the environment and the conservation and sustainable utilisation of natural resources; and

(b) such measures as are necessary for preventing the unsustainable use of natural resources and controlling the generation of pollutants.

136 Observation of rules of natural justice

In the exercise of any function in terms of this Act, the Minister, the Secretary, the Agency, the Director-General and any other person or authority shall ensure that the rules commonly known as the rules of natural justice are duly observed and, in particular, shall take all reasonable steps to ensure that every person whose interests are likely to be affected by the exercise of the function is given an adequate opportunity to make representations in the matter.

137 Additional offences and penalties under Part IX

(1) For the purposes of Part IX any person who—

(a) obstructs or hinders an inspector in the exercise of his powers or the carrying out of his duties under this Part; or

(b) with fraudulent intent, tampers with any samples or article taken in terms of this Part; or

(c) makes any false or misleading statement in connection with any hazardous substance or hazardous article—

(i) in any statement to or before the Committee; or

(ii) in the course of the sale thereof;

or

(d) sells any hazardous substance or hazardous article upon which or within the container of which a false or misleading statement in connection with the contents appears; or

(e) for the purposes of business or trade, makes use of any report or certificate made or issued by an inspector or analyst under this Part; or

(f) gives false information to a supplier or presents any forged document in order to acquire a hazardous substance or hazardous article; or

(g) sells any hazardous substance or article from unlicensed premises; or

(h) imports and sells any registrable hazardous substance, without registering it in Zimbabwe; or

(i) sells hazardous substances in unlabelled or improperly labelled containers;

shall be guilty of an offence.
(2) Any person who is convicted of an offence referred to in subsection (1) shall be liable—
(a) on a first conviction, to a fine not exceeding level fourteen or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment;
(b) on a second or subsequent conviction, to a fine not exceeding level fourteen or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.
(3) The court convicting a person of an offence under subsection (1), may, upon the application of the prosecutor, declare any hazardous substance or hazardous article in respect of which the offence has been committed to be forfeited to the State.
(4) A hazardous substance or hazardous article forfeited in terms of subsection (3) shall be destroyed or otherwise dealt with as the Minister may, after consultation with the Agency, direct.
[The subsection referred to above has been changed—Editor.]
(5) The court convicting a person of an offence under subsection (1) shall notify the Agency of the conviction and sentence and may order the Agency to cancel any licence issued to such person.
138 Additional offences and penalties under Part XIII
(1) Any person who obstructs or hinders an inspector in the exercise of his duty under Part XIII shall be guilty of an offence and liable to a fine not exceeding level three or imprisonment for a period not exceeding one month or to both such fine and such imprisonment.
(2) No person shall knowingly sell, offer, or expose for sale any plant, seed or grain, which is likely to propagate or spread the growth of invasive alien species.
(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable if the offence involves—
(a) the likely propagation or spread of invasive alien species specified in Part III of the Fifth Schedule, to the penalties specified in paragraph (a) of subsection (2) of section one hundred and nineteen;
(b) the likely propagation or spread of a invasive alien species other than a invasive alien species specified in Part III of the Fifth Schedule, to the penalties specified in section one hundred and nineteen;
139 Additional penalties for contraventions of this Act
(1) If a person is convicted of cultivating land in contravention of this Act, the Minister may—
(a) order the person to remove or destroy, within such period as the Minister may specify, any crops grown illegally by him on the land; or
(b) cause any crops grown illegally by the person on the land to be reaped and delivered to such person as the Minister may appoint.
(2) A court convicting a person of an offence under this Act may order him to do any or all of the following—
(a) to take such remedial action, specified by the court on the advice of the Minister, as may be necessary to restore the environment or any works affected by the offence;
(b) to reimburse the Minister for any remedial action taken by him;
(c) to pay compensation for any damage caused by the offence to any person.
(3) Any court of a magistrate shall have jurisdiction to make an order in terms of subsection (2), whatever the amount.
140 Regulations
(1) The Minister, in consultation with the Agency and any relevant Ministers, may make regulations prescribing anything which by this Act is required or permitted to

be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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

(a) environmental standards relating to air, water, soil, noise, vibrations, radiation, effluents, emissions, waste and hazardous substances;

(b) the control or prohibition of activities and practices likely to deplete the ozone layer, including restrictions or prohibitions on the use of any appliance, equipment or other device that uses or contains ozone-depleting substances;

(c) the control or prohibition of activities and practices likely to cause pollution of the environment;

(d) the conservation and sustainable use of biological diversity and genetic resources;

(e) the procedure for conducting environmental impact assessments;

(f) the manner in which an application for a pollution permit shall be made and the information to be submitted with such application;

(g) the prohibition or restriction of the cultivation of land, the banks of public streams or land adjacent to artificially conserved water;

(h) the conservation and protection of wetlands, and of bed, banks or course of any river or stream and any source of water;

(i) the protection and maintenance of any works constructed or measures carried out for the management of the environment in terms of this Act;

(j) the prohibition of the use or possession of sleighs and other vehicles the use of which, in the Minister's opinion, is excessively injurious to the environment;

(k) the prohibition or restriction of the excavation or removal of clay, gravel or sand deposits, including any overburden or top-soil;

(l) the destocking and limitation of the number of livestock or domestic animals on land;

(m) the definition of areas in the whole or any part of Zimbabwe wherein it shall not be lawful—

(i) to graze or depasture cattle or other livestock or to permit or allow cattle or other livestock to graze or to be depastured;

(ii) to cut, fell, injure or destroy any vegetation whatsoever:

Provided that no regulation made under this paragraph shall come into operation until at least one month after it has been promulgated in a statutory instrument and published in a newspaper or newspapers circulating in every province or district affected thereby;

(n) the impounding of livestock that are found to be trespassing or straying to the detriment or possible detriment of any land, and the application, with such modifications as may be necessary or expedient, of the Stock Trespass Act [Chapter 19:14] in respect of the impounding of any such livestock;

(o) the use to which Communal Land set aside may be put, and the terms and conditions under which it may be used or occupied;

(p) records to be kept for the purposes of this Act, and the transmission of such records to any person or authority specified in the regulations;

(q) the terms and conditions, including the indemnification of the State, local authorities and the Board and the payment of charges, under which persons may inspect or be given a copy of a report made to the Minister;

(r) fees and charges for the doing of anything in terms of this Act;

(s) interest payable on any debt owing under this Act;

(t) the regulating, controlling or restricting the manufacture, sale, possession, storage, conveyance, importation or use of any such hazardous substances;

(u) for the prevention of the introduction and spread of invasive alien species or seeds of invasive alien species;

(v) regulating, restricting or prohibiting the installation in any premises or the alteration or extension of any fuel-burning appliance which does not comply with such requirements as may be specified in the regulations;

(w) the removal of any fuel-burning appliance which has been installed, extended or altered or is being used in contravention of the regulations or otherwise than in accordance with any condition imposed by or under the regulations;

(x) regulating, restricting or prohibiting the use or sale of fuel which does not comply with such requirements as may be specified in the regulations;

(y) providing for the records to be kept and the returns to be rendered by any person who has in his possession or under his control any fuel-burning appliance as to the quantity, nature and type of fuel consumed by such appliance;

(z) providing for the inspection of fuel-burning appliances, whether or not installed in any premises, and the powers and functions of persons engaged in such inspection;

(aa) regulating or restricting the installation or provision of heating or cooking facilities in buildings and prohibiting the installation in any building of any appliances other than types of appliances specified in the regulations or any appliances which do not comply with such requirements as may be prescribed in the regulations;

(bb) generally, the effective control of the emission or emanation of smoke from any premises.

(cc) the measures to be adopted to prevent the creation or continuation of a nuisance originating from dust or to minimize such nuisance;

(dd) regulating, restricting and prohibiting the depositing of matter of such a nature or quantity as to cause or to be likely to cause a nuisance originating from dust;

(ee) restricting, regulating and prohibiting the carrying on of any activity which causes or is likely to cause a nuisance originating from dust.

(ff) classifying internal combustion engines for the purposes of any regulations and exempting any class or type of internal combustion engine from the regulations;

(gg) requiring internal combustion engines or any class or type thereof to have installed or incorporated therein or thereon one or more systems or devices specified in the regulations to prevent or lessen the emission into the atmosphere of any air contaminants;

(hh) providing for the testing and inspection of any system or device referred to in paragraph (gg);

(ii) providing for the issue by such person or authorities as may be specified in the regulations of certificates of approval of systems or devices referred to in paragraph (gg);

(jj) defining and designating new motor vehicle internal combustion engines for the purposes of any regulations;

(kk) regulating, restricting or prohibiting the type and quantity of fuel that may be used in connection with internal combustion engines, and for heating, generating steam or electricity or any industrial process;

(ll) generally restricting, regulating or controlling the emission into the atmosphere of any air contaminants from motor vehicle internal combustion engines.

(3) The Minister shall not make regulations for the matter referred to in paragraph (q) of subsection (2) except with the approval of the Minister responsible for finance.

(4) Regulations in terms of subsection (1) may provide for penalties for the breach of their provisions :

Provided that no penalty shall exceed a fine of level fourteen or imprisonment for a period of twelve months or both such fine and such imprisonment.

141 Amendment of First Schedule

(1) The Minister may, by statutory instrument, amend the First Schedule by adding any item to it, deleting any item from it or altering any item in it.

(2) In the exercise of his powers under subsection (1), the Minister may define any activity as a project by reference to its magnitude.

142 Amendment of Acts

The Act specified in each Part of the Sixth Schedule is amended to the extent set out in that Part.

143 Repeal of Cap 20:13 and savings

(1) In this section—

"conservation committee" means a conservation committee established for an intensive conservation area in terms of the repealed Act;

"repealed Act " means the Natural Resources Act [Chapter 20:13].

(2) Subject to this section the Natural Resources Act [Chapter 20:13] is repealed.

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

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

(5) The Minister shall issue written directions to every conservation committee established in terms of the repealed Act specifying the terms and conditions under which and the procedures by which a rural district council shall succeed to the conservation committee's assets and liabilities.

144 Repeal of Caps. 20:03, 15:05 and 19:07

The Air Pollution Prevention Act [Chapter 20:03], the Hazardous Substances and Articles Act [Chapter 15:05] and the Noxious Weeds Act [Chapter 19.07] are repealed.

[This section is not yet in force, as at 31st May, 2004, by virtue of S.I. 103 of 2003—Editor.]

145 Transfer of certain assets, obligations, etc., of State to Agency

(1) In this section¾¾

"fixed date" means the date fixed in terms of subsection (2) of section one as the date on which this Act comes into operation;

"transfer date", in relation to any property, right, liability or obligation which is transferred to the Agency in terms of this section, means the date with effect from which it is so transferred.

(2) The assets and rights of the State which¾¾

(a) before the fixed date, were used or otherwise connected with Air Pollution Unit, Water Pollution Unit, Hazardous Substances Control Unit and Noxious Weed Unit; and

(b) are specified by the Minister;

together with any liabilities or obligations attaching to them, shall be transferred to the Agency with effect from such date as the Minister may specify.

(3) On the relevant transfer date, every asset and right of the State which the Minister has directed shall be transferred to the Agency, together with any liability or obligation attaching to it, shall vest in the Agency.

(4) All bonds, hypothecations, deeds, contracts, instruments, documents and working arrangements which subsisted immediately before the relevant transfer date in relation to any asset, right, liability or obligation transferred to the Agency under

this section and to which the State was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the Agency as if, instead of the State, the Agency had been named therein.
(5) It shall not be necessary for the Registrar of Deeds to make any endorsement on title deeds or other documents or in his registers in respect of any immovable property, right or obligation which passes to the Agency under this section, but the Registrar of Deeds, when so requested in writing by the Agency in relation to any particular such property, right or obligation, shall cause the name of the Agency to be substituted, free of charge, for that of the State on the appropriate title deed or other document or in the appropriate register.
(6) Any cause of action or proceeding which existed or was pending by or against the State immediately before the relevant transfer date in respect of any asset, right, liability or obligation which passes to the Agency under this section, may be enforced or continued, as the case may be, by or against the Agency in the same way that it might have been enforced or continued, as the case may be, by or against the State had this Act not been passed.
(7) Subsection (6) shall not apply to any cause of action or proceedings existing or pending immediately before the relevant transfer date between the State and a person employed by the State.
(8) Subject to the consent of the employees concerned, the Agency shall engage such of the persons who were employed in different departments dealing with environmental issues on the date of commencement of this Act as the Minister and the Agency may mutually agree.
(9) Persons engaged in terms of subsection (8) shall be employed in such terms and conditions as may be fixed by the Agency with the agreement of the persons concerned and after consultation with the Minister.
(10) Persons referred to in subsections (8) and (9) who are transferred from the Public Service to the employment of the Agency shall be permitted to continue contributing in terms of the Public Service (Pensions) Regulations, 1992 (Statutory Instrument 124 of 1992), or any other enactment in terms of which they were contributing towards a pension immediately before their transfer, subject to such terms and conditions as the Board, in consultation with the Minister, may fix.
(11) Notwithstanding any other provision of this Act, a person who¾¾

(a) as a member of the Public Service, was afforded an opportunity of engagement by the Agency in terms of subsection (8) and declined to avail himself of the opportunity; and

(b) subsequently left the Public Service and as a consequence became entitled to pension benefits in respect of the abolition of his post;

shall not be engaged in any capacity by the Board for a period of ten years from the date on which he left the Public Service, unless the Minister and the Public Service Commission consent to his engagement.

6146 Construction of certain references

Any reference in any enactment, other than a provision of an Act amended by the Second Schedule, or in any document, to the Natural Resources Board, shall be construed as a reference to the Agency.

First Schedule (Sections 2 and 97)

PROJECTS THAT REQUIRE ENVIRONMENTAL IMPACT ASSESSMENT

1. Dams and man-made lakes.
2. Drainage and irrigation—
(a) drainage of wetland or wild life habitat;
(b) irrigation schemes.
3. Forestry—
(a) conversion of forest land to other use;

(b) conversion of natural woodland to other use within the catchment area of reservoirs used for water supply, irrigation or hydropower generation or in areas adjacent to the Parks and Wild Life Estate.

4. Housing developments.

5. Industry—

(a) chemical plants;

(b) iron and steel smelters and plants;

(c) smelters other than iron and steel;

(d) petrochemical plants;

(e) cement plants;

(f) lime plants;

(g) agro-industries;

(h) pulp and paper mills;

(i) tanneries;

(j) breweries;

(k) industries involving the use, manufacture, handling, storage, transport or disposal of hazardous or toxic materials.

6. Infrastructure—

(a) highways;

(b) airports and airport facilities;

(c) new railway routes and branch lines;

(d) new towns or townships;

(e) industrial sites for medium and heavy industries.

7. Mining and quarrying—

(a) mineral prospecting;

(b) mineral mining;

(c) ore processing and concentrating;

(d) quarrying.

8. Petroleum production, storage and distribution—

(a) oil and gas exploration and development;

(b) pipelines;

(c) oil and gas separation, processing, handling and storage facilities;

(d) oil refineries.

9. Power generation and transmission—

(a) thermal power stations;

(b) hydropower schemes;

(c) high-voltage transmission lines.

10. Tourist, resorts and recreational developments—

(a) resort facilities and hotels;

(b) marinas;

(c) safari operations.

11. Waste treatment and disposal—

(a) toxic and hazardous waste: incineration plants, recovery plants (off-site), wastewater treatment plants (off-site), landfill facilities, storage facilities (off-site);

(b) municipal solid waste: incineration, composting and recovery/recycling plants, landfill facilities;

(c) municipal sewage: waste treatment plants, outfalls into aquatic systems, effluent water irrigation schemes.

12. Water supply—

(a) groundwater development for industrial, agricultural or urban water supply;

(b) major canals;

(c) cross-drainage water transfers;

(d) major pipelines;
(e) water withdrawals from rivers or reservoirs.

Second Schedule (Section 7)

MINISTRIES REPRESENTED IN NATIONAL ENVIROMENT COUNCIL

Ministries responsible for the following matters or areas:

Agriculture
Education
Energy
Environment
Forestry
Mining
Finance
Health
Industry
Water resources
Justice
Local Government
Tourism

Third Schedule (Section10)

POWERS OF AGENCY

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interest therein and rights thereof and concessions, grants, powers and privileges in respect thereof.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.
5. To open bank accounts in the name of the Agency and to draw, make accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such contracts or rescind such suretyships or guarantees.
8. With the approval of the Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Board considers appropriate or necessary for the proper exercise of the Agency's functions.
9. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to its employees as it considers fit.
10. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
11. To purchase, take on lease or in exchange or otherwise acquire land or dwelling-houses for use or occupation by its employees.
12. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken on lease or in exchange or otherwise acquired by it.

13. To sell or lease dwelling-house and land for residential purposes to its employees.
14 To provide or guarantee loans made to its employees for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling-houses or land which are the property of its employees, subject to any conditions that may be imposed by the Board from time to time.
15 To provide security in respect of loans by the deposit of securities, in which the Agency may invest such money as the Board may consider necessary for the purpose.
16. To provide loans to any employee of the Agency for the purpose of purchasing vehicles or other property, subject to any conditions that may be imposed by the Board from time to time.
17. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training.
18. To provide such service as the Agency with the approval of the Board, considers could properly be provided by the Agency and to charge for services such fees as the Board, may from time to time determine.
19. To engage in any activity, either alone or in conjunction with other organisations or international agencies, to promote better understanding of revenue issues.
20. To provide technical advice or assistance, including training facilities, to revenue authorities of other countries.
21. To accept, with the approval of the Board any donations, gifts, or assistance from any organisation or person.
22. On behalf of the State, to institute and maintain proceedings in any court or tribunal for the recovery of any revenues, and to take such other steps as may be necessary to recover revenues.
23. To do anything which by this Act is required or permitted to be done by the Agency.
24. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the function of the Agency in terms of this Act or any other enactment.

Fourth Schedule (Section 55(2))

COMPOSITION OF STANDARDS AND ENFORCEMENT COMMITTEE

1. One Person representing Ministries responsible for each of the following, nominated by the head of the head of the Ministry concerned and appointed by the Minister of Environment and Tourism—

Agriculture
Education
Energy
Environment
Forestry
Mining
Finance
Health
Industry and Trade
Water resources
Justice
Local Government
Tourism
Labour
Information

2. Persons appointed by the Minister of Environment and Tourism after nomination by each of the bodies considered by the Minister to be representative of each of the following interests—
Non-governmental organisations
Industry, or employers organisations
Labour , or trade unions
Academic and research institutions
Fifth Schedule (Sections 72 and 118)
INVASIVE ALIEN SPECIES AND NOXIOUS OR OFFENSIVE GASES
Part I
INVASIVE ALIEN SPECIES THROUGHOUT ZIMBABWE

Botanical name	Common name
Avena fatua L.	Wild oat
Azolla filiculoides Lam	Water lettuce
Cuscuta spp.	Dodder
Eichhornia crassipes Solms	Water hyacinth
Harrisia martinii (Labouret) Britton	Moonflower cacus
Lantana camara L.	Cherry-pie
Opuntia aurantiaca Lindl.	Jointed cactus or jointed prickly pear
Pistia Stratiotes L.	Azolla

Part II
INVASIVE ALIEN SPECIES IN CERTAIN AREAS

Botanical name	Common name	Area
Salvinia auriculata Aubl.	Water-fern	Throughout Zimbabwe except on the waters of Lake Kariba.
Salvinia molesta D.S. Michell	Kariba weed or water-fern	Throughout Zimbabwe except on the waters of Lake Kariba

Part III
INVASIVE ALIEN SPECIES SPECIFIED FOR THE PURPOSES OF SECTION 126
[Section number has been changed to 126 above, not 127, as printed in the Act—Editor.]
Avena fatua L —specified in Part I
Part IV
NOXIOUS OR OFFENSIVE GASES
"Noxious or offensive gas" means the following gases, fumes, dust, odours and smokes—

(a) a gas containing or consisting of carbon monoxide, hydrocarbon, alcohol, phenol, tar, organic acid or a derivative thereof, halogen, organic nitrogen, sulphur, cyanide, cyanogen, ammonia, inorganic acid or acidic oxide;

(b) a fume containing or consisting of aluminium, antimony, arsenic, beryllium, cadmium, calcium, chromium, cobalt, copper, iron, lead, magnesium, manganese, mercury, molybdenum, nickel, phosphorus, potassium, selenium, silica, sodium, sulphur, tellurium, tin, tungsten, vanadium or zinc;

(c) a dust consisting mainly of asbestos dust, cement dust, cotton dust, oxides of iron or phosphate or dust from a stone-crushing plant;

(d) an odour from a meat or fish processing factory, paper works, purification plant or tannery;

(e) smoke emitted from a specified process;

Sixth Shedule (Section 142)
AMENDMENT TO ACTS
Part I
AGRICULTURAL FINANCE ACT [CHAPTER 18:02]
In section 54 by the repeal of subsections (1) and (2)
Part II
WATER ACT [Chapter 20:24]

1. In part VI by repeal of sections 68,69,70 and 71.

[This repeal of section 69 of the Water Act is not yet in force, as at the 31st May, 2004—by virtue of S.I.103 of 2003—Editor.]

2. In section 6 (2) k by adding, ", in respect of environmental water quality standards as set by the Minister for Environment in terms of the Environmental Management Act [Chapter20:26]

3. In section 13 (1) (a) (iii) by changing "prescribed quality standards" to "quality standards as prescribed in terms of the Environmental Management Act [Chapter20:26].

4. By repeal of section 119 (2) (b) and section 119 (3).

5. In section 119 (2) (c) by changing it to "in consultation with the Minister for Environment, the manner in which samples of any gas, liquid or solid shall be taken by any person for the purposes of Part VI;

Part III
FOREST ACT [CHAPTER 19:05]

1. In section 40 by the deletion from the proviso of "Natural Resources Board recommends the expropriation" and the substitution of "expropriation is recommended by the Environment Board established in terms of section 19 of the Environmental Management Act [Chapter 20:26]".

2. In section 46 subsection (2) by the repeal of paragraph (c) and the substitution of—

"(c) one shall be the Director-General of Environmental Management referred to in section 46 of the Environmental Management Act [Chapter 20:26];".

3. In section 54 by the repeal of the definition of "conservation committee" and the substitution of¾¾
"environment committee" means an environment committee appointed in terms of section 61 of the Rural District Councils Act [Chapter 29:13];".

4. In section 55 subsection (2) by the deletion from paragraph (b) of "or intensive conservation area".

5. In section 56 by the deletion of subsection (1) of "Natural Resources Board and the conservation committee concerned" and the substitution of "rural district council within whose area the private land is situated".

6. In section 57—

(a) in subsection (1)—

(i) by the deletion of "member of a conservation committee" and the substitution of "member of an environment committee";

(ii) in paragraphs (a) and (b) by the deletion of "area of the conservation committee" and the substitution of "area of the rural district council concerned";

(b) by the repeal of subsection (2) and the substitution of—

"(2) The Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26], or any other person appointed by him for the purpose, may exercise the powers conferred by subsection (1) upon a member of an environment committee in respect of any private land in Zimbabwe.";

(c) in subsection (3) by the deletion from paragraph (a) of "a conservation committee or the Natural Resources Board or any person appointed by a conservation committee or the Natural Resources Board" and the substitution of "an

environment committee or the Secretary referred to in subsection (2), or any person appointed by such a committee or that Secretary, as the case may be,".

7. In section 58—

(a) in subsection (1)—

(i) by the deletion of "a conservation committee" and the substitution of "an environmental committee";

(ii) in paragraph (a) by the deletion of "Natural Resources Board" and the substitution of "Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26]";

(b) in subsection (3) by the deletion of "Natural Resources Board, a conservation committee" and the substitution of "Secretary referred to in paragraph (a) of subsection (1), an environment committee".

8. In section 68 by the deletion from subsections (4) and (6) of "to the Natural Resources Board for decision and its" and the substitution of "for decision to the Secretary as defined in section 2 of the Environmental management Act [Chapter 20:26], and this".

9. In section 69—

(a) in subsection (1) by the deletion of "Natural Resources Board" and the substitution of "Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26]";

(b) in subsection (2) by the deletion of "Part III of the Natural Resources Act [Chapter 20:13]" and the substitution of "Part IX of the Environmental Management Act [Chapter 20:26]";

(c) by the repeal of subsections (3) and (4) and the substitution of—

"(3) If the Minister considers that such a course is necessary or expedient for the conservation or protection of the natural resources within the area of a rural district council, he may¾¾

(a) authorize the council to prepare a plan, dealing with such matters as may be prescribed, for the prevention of fires within that area; and

(b) after consultation with the Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26], authorize that Secretary to give written orders to the owners, occupiers or users of any land within that area to act in accordance with the plan prepared in terms of paragraph (a).

(4) Any order given under an authority granted in terms of subsection (3) shall be deemed to be an order given in terms of section 68 of the Environmental Management Act [Chapter 20:26]."

Part IV

AGRICULTURAL LAND SETTLEMENT ACT [CHAPTER 20:01]

In section 14 in subsection (1) by the deletion from paragraph (b) of "a conservation committee appointed in terms of the Natural Resources Act [Chapter 20:13], or".

Part V

COMMUNAL LAND ACT [CHAPTER 20:04]

In section 10 in subsection (1) by the deletion from paragraph (b) of "Natural Resources Board established in terms of the Natural Resources Act [Chapter 20:13]" and the substitution of "Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26]".

Part VI

PARKS AND WILD LIFE ACT [CHAPTER 20:14]

1. In section 2¾¾

(a) by the repeal of the definition of "conservation committee";

(b) by the insertion of the following definition—

""environment committee" means an environment committee appointed in terms of section 61 of the Rural District Councils Act [Chapter 29:13];".

2. In section 77—

(a) in subsection (1)¾¾

(i) by the deletion of "Natural Resources Board and the conservation" and the substitution of "Environment Board established by section 19 of the Environmental Management Act [Chapter 20:26] and the environment";

(ii) in paragraphs (a), (b), (c) and (d) by the deletion of "a conservation committee" and "the conservation committee" wherever they occur and the substitution of "an environment committee" and "the environment committee" respectively;

(b) in subsection (8) by the deletion of "the conservation committee" and the substitution of "the environment committee";

(c) in subsection (9) by the deletion of "A conservation committee" and the substitution of "an environment committee";

(d) in subsection (10)¾¾

(i) by the deletion of "a conservation committee" and the substitution of "an environment committee";

(ii) by the deletion of "Natural Resources Board" where it occurs for the first time and the substitution of "Environment Board established in terms of section 19 of the Environmental Management Act [Chapter 20:26],";

(iii) by the deletion from paragraphs (a) and (b) of "the conservation committee" and the substitution of "the environment committee";

(iv) by the deletion of "Natural Resources Board" where it occurs for the second time and the substitution of "Environment Board";

(e) in subsections (11), (12) and (13) by the deletion of "A conservation committee" and the substitution of "An environment committee".

3. In section 78—

(a) in subsection (1) by the deletion of "a conservation committee" and "the conservation committee" wherever they occur and the substitution of "an environment committee" and "the environment committee" respectively;

(b) by the repeal of subsection (2) and the substitution of—

"(2) The Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26], or any other person appointed by him for the purpose, may exercise the powers conferred by subsection (1) upon a member of an environment committee in respect of any alienated land in Zimbabwe.";

4. In section 79 by the deletion from subsections (1) and (2) of¾¾

(a) "a conservation committee" and the substitution of "an environment committee";

(b) "Natural Resources Board" and the substitution of "Environment Board established in terms of section 19 of the Environmental Management Act [Chapter 20:26]".

5. In section 81 by the repeal of paragraph (a) and the substitution of—

"(a) hinders or obstructs¾¾

(i) a member of an environment committee; or

(ii) the Environment Board established by section 19 of the Environmental Management Act [Chapter 20:26] or any member of that Board; or

(iii) the Secretary as defined in section 2 of the Environmental Management Act [Chapter 20:26]; or

(iv) any person appointed by a person or body referred to in subparagraph (i), (ii) or (iii);

in the exercise of the powers conferred upon him or it, as the case may be, by this Part; or".

6. In section 123¾¾

(a) in subsection (1) by the deletion of "a conservation committee" and "conservation committee" and the substitution of "an environment committee" and "environment committee" respectively;

(b) in subsections (4) and (5) by the deletion of “a conservation committee” and the substitution of “an environment committee”.

Part VII

RURAL LAND ACT [CHAPTER 20:18]

In section 12 by the deletion from paragraph (b) of “conservation committee appointed under the Natural Resources Act [Chapter 20:13]” and the substitution of “environment committee appointed in terms of section 61 of the Rural District Councils Act [Chapter 29:13]”.

Part VIII

RURAL DISTRICT COUNCILS ACT [CHAPTER 29:13]

1. In section 2 in subsection (1)—

(a) by the repeal of the definitions of “natural resources conservation committee” and “natural resources conservation subcommittee”;

(b) by the insertion of the following definitions¾¾

““environment committee” means an environment committee appointed in terms of subsection (2) of section sixty-one;

“environment subcommittee” means¾¾

(a) an environment subcommittee appointed in terms of subsection (6) of section sixty-one; or

(b) a ward development committee or a village development committee designated as an environment subcommittee in terms of subsection (9) of section sixty-one;”;

(c) by the repeal of the definition of “village development committee” and the substitution of¾¾

““village development committee” means a village development committee referred to in section 17 of the Traditional Leaders Act [Chapter 29:17];”.

2. By the repeal of section 61 and the substitution of—

“ 61 Environment committee and subcommittee

(1) In this section—

“Minister” means the Minister as defined in section 2 of the Environmental Management Act [Chapter 20:26]

(2) Every council shall appoint a committee, to be known as the environment committee, to exercise the following functions¾¾

(a) to recommend to the council measures for the management and protection of the environment in the council area; and

(b) to recommend to the council ways of implementing environmental measures which the council is authorised or required to undertake in terms of any other law; and

(c) to prepare and recommend to council environmental plans required in terms of the Environmental Management Act [Chapter 20:26]; and

(d) generally, to co-operate with the Minister in carrying out the objects and purposes of the Environmental Management Act [Chapter 20:26].

(3) An environment committee shall consist of such number of members as the council may fix in consultation with the Minister, and of those members¾¾

(a) half shall be councilors appointed by the council; and

(b) half shall be persons other than councilors, appointed by the council in consultation with the Minister.

(4) The persons appointed as members of an environment committee in terms of paragraph (b) of subsection (3) shall hold office for such period and subject to such terms and conditions as the council may fix with the approval of the Minister.

(5) Persons authorized by the Minister shall be entitled to attend any meeting of an environment committee but shall have no vote on any question to be decided at the meeting.

(6) To assist its environment committee in carrying out its functions, a council may, in consultation with the Environment Board established in terms of section 19 of the Environmental Management Act [Chapter 20:26], and shall, if directed to do so by the Minister—

(a) appoint one or more environment subcommittees to exercise functions relating to the environment and natural resources within one or more wards or one or more villages in the council area; and

(b) delegate to any such environment subcommittee all or any of the functions of an environment committee.

(7) An environment subcommittee appointed in terms of subsection (6) shall consist of the following members—

(a) a chairman, who shall be the councilor for the ward or one of the councilors for the wards, as the case may be, for which the subcommittee is established; and

(b) a person nominated by the Secretary; and

(c) not more than two co-opted members, selected in terms of subsection (8), for every ward or village which falls within the area for which the subcommittee is established; and

(d) such other persons as are appointed or elected in terms of regulations made by the Minister with the consent of the Minister responsible for the administration of the Environmental Management Act [Chapter 20:26].

(8) In order to select the co-opted members for an environment subcommittee in terms of paragraph (c) of subsection (7), the council's chief executive officer shall call a public meeting of the voters in each ward concerned and, at such meeting, the co-opted members shall be elected in a manner agreed upon by the meeting: Provided that, if such a meeting fails to elect the required number of members, the council may appoint them.

(9) The Minister may, if he considers it expedient, designate a ward development committee or a village development committee as an environment subcommittee for purposes of this section.

(10) The council shall ensure that the boundaries of the area for which every environment subcommittee is appointed in terms of subsection (6) coincide with the boundaries of one or more wards or villages of the council area.".

3. In section 159 in subsection (2) by the deletion from paragraph (d) of "village development committees and".

Part IX

URBAN COUNCILS ACT [CHAPTER 29:15]

In section 181 by the deletion from subsection (1) of "Natural Resources Act [Chapter 20:13]" and the substitution of "Environmental Management Act [Chapter 20:26]".

The Minister may serve a written order to obtain information or data for the purpose of enabling the Minister to determine what measures should be taken for the management and protection.

[The Law Reviser advises this final paragraph requires amendment—Editor.]