

CHAPTER 10:22 RESEARCH ACT

Acts 5/1986, 2/1988, 18/1989 (s.40, s.43), 11/1991 (s.29), 2/1998, 22/2001 (s. 4), 3/2016 (Part XXIV).

[Date of commencement: 1st October, 1986.]

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AN ACT to establish the Research Council of Zimbabwe and to confer on the Council functions and powers relating to the promotion, direction, supervision and co-ordination of research; to provide for the establishment of research councils and research institutes and for the control of such research councils and research institutes by the Council; to provide for the control of research conducted by bodies or persons in terms of any Act; to provide for the registration of foreign researchers; and to provide for matters connected with or incidental to the foregoing.

PART I

Preliminary

1. Short title

This Act may be cited as the Research Act [*Chapter 10:22*].

2. Interpretation

In this Act -

"Council" means the Research Council of Zimbabwe established by [section 3](#);

"financial year", in relation to the Council, means the financial year of the Council referred to in [section 19](#);

"member" means a member of the Council;

"Minister" means a Vice-President or any Minister to whom the President may, from time to time, assign the administration of this Act;

"Minister responsible", in relation to any matter for which a research council or research institute is to be or has been established, means -

- (a) any Minister who is empowered or required by any law to exercise any function in respect of such matter; or
- (b) a Vice-President, where that Vice-President is empowered or required by any law to exercise any function in relation to such matter;

"potentially harmful research or undertaking" -

- (a) means any form of research or undertaking which, in the Council's opinion, poses or is likely to pose a danger to persons, animals or plants or to the environment generally;
- (b) in relation to a safety board which has been appointed to ensure the safety of a particular class of research or undertaking referred to in [paragraph \(a\)](#), means that class of research or undertaking;

[Definition inserted by [section 2](#) of No. 2 of 1998.]

"repealed Act" means the Research Act [*Chapter 336 of 1974*];

"research" means any systematic, critical or scientific study of, or inquiry into, any subject or matter for the

extension of knowledge;

"research council" means a research council established in terms of this Act to conduct research, and includes, where the context so requires or admits, a research council established in terms of the repealed Act;

"research institute" means a research institute established in terms of this Act to conduct research;

"safety board" means a safety board established by the Council in terms of [section 28B \(1\)](#).

[Definition inserted by [section 2](#) of No. 2 of 1998.]

PART II

Research Council of Zimbabwe

3. Establishment of Council

There is hereby established a council, to be known as the Research Council of Zimbabwe, which shall be a body corporate and shall be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as a body corporate may by law perform.

4. Composition of Council

(1) The Council shall consist of such members as the Minister shall appoint, not being less than ten or more than fifteen in number, as the Minister may from time to time determine.

(2) The Minister shall appoint one member as chairman of the Council and one other 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 his functions.

5. Disqualifications for appointment to Council

The Minister shall not appoint a person as a member, and no person shall be qualified to hold office as a member who -

- (a) has, in terms of a law in force in any country -
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside; or
- (b) has, within the period of five years immediately preceding the date of his proposed appointment, been sentenced in any country to a term of imprisonment imposed without the option of a fine for an offence involving fraud or dishonesty; or
- (c) is a member of Parliament or was, at any time during the period of twelve months ending on the date of his proposed appointment as a member, a member of Parliament.

6. Tenure and conditions of office of members of Council

(1) A member shall, subject to this Part, hold office for such period, not exceeding three years, as the Minister may fix on his appointment, and shall, upon the expiry of his term of office, be eligible for reappointment as a member.

(2) Subject to this Act, a member shall hold office on such conditions as the Minister may fix for members generally.

7. Vacation of office by member and suspension of member of Council

(1) A member shall vacate his office and his office shall become vacant -

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment imposed in any country; or

- (c) if he becomes disqualified to hold office as a member in terms of [section 5 \(a\)](#) or [\(c\)](#); or
 - (d) if he is required in terms of [subsection \(2\)](#) to vacate his office; or
 - (e) if he is absent from three consecutive meetings of the Council of which he has had notice without the permission of the Council.
- (2) The Minister may require a member to vacate his office if that member -
- (a) is guilty of any conduct that renders him unsuitable to continue to hold office as a member; or
 - (b) has failed to comply with any of the conditions of his office fixed by the Minister in terms of [section 6 \(2\)](#); or
 - (c) is mentally or physically incapable of efficiently carrying out his functions as a member.

(3) The Minister may suspend a member against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed and, while that member is so suspended, he shall not carry out any functions as a member.

8. Filling of vacancies on Council

On the death of, or the vacation of office by, a member, the Minister shall appoint a person to fill the vacancy until the expiry of the period during which the member would, but for his death or the vacation of his office, have continued in office:

Provided that, if, but for his death or the vacation of his office, the member would have continued to hold office for less than three months the Minister need not appoint a person to fill the vacancy.

9. Meetings and procedure of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may specify and thereafter the Council shall meet for the transaction of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit:

Provided that a meeting of the Council shall be held not less than three times in each year.

(2) The chairman of the Council may at any time, and shall, at the request in writing of at least three other members, convene a special meeting of the Council.

(3) A notice convening a special meeting of the Council shall specify the purpose for which the meeting is to be convened.

(4) If the chairman of the Council is prevented by any cause from exercising his functions in relation to the Council and the vice-chairman notifies the Minister in writing that he is unable to exercise the functions of the chairman as is provided in [section 4 \(2\)](#), the Minister may appoint a member, other than the vice-chairman, to act as chairman of the Council and the member so appointed shall exercise the functions of the chairman.

(5) If at a meeting of the Council the chairman and the vice-chairman are absent and an acting chairman has not been appointed in terms of [subsection \(4\)](#), the members present may elect one of their number to preside as chairman at that meeting.

(6) Not less than one-half of all members shall form a quorum at a meeting of the Council.

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

(8) At all meetings of the Council each member shall have one vote on a question before the Council and, in the event of an equality of votes, the chairman of the Council, the vice-chairman of the Council, an acting chairman or any other member presiding at the meeting, as the case may be, shall have a casting vote in addition to his deliberative vote.

10. Transaction of business of urgent nature

(1) If it is not practicable to hold a meeting of the Council for the transaction of business of an urgent nature, the chairman shall, after consulting such other members as is practicable in the circumstances, deal with the business himself, and as soon as may be thereafter give to the Council full particulars of the nature and extent of the urgency of the business and the circumstances in which the urgency arose and of the action taken by him in the matter.

(2) Any proposal circulated among all members and agreed to in writing by a majority of all members shall have the same effect as a resolution passed at a duly constituted meeting of the Council and shall be incorporated

in the minutes of the next following meeting of the Council:

Provided that if a member requires that such proposal be placed before a meeting of the Council this subsection shall not apply to such proposal.

11. Committees of Council and observers

(1) For the better exercise of its functions the Council may establish one or more committees in which may be vested such of the functions of the Council as the Council may direct:

Provided that the vesting in a committee of any such functions shall not divest the Council of such functions and the Council may, in the exercise of its functions, amend or rescind any decision of any such committee.

(2) On the establishment of a committee of the Council in terms of [subsection \(1\)](#), the Council -

- (a) subject to [subsection \(3\)](#), may appoint as members of that committee persons who are not members of the Council; and
- (b) shall appoint to that committee at least one member of the Council and shall appoint that member or, in the event that there are two or more members on the committee, one of those members, as the case may be, to be chairman of the committee.

(3) The Council shall not appoint a person to be a member of a committee if he is disqualified in terms of [section 5](#) from appointment as a member of the Council.

(4) A member of a committee of the Council shall vacate his office -

- (a) in the case of a member who is a member of the Council, upon his ceasing to be a member of the Council;
- (b) in the case of a member who is not a member of the Council -
 - (i) if his appointment is terminated by the Council; or
 - (ii) if he would be required in terms of [section 7](#) to vacate his office had that [section 5 \(a\)](#) and [\(c\)](#) applied to him.

(5) Subject to this section and [section 15](#), members of committees of the Council shall hold office on such conditions as the Council may fix for members of committees generally.

(6) Subject to [section 12](#), the procedure to be followed at any meeting of a committee of the Council and the quorum at such meeting shall be determined by the Council.

(7) The chairman of the Council may at any time and place convene a meeting of a committee of the Council.

(8) No decision or act of a committee of the Council or act done under the authority of a committee of the Council shall be invalid solely on the ground that -

- (a) the committee consisted of fewer than the number, if any, fixed by the Council as constituting the membership of the committee; or
- (b) a disqualified person purported to act as a member of the committee at the time the decision was taken or the act was done or authorized.

(9) For the better exercise of the functions of the Council, the chairman of the Council or of a committee of the Council may, with the approval of the Council, invite to attend any meeting of the Council or of a committee of the Council, as the case may be, any person who, in the opinion of the chairman of the Council or of the committee, has special knowledge or experience that is relevant to the matter to be considered by the Council or the committee, as the case may be, at that meeting.

(10) A person invited to attend a meeting of the Council or of a committee in terms of [subsection \(9\)](#) may take part in the proceedings of the Council or of the committee as if he were a member thereof but shall not have a vote on any question before the Council or committee, as the case may be.

12. Minutes of proceedings of Council and committees

(1) The Council shall cause minutes of all proceedings of and decisions taken at all meetings of the Council and of every committee of the Council and safety board to be entered in books kept for the purpose.

[Subsection as amended by [section 3](#) of No. 2 of 1998.]

(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 Council or of the committee or safety board concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

[Subsection as amended by [section 3](#) of No. 2 of 1998.]

13. Validity of decisions and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid solely on the ground that -

- (a) the Council consisted of fewer than the minimum number of members for which provision is made in [section 4 \(1\)](#); or
- (b) there was a vacancy in the membership of the Council; or
- (c) a disqualified person purported to act as a member at the time the decision was taken or the act was done or authorized.

14. Execution of contracts and instruments by Council

An agreement, contract or instrument approved by the Council may be entered into or executed on behalf of the Council by any person or persons generally or specially authorized by the Council for that purpose.

15. Remuneration and allowances of members of Council and committees

A member of the Council or of a committee of the Council or a safety board shall be paid from the funds of the Council -

- (a) such remuneration, if any, as the Minister, with the approval of the Minister responsible for finance, may from time to time fix for such members generally; and
- (b) such allowances, if any, as the Minister, with the approval of the Minister responsible for finance, may from time to time fix to meet any reasonable expenses incurred by such members in connection with the business of the Council or of the committee or safety board concerned, as the case may be.

[Section as amended by [section 4](#) of No. 2 of 1998.]

PART III

Functions And Powers Of Council

16. Functions of Council

(1) The Council shall generally be responsible for the promotion, direction, supervision and co-ordination of research with particular reference to the interests of Zimbabwe and shall, in appropriate cases, discharge its responsibilities -

- (a) by exercising the power of control conferred upon it by or under this Act over research councils and research institutes; and
- (b) by making donations or grants and awarding fellowships or any other similar awards for specific research; and
- (c) by promoting, assisting and encouraging research in Zimbabwe and co-operating with individuals, organizations and institutions in the co-ordination of research in Zimbabwe; and
- (c1) by ensuring that persons, animals, plants and the environment generally are protected from the effects of potentially harmful research or undertakings; and
[Paragraph inserted by [section 5](#) of No. 2 of 1998.]
- (d) by making recommendations to the Minister in relation to -
 - (i) the grant to an individual, the holder of an office or post, a body, unit, corporation or other association of persons of an honour or award for outstanding achievement, invention or discovery in the field of research; and
 - (ii) the payment of a reward or gratuity to the recipient of an honour or award referred to in [subparagraph \(j\)](#) from moneys appropriated for the purpose by Act of Parliament; and
- (e) by co-operating with persons, organizations or institutions in any other part of the world in matters of research; and
- (f) by securing full use in the public interest of the results of research by the collection and dissemination

of information and by the giving of advice in relation thereto; and

- (g) by making recommendations to the Minister in relation to -
- (i) the formulation and implementation by the Government of a national science policy; and
 - (ii) the research needs of Zimbabwe and the priorities to be observed in the allocation of funds and other resources for purposes of meeting such needs; and
 - (iii) the establishment of research councils or research institutes to conduct research; and
 - (iv) the constitution under which a research council or research institute shall be established in terms of this Act or the constitution under which a research council was established in terms of the repealed Act; and
 - (v) the assignment of responsibilities to the Minister responsible in respect of any research council or research institute established in terms of this Act or any research council established in terms of the repealed Act; and
 - (vi) subject to [section 27](#), the approval and monitoring of research conducted in Zimbabwe by scholars and other persons who are not citizens or residents of Zimbabwe; and
 - (vii) all such other things, and the steps to be taken, as fall within the functions of the Council in terms of this Act; and
- (h) by tendering advice to the Minister on the overall management of research programmes and the allocation of funds and other resources for research.

(2) Without prejudice to [subsection \(1\)](#), the Council may, after consultation with the Minister responsible and subject to [subsection \(3\)](#), exercise the powers and functions conferred upon it by or under this Act over research conducted by any person or body in terms of any Act.

(3) Where the Council intends to exercise the powers and functions referred to in [subsection \(2\)](#) it shall, by notice in writing, advise the person or body concerned that with effect from such date as may be specified in the notice, the Council intends to exercise its powers over that person or body and, where such notice is given, with effect from the date specified therein, [sections 26](#) and [28](#) shall, notwithstanding the provisions of the Act concerned apply, *mutatis mutandis*, to the person or body as though such person or body were a research council or a research institute referred to in those provisions.

17. Powers of Council

(1) The Council shall have power to do all or any of the matters or things specified in [the Schedule](#).

(2) The Minister, after consultation with the Council, may from time to time, by statutory instrument, make amendments to [the Schedule](#).

PART IV

Financial Provisions

18. Funds of Council

The funds of the Council shall consist of -

- (a) such moneys as may be payable to the Council from moneys appropriated for the purpose by Act of Parliament; and
- (b) such other moneys or assets as may vest in or accrue to the Council in the course of its operations or otherwise.

19. Financial year of Council

The first financial year of the Council shall be the period ending on the 30th June immediately following the date of the commencement of its operations or on such other date as the Minister may direct and thereafter the financial year of the Council shall be the period of twelve months ending on the 30th June in each year or on such other date as the Minister may direct.

20. Accounts of Council

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

(2) The Council shall prepare and submit to the Minister in accordance with [section 21 \(4\)](#), a statement of accounts in respect of each financial year or such other period as the Minister may direct.

21. Appointment of auditors and audit of accounts of Council

(1) The Council shall annually appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts of the Council kept in terms of [section 20 \(1\)](#) shall be examined by the auditors appointed in terms of [subsection \(1\)](#).

(3) The auditors shall make a report to the Council on the accounts examined by them and on the statement of accounts prepared in terms of [section 20 \(2\)](#) and such report shall include a statement showing -

- (a) whether or not they have obtained all the information and the explanations they have required; and
- (b) whether, in their opinion, such statement of accounts is properly drawn up so as to exhibit a true and fair view of the state of affairs of the Council according to their best information and the explanations given to them and as shown by the books of the Council.

(4) As soon as the accounts of the Council have been audited, the Council shall submit to the Minister its statement of accounts referred to in [section 20 \(2\)](#), together with a copy of the report of the auditors referred to in [subsection \(3\)](#).

(5) In addition to the report of the auditors referred to in [subsection \(3\)](#), the Minister may require the Council to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Council as the Minister may consider expedient.

(6) If, in the opinion of the auditors -

- (a) they have not obtained the information and explanations they require; or
- (b) the accounts and records relating thereto have not been properly kept; or
- (c) the Council has not complied with this Part;

the auditors shall include in the report made in terms of [subsection \(3\)](#) or [\(5\)](#), as the case may be, statements to that effect.

22. Powers of auditors

(1) The auditors appointed in terms of [section 21 \(1\)](#) shall have the right of access at all reasonable times to the books, accounts and vouchers of the Council and other records relating thereto kept by the Council and shall be entitled to require from any member, employee or agent of the Council such information and explanations as in their opinion are necessary for the purposes of their audit.

(2) Any member, employee or agent of the Council who fails without just cause to comply with a requirement of an auditor in terms of [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

23. Reports by Council

(1) In addition to any annual report which the Council may be required to submit to the Minister in terms of the Public Finance Management Act [*Chapter 22:19*], the Council -

- (a) shall submit to the Minister such other reports as the Minister may require;
- (b) may submit to the Minister such other reports as the Council considers desirable.

[\[Sub-s. \(1\) amended by Part XXIV of No. 3 of 2016.\]](#)

(2) The Council shall give to the Minister all such information relating to the operations and undertakings of the Council as the Minister may at any time require.

(3) The Minister may lay before Parliament a report submitted to him by the Council in terms of [subsection \(1\)](#).

24. Establishment of research councils and research institutes

(1) Whenever the Minister responsible considers it necessary or desirable to establish a research council or research institute for the purposes of facilitating the carrying out of research, he shall submit his proposal to the Council and shall include the suggested constitution of the research council or research institute concerned.

(2) The Council shall consider any proposal received by it in terms of [subsection \(1\)](#) and shall thereafter submit its own recommendations thereon to the Minister.

(3) Where the Minister has received any proposal and the recommendations of the Council in terms of [subsection \(2\)](#), he may -

- (a) approve the proposal with or without such qualifications or amendments as he may direct in writing; or
- (b) decline to approve the proposal.

(4) Where the Minister has approved a proposal in terms of [subsection \(3\)](#), the Minister responsible may establish the research council or research institute concerned in accordance with the approval granted by the Minister and shall cause notice of the establishment of the research council or research institute to be given in the *Gazette*.

25. Provisions to be contained in constitution of research council or research institute

(1) The constitution of a research council or research institute which is intended to be a body corporate shall contain provision for the following matters -

- (a) the name of the research council or research institute;
- (b) the composition of the research council or research institute and the tenure and conditions of office of members thereof;
- (c) the disqualifications for appointment as a member of the research council or research institute;
- (d) the circumstances in which the Minister responsible may require a member of the research council or research institute to vacate his office and in which the Minister responsible may suspend such member from the exercise of his functions as a member;
- (e) the circumstances in which a member of the research council or research institute shall vacate his office;
- (f) the filling of vacancies on the research council or research institute;
- (g) meetings and the procedure at meetings of the research council or research institute;
- (h) minutes of proceedings of the research council or research institute;
- (i) the transaction of business of an urgent nature by the research council or research institute;
- (j) the validity of the decisions and acts of the research council or research institute;
- (k) the execution of contracts and instruments by the research council or research institute;
- (l) the appointment of an executive committee and other committees of the research council or research institute and the powers to delegate functions to such committees;
- (m) the funds of the research council or research institute;
- (n) the keeping of accounts, audit and reports of the research council or research institute;
- (o) the corporate powers which shall be exercised by the research council or research institute and the conditions or limitations upon which or within which such corporate powers shall be exercised;
- (p) the nature and scope of the research to be carried out by the research council or research institute;
- (q) the dissolution of the research council or research institute and the proper and effective winding-up of its affairs, including the transfer of employees, if any, and the disposition of any assets and liabilities;
- (r) such other matters as may be considered necessary or desirable.

(2) The Minister responsible may, after consultation with the Council and with the approval of the Minister, amend the constitution of a research council or research institute.

26. Functions and research programmes of research council or research institute

(1) Subject to [section 28](#), the functions of a research council or research institute shall be to carry out research within Zimbabwe in accordance with its constitution and a research programme approved by the Council in terms [section 28 \(1\)](#).

(2) A research council or research institute, as the case may be, shall, as often as the Council may direct, prepare and submit to the Council -

- (a) a research programme showing its proposals with respect to -
 - (i) the research to be carried out by the research council or research institute, as the case may be; and
 - (ii) the priorities to be observed in carrying out such research; and
 - (iii) such other matters as the Council may require; and
- (b) reports on the implementation by it of research programmes approved or funded, whether wholly or in part, by the Council.

27. Registration in relation to foreign research with Council

(1) Any person -

- (a) who wishes to conduct research in Zimbabwe on behalf of a foreign institution, foreign organization or other foreign person, whether as an employee or otherwise; or
- (b) other than a citizen of or a person ordinarily resident in Zimbabwe, who wishes to conduct research in Zimbabwe;

shall, before conducting such research, register with the Council in the form and manner to be determined by the Council and shall tender to the Council the appropriate registration fee.

(2) The Council may, with the approval of the Minister, fix a fee for the registration and in so doing may fix different fees for the registration of different classes of persons.

(3) The Council may, before registering a person referred to in [subsection \(1\)](#), request that person to furnish it with such relevant information as it may require.

(4) The Council shall, on registering a person in terms of [subsection \(1\)](#), issue to that person a certificate of registration.

(5) Where there has been a substantial or material change in the particulars of research conducted by a person who has been registered in terms of [subsection \(1\)](#), such person shall as soon as possible advise the Council of such change.

(6) A person who has been registered in terms of [subsection \(1\)](#) shall -

- (a) at such time as the Council may request, submit an interim report relating to his research;
- (b) on completion of his research, submit a final report on the results or other findings of his research to the Council.

28. Control of research councils and research institutes by Council

(1) The Council -

- (a) shall consider the research programme submitted to it from time to time by a research council or research institute in terms of [section 26 \(2\)](#) and may, subject to such modifications as the Council thinks fit, approve the research programme to be carried out by the research council or research institute, as the case may be; and
- (b) shall exercise general supervision and control of the research council or research institute concerned and ensure that the research council or research institute, as the case may be, observes the provisions of this Act and of its constitution and the research programme as approved or amended by the Council from time to time; and
- (c) may, after consultation with the research council or research institute concerned, give the research council or research institute, as the case may be, general directions on matters of policy.

(2) The Council may, after consultation with a research council or research institute, as the case may be, make such amendments to the approved research programme of that research council or research institute as the Council thinks fit.

(3) Every research council and research institute shall permit the Council and any person appointed by the Council to make inspections and examinations of its operations, records and accounts, and shall comply with any directions given to it by the Council under the provisions of this Act.

28A. Access to research facilities

(1) Subject to this section and to any directions given to it by the Council, a research council or research institute may permit any person to utilise research facilities owned or controlled by the research council or research institute for the purpose of conducting any form of research or undertaking.

(2) A person who utilises any research facilities in accordance with [subsection \(1\)](#) shall pay the research council or research institute concerned -

- (a) such fee as may be agreed between him and the research council or research institute; or
- (b) a reasonable fee determined by the Council, where he and the research council or research institute have been unable to agree on a fee.

(3) The research council or research institute may vary any of the terms or conditions upon which it has permitted a person to utilise its facilities in terms of [subsection \(1\)](#):

Provided that before doing so the research council or research institute shall give the person concerned an adequate opportunity to make representations in the matter.

[Section inserted by [section 6](#) of No. 2 of 1998.]

PART VA

Measures to Ensure Safety of Research

28B. Safety boards

(1) Subject to this Part, the Council may establish one or more boards for the purpose of ensuring the safety of potentially harmful research or undertakings generally or any class of potentially harmful research or undertakings.

(2) Where the Council has established a safety board, it shall publish notice of that fact in the *Gazette*.

(3) A safety board shall consist of such number of members appointed by the Council as the Council may from time to time determine.

(4) The Council may appoint persons who are not members of the Council to be members of a safety board.

(5) [Section 11 \(3\)](#) to [\(10\)](#) shall apply, *mutatis mutandis*, in respect of safety boards and their members.

28C. Functions of safety boards

(1) Subject to subsection (3), the functions of a safety board shall be -

- (a) to monitor and supervise potentially harmful research or undertakings; and
- (b) to formulate and additionally, or alternatively, to implement measures to protect persons, animals and the environment generally from dangers that may arise from potentially harmful research or undertakings; and
- (c) to make recommendations to the Council in regard to the control and regulation of, and the policy to be adopted towards, potentially harmful research or undertakings; and
- (d) to publish information regarding potentially harmful research or undertakings; and
- (e) to perform such other functions in regard to potentially harmful research or undertakings as may be prescribed.

(2) The Council may vest in a safety board such of the Council's functions, in so far as they relate to potentially harmful research or undertakings, as the Council may think fit:

Provided that the vesting of such a function in a safety board shall not divest the Council of that function, and the Council may amend or rescind any decision the safety board may have made in the exercise of that function.

[Part VA inserted by [section 7](#) of No. 2 of 1998.]

29. Discoveries and inventions by officers of Council, research council or research institute.

(1) Subject to [section 30](#) the rights in all discoveries and inventions and in all improvements in respect of processes, articles, substances, materials, machinery or apparatus made in the course of their employment by officers of the Council or a research council or research institute or persons holding research fellowships or other similar awards granted by the Council or a research council or research institute shall be vested in the Council or the research council or research institute, as the case may be, and such discoveries, inventions and improvements shall be made available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Council or the research council or research institute, as the case may be, may, in accordance with regulations made by the Minister, determine.

(2) The Council or a research council or research institute may, out of its funds, pay the discoverer or inventor working as an officer of the Council or the research council or research institute, as the case may be, or as a person holding a research fellowship or other similar award granted by the Council or the research council or research institute, as the case may be, such bonus, or make provision for such financial participation in the profits derived from the relevant discovery or invention as the Minister or the Minister responsible, as the case may be, in consultation with the Minister responsible for finance, may determine.

(3) The Council, a research council or research institute may apply for a patent in respect of any discovery, invention or improvement referred to in [subsection \(1\)](#) and shall, for the purposes of the Patents Act [*Chapter 26:03*], be regarded as the assignee of the discoverer or inventor.

30. Special investigations at request of person with a specific object of making discoveries, inventions or improvements

(1) Subject to the approval of the Minister or the Minister responsible, as the case may be, the Council, a research council or research institute may, at the request of any person and at such place and subject to such conditions and the payment of such charges as may be agreed upon, carry out or cause to be carried out through its officers or through persons holding research fellowships or other similar awards granted by it or to whom special grants were made by it special investigations with the object of the discovery or invention of or the improvements in respect of any process, article, substance, material, machinery or apparatus.

(2) The rights in any discovery, invention or improvement so made shall be vested in the Council or the research council or research institute concerned, as the case may be, or the person who made the discovery, invention or improvement if he is a person to whom a special grant is made by the Council or the research council or research institute, as may be provided by a written agreement entered into by the parties concerned prior to the investigation.

(3) Any discoveries, inventions or improvements, the rights to which are vested in the Council, a research council or research institute in pursuance of an agreement referred to in [subsection \(2\)](#), shall be made available for use in the public interest and the Council, the research council or research institute concerned may apply for a patent in respect thereof, as if they were discoveries, inventions or improvements referred to in [section 29 \(1\)](#).

(4) If the rights to any discovery, invention or improvement are, in pursuance of an agreement referred to in [subsection \(2\)](#), vested in any person other than the Council, the research council or research institute concerned, that discovery, invention or improvement shall be used or made available for use in the public interest subject to such conditions as may be provided by the agreement.

31. Minister may give Council directions in public interest

The Minister may from time to time give the Council such directions of a general character relating to the exercise of its functions as appear to the Minister to be requisite in the public interest and the Council shall be bound to comply with any such directions.

31A. Exemption from liability

No liability shall attach to the Council, any committee of the Council or a safety board, or to any member or employee of the Council, a committee of the Council or a safety board, in respect of loss or damage sustained by any person as a result of the *bona fide* exercise or performance by the Council, committee, safety board, member or employee concerned of any function conferred or imposed upon it or him, as the case may be, by or under this Act:

Provided that this section shall not be construed so as to prevent any person from recovering damages or compensation for any loss or damage sustained by him which was caused by negligence or breach of contract.

[Section inserted by [section 8](#) of No. 2 of 1998.]

32. Regulations

(1) The Minister, after consultation with the Council, may make regulations prescribing anything which in terms of this Act is permitted or required to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for the better carrying out of or giving effect to the provisions of this Act.

[Subsection as amended by [section 9](#) of No. 2 of 1998.]

(2) Regulations made in terms of [subsection \(1\)](#) may provide for -

- (a) the terms and conditions under which persons may utilise research facilities in terms of [section 28A](#);
- (b) the prohibition, regulation and control of potentially harmful research or undertakings;
- (c) precautions to be taken by persons carrying on potentially harmful research or undertakings in order to prevent or minimise danger to persons, animals or plants or to the environment generally;
- (d) the functions of safety boards in regard to potentially harmful research or undertakings;
- (e) the inspection of any premises or place where it is known or suspected on reasonable grounds that any potentially harmful research or undertaking is being or will be carried on;
- (f) returns and other information to be supplied by persons who carry on potentially harmful research or undertakings.

[Subsection inserted by [section 9](#) of No. 2 of 1998.]

(3) Regulations made in terms of [subsection \(1\)](#) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level fourteen or imprisonment for a period of one year or both such fine and such imprisonment.

[Subsection inserted by [section 9](#) of No. 2 of 1998 and amended by [section 4](#) of 22 of 2001.]

PART VII

Transitional Provisions

33. Transitional provisions

Where, prior to the 1st October, 1986, a research council has been established in terms of the Research Act [*Chapter 336 of 1974*] and is operating on the 1st October, 1986, date in accordance with its constitution -

- (a) subject to paragraph (b), that research council shall continue in existence and shall be deemed to have been established in terms of [section 24](#); and
- (b) the constitution of that research council shall be deemed to have been drawn up in terms of [sections 24](#) and [25](#) and may be amended in accordance with of those sections; and
- (c) that research council shall continue to operate subject to this Act and of its constitution, as may be amended from time to time.

Schedule POWERS OF COUNCIL

(Section 17(1))

1. To employ, upon such terms and conditions as may be determined by the Council and approved by the Minister, such professional, technical, administrative and other staff as may be necessary for conducting the affairs of the Council, and to suspend or discharge such staff.
2. To pay any person in its employment such salary, wages or other remuneration as may be determined by the Council and approved by the Minister, and to grant him such leave as the Council may consider appropriate.
3. To provide for persons in its employment or their dependants, by means of insurance, a pension fund or provident fund or by any other means whatsoever, pecuniary benefits upon retirement, death or termination of service or in the event of sickness or injury.
4. Subject to the Public Finance Management Act [*Chapter 22:19*], to raise moneys by way of loan, bank overdraft or otherwise in such amounts and for such purposes as the Minister may approve:

Provided that, if the power specified in the this paragraph is conferred on a research council or research

institute in terms of its constitution, the Minister or the Minister responsible, as the case may be, shall not give his approval until he has consulted the Council.

[Item 4 amended by Part XXIV of No. 3 of 2016.]

5. To purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property, and any rights, including patent rights or privileges, which the Council considers necessary or expedient for the purpose of performing its functions.
6. To construct, maintain, alter and improve any of its buildings, works, machinery and plant necessary or expedient for the purpose of performing its functions.
7. To work or otherwise beneficially use and to exchange, let, sell or mortgage any of the property, rights or privileges acquired or constructed under paragraph 5 or 6:

Provided that the Council or, where the power specified in this paragraph is conferred on a research council or research institute in terms of its constitution, a research council or research institute shall not sell any of its immovable property except with the consent of the Minister or the Minister responsible, as the case may be.

8. Subject to the Public Finance Act [*Chapter 22:19*], to invest and deal with any of its moneys not immediately required in such securities and in such manner as the Council may consider appropriate, and to vary or realise such investments.

[Item 8 amended by Part XXIV of No. 3 of 2016.]

9. To invite and receive donations from any person towards its expenses and to grant fellowships and other similar awards and make donations and grants in such amounts and for such purposes as the Minister may approve.
10. With the approval of the Minister, to enter into agreements to facilitate the voluntary transfer of professional, technical or other staff between the Council and any other person.
11. For the better performance of its functions -
 - (a) to co-operate with Ministries and departments of the State, universities, technical colleges and persons conducting research in Zimbabwe; and
 - (b) with the approval of the Minister, to co-operate with persons and organizations engaged in research in other countries.
12. Subject to the approval of the Minister, to have charge of, and direction and supervision over, the research which may be undertaken under conditions to be determined in each case by or for single industrial firms, or by such organizations or persons as may desire to avail themselves of the facilities for this purpose.
13. Subject to the approval of the Minister, to publish from time to time such information as the Council may consider necessary.
14. To do all things incidental or conducive to the exercise or enjoyment of the rights, interests and powers conferred upon the Council and the performance of the obligations imposed upon it by this Act.

RESEARCH ACT CHAPTER 10:22

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NOTICE

[G.N. No. 483 of 2019](#)

Establishment of Zimbabwe National Geospatial and Space Agency

REGULATION

[S.I. No. 20 of 2000](#)

Research (Biosafety) Regulations, 2000

NOTICE

(Section 24 (1) and 24 (3))

IT is hereby notified that, the Minister responsible for Higher and Tertiary Education, Science and Technology Development has, in terms of section 24 (1) as read with section 24 (3) of the Research Act [*Chapter 10:22*], established an institute known as the Zimbabwe National Geospatial and Space Agency for purposes of research, the Constitution of which is attached in [the Schedule](#).

PROFESSOR A. MURWIRA,
Minister of Higher and Tertiary Education,
Science and Technology Development.

29-3-2019

Schedule
CONSTITUTION FOR THE ZIMBABWE NATIONAL GEOSPATIAL AND SPACE AGENCY

INTERPRETATION

In this Constitution-

"Board" means the Board of Directors for ZINGSA;

"chairperson" means the Chairperson of the Board;

"member" means a member of the Board;

"Minister" means a Vice President or any Minister to whom the President may from time to time assign the administration of the Research Act [*Chapter 10:22*];

"Minister responsible" means Minister responsible for ZINGSA;

"officer" means a member of staff employed by the Board;

"ordinance" means the rules prescribing specific modes of conduct by officers of the ZINGSA;

"ZINGSA" means the Zimbabwe National Geospatial and Space Agency established in terms of Article 1.

ARTICLE 1

Establishment of ZINGSA

- 1.1 There is hereby established an institute to be known as the Zimbabwe National Geospatial and Space Agency (hereinafter referred to as ZINGSA).
- 1.2 The ZINGSA shall be a body corporate, capable of suing and being sued in its corporate name.

ARTICLE 2

Objects of the ZINGSA

The objects of the ZINGSA are to-

- 2.1 promote the peaceful use of space;
- 2.2 support the creation of an environment conducive to industrial development in space technology;
- 2.3 foster research in geospatial science, space science, communications, navigation and space physics;
- 2.4 advance scientific, engineering and technological competences and capabilities through human capital development outreach programmes and infrastructure development; and
- 2.5 foster international co-operation in space-related activities.

ARTICLE 3

Membership

3. ZINGSA shall consist of-

- 3.1 the Board;
- 3.2 the Director General;
- 3.3 five (5) Founding Directorates;
- 3.4 four (4) Technical Directorates;
- 3.5 one (1) Administrative Director; and
- 3.6 officers.

ARTICLE 4

Functions of ZINGSA

- 4.1 The functions of ZINGSA shall be to-
 - 4.1.1 implement any space programme in line with the policy determined in terms of the Research Act;
 - 4.1.2 advise the Minister responsible on the development of national space science and technology strategies and programmes;
 - 4.1.3 implement any national space science and technology strategy;
 - 4.1.4 design and conduct research and development initiatives that promote advances in Geospatial and Earth Observation, Space Science, Space Engineering and launch Satellites;
 - 4.1.5 regulate, promote and coordinate research and innovations aimed at advancing knowledge and applications of geospatial science, space science, aeronautics sciences and space engineering for the benefit of the nation; and
 - 4.1.6 acquire, assimilate and disseminate space satellite imagery.
- 4.2 ZINGSA may, in order to perform any duty contemplated in sub article (1) and in order to achieve its objects-
 - 4.2.1 enter into an agreement with any person, government or administration on the terms and conditions agreed upon by ZINGSA Board and that person, government or administration;
 - 4.2.2 purchase or otherwise acquire, or dispose of, any property and may hire out, let, pledge or otherwise encumber that property;
 - 4.2.3 for the purposes or developing or exploiting any invention or technological space, or in collaboration with any other person establish such a company;
 - 4.2.4 acquire an interest in any company or other juristic person undertaking the development or exploitation or an invention or technological space innovation; and
 - 4.2.5 establish any programme in line with national space policy in respect of-
 - 4.2.5.1 enabling technologies that will provide leadership in coordinating and supporting applied research;
 - 4.2.5.2 coordination and support to the development of space science missions;
 - 4.2.5.3 space mission applications; and
 - 4.2.5.6 space mission operations;

(Editorial Note: Numbering as per original *Government Gazette*.)

 - 4.2.6 support programmes or projects relating to scientific space research;
 - 4.2.7 ZINGSA may collaborate with Universities for the development of space science;
 - 4.2.8 co-operate with space and space-related agencies of other countries in the peaceful use development of space; and
 - 4.2.9 do anything necessary for the proper performance of its functions or to achieve its objects.

ARTICLE 5

Powers of the Minister Responsible

- 5.1 The Minister responsible shall issue policy directions to ZINGSA.
- 5.2 ZINGSA shall take all necessary steps to comply with the policy directions issued by the Minister responsible in terms of sub article (1).

ARTICLE 6

Board

- 6.1 There is hereby established a Board, to be known as the ZINGSA Board which shall ensure the proper and efficient management of the Institute.
- 6.2 The Board shall consist of not less than six (6) or more than twelve (12) members appointed by the Minister after consultation with the President including-
- 6.2.1 a representative from the Ministry responsible for Defence;
 - 6.2.2 a representative from the Ministry of Higher and Tertiary Education, Science and Technology Development;
 - 6.2.3 the Director General of ZINGSA as an ex officio member;
 - 6.2.4 a distinguished scientist with relevant knowledge and experience in geospatial science and space technology;
 - 6.2.5 a registered Legal Practitioner of not less than five years' experience;
 - 6.2.6 an Accountant registered with the Public Accountants Act of not less than (5) years' experience;
 - 6.2.7 The remainder shall be appointed for their expertise and experience in space science business.
- 6.3 The Minister shall appoint a representative from the Ministry of Defence to be the Chairperson of the Board.
- 6.4 In appointing members of the Board, the Minister shall endeavour to achieve gender balance.
- 6.5 The functions of the Board shall be to-
- 6.5.1 oversee the functions of the ZINGSA;
 - 6.5.2 monitor the research priorities and programmes of the ZINGSA;
 - 6.5.3 give effect to the strategy of the ZINGSA, in the performance of its functions; and
 - 6.5.4 notify the Minister immediately of any matter that may prevent or materially affect the achievement of the objects of ZINGSA.
- 6.6 Members of the Board or of any committee of the Board must be paid allowances out of the funds of the ZINGSA as may be determined by the Minister from time to time.
- 6.7 The Board must meet at least four times a year at such times and places as the Board may determine.
- 6.8 The Board may appoint committees for specific tasks.

ARTICLE 7

Termination and Filling of Vacancies of the Board

- 7.1 A member of the Board shall have his or her appointment terminated by reason of-
- 7.1.1 physical or mental incapacity;
 - 7.1.2 being bankrupt;
 - 7.1.3 being absent without apology from three consecutive meetings of the Board for which he or she has had notice; or
 - 7.1.4 Being found guilty of committing a criminal offence and sentenced to a term of imprisonment for which there is no option of a fine.
- 7.2 The provisions of sub article 7.1 shall apply with necessary changes to the qualifications of a Board member with the exception of sub article 7.1.3.
- 7.3 The Minister shall, within three months, fill a vacancy that may arise within the Board.

ARTICLE 8

Meetings of the Board

- 8.1 The Board shall hold such number of meetings normally not less than four per year as are necessary for the performance of its functions and at such times and places as the Board may fix. The board shall cause minutes of proceedings of and decisions taken by the Board to be recorded.
- 8.2 The Chairperson or in his or her absence the Vice Chairperson, or in his or her absence, a member of the Board present, elected by the members present, shall preside over any meeting of the Board.

- 8.3 A quorum for any meeting of the Board shall consist of a majority of the serving members.
- 8.4 A decision of the Board at a meeting shall require a majority of the votes of the members present and voting.
- 8.5 In the event of equal votes being cast on a resolution, the Chairperson or other member presiding shall have a casting vote in addition to his or her deliberative vote as a member of the Board.
- 8.6 A member of the Board who has direct or indirect commercial interest in a matter to be considered by the Board shall disclose the nature of his or her interest at a meeting of the Board. The interest shall be recorded in the minutes of the meeting. This interest shall normally disqualify the member from being present and participating in the deliberations.
- 8.7 Major decisions such as changes to the constitution, the appointment or dismissal of the Director General shall require the presence of 75% of the serving Board Members.

ARTICLE 9

Special Meeting

- 9.1 The Chairperson may at any time call a special meeting of the Board, which shall be held at such a time and place as he or she may direct. In the event that it's not practicable to hold such a special meeting for the transaction of business of an urgent nature, the Chairperson shall, after consulting as many other members of the Board as is practicable under the circumstances, deal with the business himself or herself. He or she should soon thereafter give to the Board the full particulars of the urgent business and seek ratification of the action that he took in the, matter.
- 9.2 Any written proposal circulated among members and passed by a majority of Board members shall be considered valid and shall be incorporated in the minutes of the next meeting.

ARTICLE 10

Director General

- 10.1 ZINGSA shall have a suitably skilled and qualified Director General whose duties shall be-
 - 10.1.1 to ensure that ZINGSA is appropriately organised and staffed and to have the authority to hire and terminate staff as necessary to enable it to achieve the approved strategy;
 - 10.1.2 to ensure that the ZINGSA has appropriate systems to enable it to conduct its activities both lawfully and ethically;
 - 10.1.3 to assess the principal risks of ZINGSA and to ensure that these risks are being monitored and managed;
 - 10.1.4 to ensure that expenditures of ZINGSA are within the authorised annual budget of ZINGSA;
 - 10.1.5 to request that special meetings of the Board be called when appropriate;
 - 10.1.6 to implement the policies of the Board.
- 10.2 The Director General shall be appointed by the Board with the approval of the Minister responsible on a performance-based contract.
- 10.3 The Director General shall hold office for a period of five years, subject to terms and conditions, as the Minister responsible shall fix on his or her appointment and shall be eligible for reappointment for only one term.

ARTICLE 11

Technical Directorates

- 11.1 ZINGSA shall have four (4) Technical Departments which include-
 - 11.1.1 Space Engineering Department;
 - 11.1.2 Geospatial Science and Earth Observation Department;
 - 11.1.3 Space Operations and Launch Services Department; and
 - 11.1.4 Space Science Department.
- 11.2 A Technical Director shall possess relevant competence in the specific technical field.
- 11.3 The duties of a Technical Director shall include providing direction on business decisions in the execution of specific projects and ensuring that there are technical procedures, documentations, and standard policies in place.
- 11.4 A Technical Director may be assigned to a single project or may oversee a number of projects with related

technologies.

ARTICLE 12

Space Engineering Department

12. There shall be a Space Engineering Department.

12.1 The Space Engineering department shall provide Engineering advice and assistance to ZINGSA programmes and projects, innovations for space from concept to applications, and educate scientists and engineers as well as inspire Space research to better understand the earth, the solar system and beyond.

12.2 The Space Engineering department shall have the following sections-

12.2.1 Electrical Engineering;

12.2.2 Aeronautical Engineering;

12.2.3 Mechanical Engineering;

12.2.4 System Engineering;

12.2.5 Electronics Mechatronics and Radio Electronics Engineering;

12.2.6 Robotics; and

12.2.7 Unmanned Aerial Vehicles (UAV).

ARTICLE 13

Geospatial and Earth Observation Department

13. There shall be a Geospatial and Earth Observation department responsible for conducting specialised research and development projects and activities on geospatial applications and earth observation (e.g.) weather and climate, agriculture and ecosystems, mining and mineral exploration, geospatial intelligence, disaster management, water, energy, health and any other nationally strategic applications)-

13.1 The Geospatial and Earth Observation department shall-

13.1.1 implement the national Earth Observation strategy as defined by ZINGSA;

13.1.2 develop and promote national, regional and international partnerships and collaboration in geospatial and earth observation; and

13.1.3 develop and promote human and institutional capacity strengthening in the field of geospatial and earth observation in Zimbabwe.

ARTICLE 14

Space Operations and Launch Services Department

14. There shall be a Space Operations and Launch Services department with the following responsibilities-

14.1 preparation and implementation of Earth Observation missions;

14.2 satellite command and control;

14.3 managing communication between spacecraft, ground stations and control centres;

14.4 linking various complex operating processes;

14.5 incorporating new technologies to space operations as the technologies become available;

14.6 strategic planning of space operations; specifically developing future plans for ZINGSA systems, facilities and personnel;

14.7 launch services: facilitating access to space for ZINGSA missions; and

14.8 ensure that critical infrastructure to access and use space meets expectations of ZINGSA.

ARTICLE 15

Space Science Department

15. There shall be a Space science department responsible for championing research that will increase the

understanding of planets that exist outside the Earth's solar system through coordinating scientific research and educational programmes to improve science education, with the following key research areas-

- 15.1 space physics;
- 15.2 astrophysics;
- 15.3 space weather; and
- 15.4 planetary science.

ARTICLE 16

Finance and Administration Department

- 16.1 There shall be a Finance and Administration department which shall ensure efficient delivery of the ZINGSA mandate by supporting the organisation as a whole to focus on its core business and thus attain its target through the provision of finance and administrative services including-
 - 16.1.1 developing business plans, timelines and budgets to perform financial projects;
 - 16.1.2 developing and maintaining standard financial and administrative procedures;
 - 16.1.3 monitoring and managing expenditures within allotted budget;
 - 16.1.4 ensure the preparation and maintenance of all financial records; and
 - 16.1.5 identify and resolve financial and administrative issues.
- 16.2 The ZINGSA Finance and Administration department shall consist of three sections-
 - 16.2.1 Administration;
 - 16.2.2 Finance;
 - 16.2.3 Human Resources.

ARTICLE 17

Intellectual Property

- 17.1 As a publicly funded institution, ZINGSA's work is aimed at serving public interest needs. Any discovery, invention or improvement of any process, apparatus or machine by, or any copyright or other intellectual property right (IPR) in any work of an employee in the course of his employment with ZINGSA shall in the public interest be the property of ZINGSA. In the IPR or copyright or other similar work's registration, the employee(s) involved in the work whose results provided the basis of this registration will be recognised.
- 17.2 The ZINGSA shall utilise any donations or contributions in accordance with the conditions stipulated by the donor or contributor. If such conditions are unfavourable or pose conflict of interest, ZINGSA may opt not to accept the donation.

ARTICLE 18

Budget and Operations

- 18.1 For each year, the Chief Executive Officer shall present to the Board an operational financial year that includes-
 - 18.1.1 the activities to be carried out by ZINGSA during the plan year;
 - 18.1.2 strategic plans, if any, for executing the activities; and
 - 18.1.3 the estimated income and expenditure for the following financial year.
- 18.2 ZINGSA shall establish a system of evaluation to determine whether the goals set for the year have been achieved.
- 18.3 ZINGSA may charge fees or make such other financial arrangements as it deem fit for-
 - 18.3.1 completed work or services rendered to a client;
 - 18.3.2 the use of its facilities or rights arising from discoveries, inventions or improvements of products or processes, by other persons or bodies.
- 18.4 The ZINGSA may establish such reserve funds, and deposit therein such amounts, as it may deem necessary.

ARTICLE 19

Funds of ZINGSA

19. The funds of ZINGSA shall consist of monies appropriated by Parliament, grants, loans, bequests, donations, fees and levies-
- 19.1 The Director General shall be the accounting officer charged with the responsibility of accounting for all money received, its utilisation and the use and care of ZINGSA.
- 19.2 The financial year of the ZINGSA shall be a period of twelve (12) months commencing from the 1st of January and ending 31st of December, of the same year.
- 19.3 ZINGSA shall keep proper books of accounts and other records in respect of its operations and assets.
- 19.4 ZINGSA shall annually appoint auditors who are registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].
- 19.5 The auditors shall make a report to the ZINGSA on the accounts examined by them and on the statement of accounts.
- 19.6 The Board shall submit to the Minister responsible such audit reports and such information as the Minister may require relating to operations and undertakings of ZINGSA.
- 19.7 The Minister responsible shall lay before Parliament an annual report submitted to him or her by the Board of ZINGSA.

ARTICLE 20

Dissolution of ZINGSA

- 20.1 Upon dissolution of the ZINGSA, the Board shall transfer the assets of the ZINGSA to the Government for use in the public interest. Part of the assets will be used to pay off the liabilities of the ZINGSA, including the awarding of terminal benefits to employees of the ZINGSA. The assets accrued from donors will be disposed according to the specification of the relevant donor.
- 20.2 The terms of the dissolution will ensure that the intellectual property rights entitlements of relevant employees are honoured with the entitlements of the ZINGSA being assigned to public interest institutions.

REGULATION

S.I. No. 20 of 2000: Research (Biosafety) Regulations, 2000

(Section 32)

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PART I

Preliminary

1. Title

These regulations may be cited as the Research (Biosafety) Regulations.

2. Interpretation

In these regulations -

"accident" means any incident involving an unintended general release of genetically modified organisms which may have an immediate or delayed adverse impact on the environment;

"biosafety committee" has the meaning assigned to that term in section 17;

"biosafety officer" has the meaning assigned to that term in section 17;

"biosafety guidelines and standards" means biosafety guidelines or standards issued in terms of section 9 (1);

"biotechnology" means any technique that uses living organisms or parts of organisms to make or modify products, to improve plants or animals, or to develop micro-organisms for specific purposes;

"Board" means the Biosafety Board established in terms of section 4;

"contained use" means any activity in which organisms are genetically modified, or in which such genetically modified organisms are cultured, stored, used, transported, destroyed or disposed of, and for which physical barriers or a combination of physical barriers together with chemical or biological barriers or both are used to limit contact thereof with the environment;

"control" means to examine, regulate, manage or direct any activity within a person's jurisdiction;

"DNA" means deoxyribonucleic acid;

"environment" means the aggregate of surrounding objects, conditions and influences that affect the life and habits of human beings or any other organism or collection of organisms;

"general release", in relation to genetically modified organisms, means the introduction of genetically modified organisms into the environment by whatever means, where the organisms are no longer contained by any system of barriers and are no longer under any person's control, so that the organism is likely to survive and be disseminated;

"gene therapy" means any technique for delivering functional genes, to replace aberrant ones, into living cells by means of a genetically modified vector or by physical means in order to genetically alter the living cell;

"genetically modified organism" means an organism the genes or genetic material of which has been modified in a way that does not occur naturally through mating or natural recombination or both, and "genetic modification" shall have a corresponding meaning;

"hazard" means an intrinsic biological, chemical or physical characteristic of a genetically modified organism which could lead to an adverse impact on the environment;

"inspector" means a person appointed as an inspector in terms of section 21;

"member" means a member of the Board, and includes an alternate member appointed and acting in terms of section 4 (4);

"monitor" means maintain regular surveillance over, check, warn about or the record a situation or process;

"organism" means any biological entity, whether microscopic or not, capable of replication;

"permit" means a permit issued in terms of section 12;

"project" has the meaning assigned to that term in section 17;

"project supervisor" has the meaning assigned to that term in section 17;

"recombinant DNA" means genetic material produced by the combining of DNA molecules from different organisms;

"register" means the register established in terms of section 10;

"registered user", in relation to genetically modified organisms, means a user of such organisms whose premises are registered or to whom a permit has been issued in terms of section 12;

"release", in relation to genetically modified organisms, means a general release or a trial release;

"risk" means the combination of the magnitude of the consequences of a hazard, if it occurs, and the likelihood that the consequences will occur;

"secretary" means the secretary of the Board designated as such in terms of section 4 (2);

"trial release" means the deliberate release of genetically modified organisms into the environment in the open under conditions where the degree of dissemination of the genetically modified organisms is limited by chemical or physical barriers or by built-in barriers which prevent the survival of such organisms in the environment;

"user", in relation to genetically modified organisms, means a person who-

- (a) owns or controls any facility utilised or to be utilised for any potentially harmful research referred to in section 3, or generally for the development, production, use or application of genetically modified organisms, including any facility utilised or to be utilised in connection with the contained use or trial release of such organisms; or
- (b) carries on any potentially harmful research referred to in section 3, or undertakes the contained use or trial release of genetically modified organisms; or
- (c) sells or markets genetically modified organisms or utilises such organisms, and is required by the terms of any biosafety guidelines or standards to be authorised to do so by the Board;

"waste" means any matter, whether gaseous, liquid or solid or any combination thereof, which, in the opinion of the person controlling or possessing it, is an undesirable or superfluous by-product, emission, residue or remainder of any process or activity in connection with genetically modified organisms.

3. Application

These regulations shall apply to-

- (a) the following techniques, which, for the purposes of Part VA of the Act, shall be deemed to constitute potentially harmful research or undertakings-
 - (i) techniques in which recombinant DNA molecules or genetically modified organisms are employed in-
 - (A) *in vitro* fertilisation in human beings and animals; or

- (B) conjunction, transduction, transformation or any other natural process; or
- (C) polyploid induction;
- (ii) techniques in which genetically modified organisms as recipient or parental organisms are employed in-
 - (A) mutagenesis; or
 - (B) the construction and use of somatic hybridoma cells; or
 - (C) cell fusion (including protoplast fusion) of plant cells; and
- (b) any activities involving genetically modified organisms that are declared by the Council in terms of section 9 (5) (b) to constitute potentially harmful research or undertakings.

PART II
Biosafety Board

4. Establishment and composition of Biosafety Board

(1) The Council shall establish a safety board known as the Biosafety Board which shall consist of at least three and not more than fifteen members appointed by the Council.

(2) Of the members appointed in terms of [subsection \(1\)](#) the Council shall designate a chairman and a deputy chairman of the Board and, subject to section 20, a member to act as secretary of the Board.

(3) The deputy chairman of the Board shall exercise the functions of the chairman during any period that the chairman is unable to exercise his functions.

(4) The Council may appoint persons as alternate members to the members appointed by it in terms of [subsection \(1\)](#), and any such alternate member may act as a member during any period that a substantive member is unable to exercise his functions.

5. Functions of Board and exercise thereof

(1) The general function of the Board shall be to advise the Council on all aspects concerning the development, production, use, application and release of genetically modified organisms, and ensure that all activities with regard to such development, production, use, application and release are performed in accordance with these regulations.

(2) The Board shall have the following specific functions-

- (a) to evolve a long-term policy for safety in biotechnology in Zimbabwe;
- (b) to actively promote biotechnology in Zimbabwe;
- (c) to review project proposals concerning high risk category organisms and controlled experimental trials involving them, and advise the Council on whether to approve, prohibit or restrict such trials;
- (d) to review reports of all ongoing approved projects and controlled experimental trials involving high risk category organisms;
- (e) to approve deliberate releases of properly evaluated genetically modified organisms;
- (f) to approve the large-scale use of genetically modified organisms in industrial production and application;
- (g) to assist in the clearance of applications for setting up industries based on genetically modified organisms;
- (h) to monitor and approve the discharge of genetically modified organisms or cells or waste from laboratories and hospitals into the environment;
- (i) to ensure that biosafety guidelines and standards are adhered to generally and in the execution of projects or controlled experimental trials involving high risk category organisms;
- (j) to recommend a training programme for biosafety officers;
- (k) to identify, prioritise and propose areas for standardisation of products of recombinant DNA technology to the Standards Association of Zimbabwe, the Medicines Control Authority of Zimbabwe, the Hazardous Substances Control Board and other relevant bodies;
- (l) to approve the safety aspects of the import, export, manufacture, processing and selling of any

genetically modified organisms or cells, including substances, foodstuffs and additives containing products of genetic engineering;

- (m) to advise the customs authorities on the import and export of biologically active material and genetically engineered organisms, substances or products;
- (n) to collect and disseminate information pertaining to safety procedures associated with work on or research into genetically modified organisms;
- (o) to establish contact and maintain liaison with bodies in other countries and international organisations concerned with monitoring work on or research into genetically modified organisms;
- (p) to perform such other functions as are provided for in these regulations.

(3) In order to discharge its functions, the Board may-

- (a) authorise or decline to authorise the any contained use of genetically modified organisms;
- (b) authorise or decline to authorise any general or trial release of genetically modified organisms;
- (c) inform any other country of an accident that may have an impact on that country's environment;
- (d) co-operate or enter into agreements with any person or institution upon such conditions as the Council and the person or institution concerned may agree upon;
- (e) promote co-operation between Zimbabwe and any other country with regard to research, development and technology transfer in the field of genetically modified organisms.

6. Tenure of office and remuneration of members

(1) The term of office of members of the Board shall be three years.

(2) A member whose term of office has expired shall be eligible for reappointment.

(3) There may be paid to a member such fee for attendance at meetings of the Board as the Council, with the agreement of the Minister, may determine.

7. Vacancies in Board

On the death of, or the vacation of office by, a member, the Council shall appoint a person to fill the vacancy until the expiry of the period during which the member would, but for his death or the vacation of his office, have continued in office:

Provided that, if, but for his death or the vacation of his office, the member would have continued to hold office for less than three months the Council need not appoint a person to fill the vacancy.

8. Meetings of Board

(1) Ordinary meetings of the Board shall be held at such time and place as the chairman of the Board shall decide on not less than fourteen days' written notice, including an agenda, given to every member:

Provided that an ordinary meeting of the Board shall be held not less frequently than four times per year.

(2) Special meetings of the Board may be held at the written request of a simple majority of the members on not less than fourteen days' written notice, including an agenda, given to every member.

(3) If, in the opinion of the chairman, special circumstances so require, the chairman may convene an emergency meeting of the Board on twenty-four hours' written or verbal notice to every member of the Board.

(4) If the chairman of the Board is prevented by any cause from exercising his functions in relation to the Board and the deputy chairman notifies the Council that he is unable to exercise the functions of chairman as provided in section 4 (3), the Council may appoint a member other than the deputy chairman to act as chairman of the Board and the member so appointed shall exercise the functions of chairman.

(5) If at a meeting of the Board the chairman and the deputy chairman are absent and an acting chairman has not been appointed in terms of [subsection \(4\)](#), the members present may elect one of their number to preside as chairman at that meeting.

(6) The quorum for any meeting of the Board shall be a majority of the members of the Board:

Provided that if a quorum is not present at any special or emergency meeting of the Board, the meeting shall, subject to at least twenty-four hours' written or verbal notice to every member, be adjourned to a date not more than seven days later, and the quorum at such adjourned meeting shall be three members.

(7) The decisions of the Board shall, as far as possible, be made by consensus.

(8) In the absence of consensus, the Board shall decide any matter by a majority vote at a meeting of the Board at which a quorum is present.

(9) At all meetings of the Board each member shall, subject to section 22, have one vote on a question before the Board and, in the event of an equality of votes, the chairman of the Board, the deputy chairman of the Board, an acting chairman or any other member presiding at the meeting, as the case may be, shall have a casting vote in addition to his deliberative vote.

PART III

Control and Monitoring of Use of Genetically Modified Organisms

9. Power of Board and Council to regulate biosafety practices

(1) The Board may, with the consent of the Council, issue to persons owning or controlling facilities registered in terms of this Part, or carrying on any research or undertaking any activity that is permitted in terms of this Part, biosafety guidelines and standards of practice and procedure that shall be binding on them and all users of genetically modified organisms, and may revise them from time to time.

(2) The matters in respect of which the Board may issue biosafety guidelines or standards include but are not restricted to-

- (a) the contents of risk assessments and environmental impact assessments referred to in section 12 (1) (i) and (ii);
- (b) the classification or categorisation of organisms and genetically modified organisms on the basis of the level of risk or degree of hazard, if any, attaching to each class or type of such organism; and the procedures for recombinant DNA research for each class or type of such organism;
- (c) the level of risk at which the prior approval by the Board for project proposals involving research into specified classes or types of genetically modified organisms shall be required for the purposes of [Part IV](#);
- (d) the requirements for the contained use of genetically modified organisms and the types of containment facility appropriate to specified classes or types of such organisms;
- (e) the requirements for the laboratory development of genetically modified organisms;
- (f) the standards to which facilities utilised for the development, production, use or application of genetically modified organisms should conform;
- (g) the requirements for the general release and trial release of genetically modified organisms;
- (h) the requirements for the effective management of waste;
- (i) the procedures to be followed and control measures to be taken in the event of accidents, and the information required to be disclosed to the Board on notification of any release or accident for the purpose of section 13;
- (j) the requirements for the marketing of genetically modified organisms;
- (k) the requirements and procedures for the importation and exportation of genetically modified organisms;
- (l) the identities or classes of genetically modified organisms exempted from control for the purposes of these regulations;
- (m) generally, the control measures to be complied with by users of genetically modified organisms;
- (n) the authorisation of persons by the Board for the purpose of enabling such persons to sell, market or utilise any class or type of genetically modified organisms.

(3) The Board may cause a notice to be published in the *Gazette* setting out any biosafety guidelines and standards:

Provided that the publication in the *Gazette* of such biosafety guidelines and standards shall be for public information only and their validity shall not depend on publication in the *Gazette*.

(4) Any person may inspect a copy of any biosafety guidelines and standards issued in terms of [subsection \(1\)](#) free of charge at all reasonable times at the premises of the Board or such other place as the Board may direct.

(5) The Council may, on the recommendation of the Board, by notice in the *Gazette*-

- (a) prohibit any activity involving genetically modified organisms or their products; or

- (b) declare that any activities involving genetically modified organisms shall constitute potentially harmful research or undertakings for the purposes of Part VA of the Act and these regulations.

(6) Any person who contravenes any biosafety guideline or standard issued in terms of [subsection \(1\)](#) that is binding on him, or any prohibition referred to in [subsection \(5\)](#), shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

10. Register of facilities and permits

(1) The Board shall establish a register for the purpose of-

- (a) registering facilities utilised for the development, production, use or application of genetically modified organisms; and
- (b) recording permits issued for the utilisation of such facilities.

(2) The secretary of the Board shall be responsible, subject to any directions given to him by the Board, for maintaining the register and ensuring that entries are made in the register recording-

- (a) the name, identity or description and such other particulars as required by the Board or these regulations of each facility which the Board has directed shall be registered; and
- (b) the fact that a permit has been issued to any person to utilise the registered facility for the development, production, use or application of genetically modified organisms, or to release such organisms into the environment, or that any such permit has ceased to be valid, and the name and address of the person concerned; and
- (c) the particulars of the cancellation or suspension of any registration or permit, and of the restoration of any such cancelled registration or permit, or the termination of any such suspension; and
- (d) any necessary corrections or alterations to any particulars or facts referred to in [paragraph \(a\)](#), [\(b\)](#) or [\(c\)](#); and
- (e) any other particulars that may be required by the Board or these regulations.

(3) Any person may inspect the register free of charge at all reasonable times at the premises of the Board or such other place as the Board may direct.

11. Certain facilities and research to be registered or permitted by Board

(1) No person shall-

- (a) own or control any facility utilised or to be utilised for any potentially harmful research referred to in section 3, or generally for the development, production, use or application of genetically modified organisms, including any facility utilised or to be utilised in connection with the contained use or trial release of such organisms, unless such facility is registered; or
- (b) carry on potentially harmful research referred to in section 3, or undertake the contained use or trial release of genetically modified organisms, without a permit; or
- (c) carry on research or undertake any activity referred to in [paragraph \(b\)](#) otherwise than in a registered facility except in circumstances approved in a permit or in writing by the Board.

(2) Any person who contravenes [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

12. Application for and grant or refusal of registration or permission

(1) A person who wishes to-

- (a) own or control any facility utilised or to be utilised for any potentially harmful research referred to in section 3, or generally for the development, production, use or application of genetically modified organisms, including any facility utilised or to be utilised in connection with the contained use or trial release of such organisms; or
- (b) carry on any potentially harmful research referred to in section 3, or undertake the contained use or trial release of genetically modified organisms;

shall apply to the secretary in the form provided by the Board and shall, in the case of an application for a permit, submit with his application-

- (i) an assessment of the risk; and
- (ii) an assessment of the impact on the environment;

involved in carrying on the research or activity in question.

(2) On receipt of an application made in terms of [subsection \(1\)](#) the secretary shall submit the application to the Board for consideration at its next meeting after the application was received.

(3) Within four months of receiving an application the Board may, after-

- (a) examining the conformity of the application to any applicable biosafety guidelines and procedures; and
- (b) considering the assessments of risk and of the impact of the environment, if any, submitted in terms of [subsection \(1\)](#); and
- (c) conducting such inspections as it thinks necessary;

grant or refuse to grant the application or grant it subject to such conditions as it may impose.

(4) Any person who is aggrieved by a refusal of the Board to grant an application may, within thirty days, appeal to the Council against such refusal in the form provided by the Board, and the Council on appeal may grant or refuse to grant the application or grant it subject to such conditions as it may impose.

(5) Where an application is granted or granted subject to conditions, the secretary shall, at the direction of the Board, make the appropriate entries in the register and confirm the registration in writing or issue the permit to the applicant or both, as the case may be.

(6) The Board may register any facility or issue any permit for a fixed or indefinite period.

13. General duty of care to be observed by users of genetically modified organisms

(1) Every user of genetically modified organisms shall, in addition to the requirements of these regulations and any biosafety guidelines or standards, ensure that appropriate measures are taken to prevent or minimise any foreseeable danger to persons, animals or plants or to the environment generally that may arise from the use of such organisms.

(2) Any user of genetically modified organisms who contravenes [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

14. Notification of releases and accidents

(1) Subject to the terms of any permit, a user of genetically modified organisms shall notify the Board both orally and in writing in advance of any general or trial release of genetically modified organisms, and shall not release such organisms until the Board has approved the same in writing.

(2) A user of genetically modified organisms shall immediately notify the Board both orally and in writing of any accident involving genetically modified organisms, and shall supply the Board with information on the circumstances of the accident, the identity and quantity of genetically modified organisms released, and any information necessary to assess the impact of the accident on the environment, including the emergency measures taken or needed to be taken to avoid or mitigate any adverse impact of such accident on the environment.

(3) Any user of genetically modified organisms who contravenes [subsection \(1\)](#) or [\(2\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

15. Returns to be furnished by registered users

(1) Every registered user of genetically modified organisms shall, in the form and manner and within the time required by the Board, furnish the Board with such returns or other information in connection with his use of genetically modified organisms as the Board considers will assist it in discharging its functions.

(2) Any registered user of genetically modified organisms who contravenes [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

16. Inspections

(1) Subject to [subsection \(3\)](#), the Board or any member with the written authority of the Board may, at fixed intervals agreed with the registered user of genetically modified organisms or at any time without giving prior notice, enter upon and inspect the premises of any registered user to determine whether the provisions of these regulations, any biosafety guidelines or standards and the terms or conditions of any registration or permit are being complied with, and, for that purpose, the Board or member may-

- (a) inspect any activity or process carried out in or upon such premises in connection with the use of genetically modified organisms;
- (b) request any information regarding any activity or process referred to in [paragraph \(a\)](#) from the registered user or any person carrying out or supervising such activity or process;
- (c) where it is suspected on reasonable grounds that any offence against these regulations is being committed-
 - (i) seize any appliance, book, statement, shipping bill, bill of lading or other document and take samples of materials or substances, which may afford proof of such offence; or
 - (ii) require the registered user to produce any appliance, book, statement, shipping bill, bill of lading or other document, or any sample of any material or substance within a specified time and at a specified place.

(2) Subject to [subsection \(3\)](#), the Board or any member with the written authority of the Board may, at any time without giving prior notice, exercise the powers specified in [subsection \(1\)](#) in relation to any premises or place owned or controlled by a person other than a registered user where it is known or suspected on reasonable grounds that any potentially harmful research or undertakings to which these regulations apply is being or will be carried on.

(3) The powers of entry, inspection and seizure conferred by this section shall not be exercised-

- (a) in relation to the premises of any registered user except with his consent, unless there are reasonable grounds for believing that it is necessary to exercise them for the prevention, investigation or detection of an offence against these regulations, or for the obtaining of evidence relating to such an offence;
- (b) in relation to any premises or place referred to in [subsection \(2\)](#) except in accordance with a search warrant issued in terms of section 50 of the Criminal Procedure and Evidence Act [*Chapter 9:07*].

(4) Any person who hinders or obstructs the Board or any member in the exercise of the powers conferred by this section, or refuses to furnish any information, document or article required pursuant to the exercise of such powers, or furnishes information which he knows to be false or misleading or has no reason to believe to be true, shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

PART IV

Institutional Biosafety Committees

17. Interpretation in [Part IV](#)

In this Part-

"biosafety committee" means an institutional biosafety committee established in terms of section 18;

"biosafety officer" means a person referred to in section 18 (1) (a);

"genetic research institute" means a facility or associated group of facilities engaged in potentially harmful research referred to in section 3;

"project" means any project involving potentially harmful research referred to in section 3;

"project supervisor" means a person so designated in terms of section 19 (1);

"specified level of risk" means a level of risk specified by the Board for a purpose referred to in section 9 (2) (c).

18. Institutional Biosafety Committees

(1) At every genetic research institute there shall be established a committee, to be called an "institutional biosafety committee" which shall consist of-

- (a) a person familiar with the biosafety requirements of work involving recombinant DNA, to be called a "biosafety officer";
- (b) not less than three scientists with expertise in biotechnology:

Provided that the Board may, in the absence of a sufficient number of scientists having relevant expertise at the genetic research institute, authorise the appointment of at least one scientist with expertise in biotechnology and two other scientists.

(2) The biosafety officer shall be the chairman of the biosafety committee.

(3) The general function of a committee shall be to ensure that these regulations, any biosafety guidelines or standards, and the terms or conditions of any registration or permit are being complied with by all persons engaged in the work of the genetic research institute.

(4) A committee shall have the following specific functions-

- (a) to consider project proposals by the genetic research institute;
- (b) to approve project proposals that are below a specified level of risk;
- (c) to refer to the Board project proposals that are above a specified level of risk;
- (d) to devise an operating manual for the purpose of standardising safety and emergency procedures to be observed in connection with projects undertaken at the genetic research institute;
- (e) to keep a list of the project supervisors responsible for, and the records and files of, every project;
- (f) to ensure that there are provided suitable safe storage facilities of donor, vector, recipient and other materials involved in experimental work, and from time to time to inspect such facilities;
- (g) to provide annual reports to the Board on the progress of ongoing projects;
- (h) to ensure that all personnel at the genetic research institute involved in project have adequate training in biosafety in accordance with such standards as the Board may establish;
- (i) to monitor the health and safety of the personnel referred to in [paragraph \(h\)](#).

19. Project supervisors

(1) For each project there shall be designated by the genetic research institute a project supervisor approved by the committee as having the requisite competence, experience or qualifications for supervising the project participants and all aspects of the project.

(2) The project supervisor shall be responsible for describing the project proposal verbally and in writing to the committee.

(3) The project supervisor shall ensure that project participants are suitably trained for the tasks they will perform and that any operating manual referred to in section 18 (4) (d) is complied with.

PART V

Biosafety Staff of Council

20. Appointment and functions of registrar

(1) The Council may employ, upon such terms and conditions as may be determined by it and approved by the Minister, a person having suitable qualifications and experience to be the registrar of the Board.

(2) The registrar, if appointed, shall assume all the functions of the secretary of the Board, and thereupon any reference in these regulations to the secretary shall be construed as a reference to the registrar.

(3) The registrar shall, if appointed, have the right to attend meetings of the Board and, except in the case of any discussion relating to the terms and conditions of his appointment, to take part in the proceedings of the Board as if he were a member, but shall not have a vote on any question before the Board.

21. Appointment and functions of inspectors

(1) The Council may employ, upon such terms and conditions as may be determined by it and approved by the Minister, any person having suitable qualifications and experience to be an inspector.

(2) An inspector, if any is appointed, shall assume the functions of the Board referred to in section 16, and thereupon any reference in that section to the Board or any member of the Board shall be construed as a reference to such inspector:

Provided that-

- (a) the Board shall not be divested of its power of inspection in terms of section 16; and
- (b) an inspector shall be subject to the control and direction of the Board.

(3) Upon appointment an inspector shall be provided with a certificate signed by the secretary of the Board stating that he is an inspector for the purposes of these regulations, and shall, on request, exhibit such certificate to any person affected by the performance of the his functions in terms of these regulations.

PART VI

General

22. Conflicts of interest

(1) In this section-

"relative" in relation to a member or project supervisor, means the member's or supervisor's spouse, child, parent, brother, sister, first cousin, nephew or niece.

(2) No member shall participate in the Board's deliberations upon, or have a vote on any question involving, any project or matter in which he or a relative of his has an interest, unless he declares such interest and is permitted by the Board to so participate and vote.

(3) Where a project supervisor is a member of the biosafety committee considering a project proposal which he or a relative of his has originated, he shall have no vote on the decision of the committee to approve the project or recommend it to the Board.

(4) Any person who contravenes [subsection \(2\)](#) or [\(3\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

23. Confidentiality

(1) Subject to [subsection \(2\)](#), no person shall disclose any information acquired by him through the exercise of his functions in terms of these regulations except-

- (a) for the purpose of legal proceedings under these regulations or any other law;
- (b) to the extent that it may be necessary to do so for the purpose of these regulations or any other law, to a member of the Board or employee of the Council;
- (c) to the extent authorised by the Council

(2) The following information provided to the Board for the purposes of an application made in terms of section 12 shall not be regarded as confidential and may, where necessary, shall, be disclosed to the public-

- (a) the name and address of the applicant, the description of any genetically modified organism mentioned in the application, the purpose of the contained use or release of any such organism and the location of its use;
- (b) the measures to be undertaken for monitoring the use of any genetically modified organism and the emergency measures to be implemented in the case of any accident;
- (c) the evaluation of foreseeable impacts of the use of any genetically modified organism on persons, animals or plants or to the environment generally, and in particular the disclosure of any pathogenic or ecologically disruptive impacts:

Provided that where the applicant is in the process of registering any intellectual property right in relation to any genetically modified organism, the Board may, at the request of the applicant, withhold any information that may compromise such registration, until the registration has been effected.

(3) Any person who contravenes [subsection \(1\)](#) shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars or imprisonment for a period not exceeding one year or both such fine and such imprisonment.

24. Fees for registration or permission in relation to foreign research

(1) The Council may, in terms of section 27 (2) of the Act, fix the fees to be levied by the Board in terms of section 12 for-

- (a) the registration of any facility that is to be owned or controlled by a person described in 27 (1) (a) or

(b) of the Act; and

(b) the issue of a permit that is to be held by a person referred to in [paragraph \(a\)](#).

(2) The registration of a facility or the issue of a permit in favour of a person referred to in [subsection \(1\)](#) shall constitute registration for the purposes of section 27 of the Act.

(3) Where a fee is fixed and levied in terms of [subsection \(1\)](#)-

(a) the fee shall be tendered with the appropriate application made in terms of section 12;

(b) half the fee shall be refunded to the applicant if his application is unsuccessful.