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THE NATIONAL SAVINGS AND CREDIT ACT

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CHAPTER 423

THE NATIONAL SAVINGS AND CREDIT ACT

24 of 1972
23 of 2005

An Act to provide for the establishment and administration of a National Savings and Credit Bank of Zambia in place of the Post Office Savings Bank of Zambia with a view to promoting national savings; and to provide for matters incidental to or connected with the foregoing.

[1st, April, 1973]

PART I

PRELIMINARY

1. This Act may be cited as the National Savings and Credit Act.* Short title

* This Act is deemed to have come into operation on or from the 1st April, 1973 (S.I. No. 84 of 1973)

2. In this Act, unless the context otherwise requires- Interpretation

"Bank" means the National Savings and Credit Bank of Zambia established under section *three*;

"Bank of Zambia" means the Bank of Zambia established under the Bank of Zambia Act; Act No. 43 of 1996

"Board" means the Board of Directors of the Bank appointed under section *four*;

"Chief Executive Officer" means the person for the time being holding the office of general manager under section *seven*;

"depositor" means a person who deposits a sum of money with the Bank under this Act;

"employee" means any person in the service of the Bank or engaged in connection with any business of the Bank;

"financial institution" has the meaning assigned to it by the Banking and Financial Services Act; Cap 387

"Savings Bank" means the Post Office Savings Bank of Zambia. (As amended by Act No. 23 of 2005)

PART II

ESTABLISHMENT AND ADMINISTRATION OF THE BANK

3. (1) There is hereby established the National Savings and Credit Bank Establishment of Zambia which shall by that name be a body corporate with perpetual Bank succession and a common seal and shall be capable of suing and being sued and, subject to the provisions of this Act, of doing or performing all such acts or things as a body corporate may by law do or perform.

(2) The Bank is a financial institution for purposes of the Banking and

Financial Services Act.

(3) Notwithstanding subsection (2), the Bank shall only conduct business as authorised under section *nine*.

(4) After the date of the coming into force of this Act, the Bank of Zambia may prescribe such transition periods as are appropriate to permit the Bank to achieve compliance with the licensing and other requirements of the Banking and Financial Services Act.

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(As amended by Act No. 23 of 2005)

4. (1) Save as to the appointment of the Chief Executive Officer as a Board of Directors member of the Board under subsection (2) of section *seven*, the Minister may, by statutory order, appoint the members of the Board of Directors. The Board shall be responsible for the policy and administration of the affairs and business of the Bank, and shall consist of-

*This Act is deemed to have come into operation on or from the 1st April, 1973 (S.I. No. 84 of 1973)

- (a) a Chairman;
- (b) the Chief Officer; and
- (c) not less than five nor more than nine other members.

(2) The Chairman shall hold office for such period and upon such terms as the Minister may determine:

Provided that the Chairman may at any time resign his office by giving two months' prior written notice to the Minister.

(3) A member of the Board (other than the Chairman and the Chief Executive Officer) shall hold office for such term (being not less than one year nor more than three years) as the Minister may determine at the time of his appointment, and he shall be eligible for reappointment at the expiration of the term for which he is so appointed:

Provided that such member may at any time resign his office by giving

two months' prior written notice to the Minister.

(4) The Board shall appoint from among its members (other than the Chairman and the Chief Executive Officer) a Deputy Chairman who shall hold office for such period and upon such terms as the Board may determine, and who shall, in the absence of the Chairman, exercise the powers and perform the duties of the Chairman.

(5) No person shall be appointed to, or continue to, hold office on the Board of Directors if that person is-

(a) is not a fit and proper person to hold office, as Director in relation to integrity and professional expertise;

(b) is not above the age of twenty-one years;

(c) is an undischarged bankrupt;

(d) has been convicted of a felony or any offence involving dishonesty;

(e) has been declared or otherwise adjudged in any official proceedings to be mentally incompetent to manage one's own affairs;

(f) is under suspension or has been removed from office under the Banking and Financial Services Act;

(g) has been a Director of company which has been adjudged insolvent, entered into a competition with creditors, gone into liquidation, declared bankrupt or has entered into any other arrangement with creditors or taken any other action with similar effect in Zambia or elsewhere unless that person shows that the person was not responsible for the insolvency, liquidation, composition with creditors, bankruptcy, other arrangement with creditors or other action with similar effect in Zambia or elsewhere.

(As amended by Act No.23 of 2005)

(6) A member of the Board (other than the Chief Executive Officer) shall cease to be a member if he is absent from three consecutive meetings of the Board without leave of the Chairman.

(7) A member of the Board who is not a public officer shall be paid from the funds of the Bank such remuneration and allowance as the

Board may, with the approval of the Minister, determine.

(8) At the first meeting of the Board after a member has been granted a loan, or the terms or conditions of repayment of his outstanding loan have been varied, such member shall declare to the Board the terms and conditions of the loan or the variation, as the case may be.

(9) Subject to section *thirty-five* of the Banking and Financial Service Act, no member shall, at any meeting of the Board, take part in the discussion of, or vote upon-

(a) an application for a loan made by himself or any person who is related to that member within the third degree of affinity or consanguinity;

(b) an application for a loan made by any person who is a debtor or mortgagor or creditor or mortgagee of that member or in partnership with or in the employment of that member; or

(c) an application for a loan made by any person who is a mortgagor under a mortgage bond with any body of persons, whether incorporated or not, of which that member is a director or in which he holds any office or position other than that of an auditor.

(As amended by Act No.23 of 2005)

(10) Notwithstanding anything to the contrary contained in this section, the Minister may at any time remove by written notice any member of the Board mentioned in paragraph (a) or (c) of subsection (1).

(As amended by Act No.23 of 2005)

5. The quorum of the Board shall be four, which shall include either the Chairman or the Deputy Chairman or both, and, subject to the provisions of this Part, the Board may from time to time prescribe rules governing its meetings. Quorum and meetings of Board

6. The Board may establish one or more committees comprising some or all of its members to carry out such functions as the Board may delegate to any of such committees. Establishment of committees

7. (1) The Board shall, at such remuneration and on such terms and conditions as it may determine, employ a general manager who shall be the Chief Executive Officer of the Bank and who shall perform such duties as may from time to time be prescribed by the Board.

Appointment and
employment of
general manager

(2) The Chief Executive Officer shall by virtue of his office be a member of the Board and be present at all Board meetings unless his presence at any meeting is excused by the Chairman, or when any matter in which he is directly or indirectly interested is to be considered at such meeting.

(3) Subject to the other provisions of this Act, the Board may delegate any of its powers to the Chief Executive Officer to the same extent as the board of directors of a company incorporated under the Companies Act may confer powers on the managing director of such a company:

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Provided that any delegation of power by the Board to the Chief Executive Officer shall not diminish the responsibility of the Board for the management of the Bank.

(4) The Chief Executive Officer shall in exercising the powers and discharging the duties of the chief executive officer's office -

(a) act honestly and in good faith and in the best interest of the Bank;
and

(b) exercise due care, diligence and skill.

(5) In the event of the Chief Executive Officer being absent from duty on account of leave, illness or any other reasonable cause, the Board may appoint another person in his place, and the person so appointed may exercise all the powers and discharge all the duties which may be exercised or performed by his predecessor.

(As amended by Act No.23 of 2005)

8. (1) The Board may, at such remuneration, on such terms and conditions and in such number as it may determine, engage other employees for the conduct of the business of the Bank.

Employment of staff

(2) The Board may delegate any of its powers contained in subsection (1) to the Chief Executive Officer.

PART III

BUSINESS, PURPOSE AND FUNDS OF THE BANK

9. Subject to the provisions of the Banking and Financial Services Act, the business of the Bank shall be-

Business of Bank
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- (a) the acceptance of deposits;
 - (b) the operation of any savings schemes in Zambia which the Board may approve, including schemes relating to educational programmes on its own or in conjunction with the Minister responsible for education, and employees' savings schemes on its own or in conjunction with the agency responsible for social security and pension schemes;
 - (c) the making of loans for such purposes as the Board may approve;
 - (d) to carry on such form of banking business, not otherwise expressly authorised in this Act, as may be approved by the Bank of Zambia; and
 - (e) doing all other matters and things incidental to or connected with the foregoing.
- (As amended by Act No.23 of 2005)*

10. The Bank may, on behalf of any person or agency, administer any funds on such terms and conditions as may be approved by the Board.

Power to administer
funds on behalf of
any person or agency

11. The funds of the Bank shall consist of-

Funds of Bank

- (a) such sums of money as may be appropriated for it by Parliament;
- (b) such sums of money as may be transferred to it by the Savings Bank;
- (c) such sums of money as the Bank may acquire by virtue of grants or raise by means of loans; and
- (d) such other sums of moneys as may accrue to it in the course or on account of its business.

12. The funds of the Bank shall be applied towards-

Application of funds

- (a) the payment of salaries, fees, remuneration, allowances and expenses due and payable to the members of the Board and the employees of the Bank;
- (b) the payment of interest due and payable on sums deposited with, or raised by way of loans by, the Bank;
- (c) the making of loans in accordance with the provisions of sections *eighteen* and *nineteen*;
- (d) the payment of rates, taxes, insurance premiums and other outgoings, including the expenses of maintenance of the buildings which may become vested in the Bank;
- (e) such capital expenditure as the Board may authorise;
- (f) all other expenses necessary for and incidental to the business of the Bank authorised under this Act.

13. Subject to the provisions of the Banking and Financial Services Act, the Board may invest all or a part of the funds of the Bank not immediately required for the purposes mentioned in this Act in good and sound investment, including-

Investment of funds

- (a) in any security issued by the Government;
- (b) with any bank, including any commercial bank;
- (c) with a building society established under the Building Societies Act;
- (d) up to a total amount not exceeding ten per centum of the deposits, in equity securities of any type;
- (e) in any other security as may be approved by the Bank of Zambia.

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(As amended by Act No.23 of 2005)

14. The Board shall determine the financial year of the Bank.

Financial year

15. (1) The Board shall cause true and full accounts and records to be kept of all the transactions with which the Bank is concerned, and the books of account and records shall be kept at the principal place of business of the Bank.

Accounts and audit

(2) The accounts of the Bank for each financial year shall, subject to section *sixty-three* of the Banking and Financial Services Act, be audited by a person who publicly carries on the profession of accountant in Zambia.

(3) The person referred to in subsection (2) shall be appointed by the Board as auditor with the approval of the Bank of Zambia.

(4) For the purpose of audit, the auditor shall at all reasonable times have access to all books and records relating to the assets, liabilities, income and expenditure of the Bank and shall be entitled to require from the members of the Board of Directors, the chief executive officer or any person concerned in the management of the Bank such information and explanation as the auditor requires to perform the auditor's duties under this Act.

(5) An auditor appointed under this section shall submit a report, written in accordance with subsection (2) of section *sixty-four* of the Banking and Financial Services Act, to the Board.

(6) The Board shall-

(a) within three months from the end of each financial year, submit a copy of the report of the auditor, together with a copy of the annual financial statement to the Bank of Zambia; and

(b) not later than nine months after the end of each financial year, submit to the Minister a report of its operations, including the annual statement of its accounts for that year, certified by the auditor..

(7) The Minister shall, not later than twelve months after the end of the Bank's financial year, cause the annual statement of accounts and the report referred to in in paragraph (b) of subsection (6) to be laid before the National Assembly, and shall cause the annual statement of accounts to be published in the *Gazette*.

(As amended by Act No.23 of 2005)

15A. The Bank shall in the conduct of its banking business under this Act be subject to the confidentiality requirements of section *fifty* of the Banking and Financial Services Act. Confidentiality

(As amended by Act No.23 of 2005)

16. The Board shall, with the approval of the Bank of Zambia, make Regulations for regulations- deposits

(a) prescribing the terms and conditions upon which sums of

money may be deposited with or withdrawn from the Bank;

- (b) fixing the rate of interest payable to the depositors and the minimum sum (if any) on which the interest shall be payable, and prescribing the methods by which, and the periods in respect of which, interest shall be calculated;
- (c) prescribing the form of acknowledgment which shall be evidence of a depositor's claim to repayment of his deposit with interest thereon;
- (d) prescribing the maximum and minimum amounts (if any) which may be deposited or held by a depositor at any one time;
- (e) regulating the payment of deposits and interest to the depositors or persons lawfully entitled to claim on their accounts;
- (f) regulating the remittance of deposits to the principal place of business of the Bank;
- (g) prescribing the manner in which the accounts of depositors shall be kept and providing for inspection and supervision thereof;
- (h) prescribing forms of declaration to be made by or on behalf of any depositor or of any secretary, treasurer, trustee or other responsible officer of any association, society or club for the purpose of operating accounts of such association, society or club; and
- (i) as to the fees (if any) leviable for services performed by or on behalf of the Bank.

(As amended by Act No.23 of 2005)

17. The Board may, with the approval of the Minister, appoint agents upon such terms and conditions as it may determine to carry out such functions under this Act as may be assigned to them by the Board. Appointment of agents

PART IV

INSOLVENCY AND DISSOLUTION

22. (1) In the event of the Bank becoming insolvent the Bank of Zambia may in accordance with Chapter VII of the Banking and Financial Services Act dissolve and liquidate the Bank. Insolvency
Cap. 387

(2) In this subsection (1) insolvency has the meaning assigned to it by section *eighty-six* of the Banking and Financial Services Act. Cap. 387

23. Where the Bank is dissolved under section *twenty-two* this Act shall be repealed. Effect of dissolution of Bank

(As repealed and replaced by Act No. 23 of 2006)

(Parts V and VI repealed by Act No. 23 of 2006)

PART VII

REPEAL AND TRANSITIONAL PROVISIONS

32. (1) From the commencement of this Act, the Savings Bank shall exist only for the purpose of winding up its affairs, and for no other purpose. Winding up of affairs of Savings Bank and its dissolution

(2) When the Minister is satisfied that the necessary agreements and arrangements have been made for the winding-up of the affairs of the Savings Bank so that it may be dissolved, he may, by statutory instrument, direct that the Savings Bank shall be dissolved on such date as may be appointed in the statutory instrument (in this Act referred to as "the appointed date").

33. (1) On the commencement of this Act, there shall be transferred to, and shall vest in, the Bank by virtue of this Act and without any further assurance all property, rights, liabilities and obligations which immediately before the commencement of this Act were property, rights, liabilities and obligations of the Savings Bank. Vesting of assets and liabilities of Savings Bank in Bank

(2) The Savings Bank shall, for the purpose of winding up its affairs before the appointed date and notwithstanding anything to the contrary contained in the Post Office Savings Bank and Savings Certificates Act, or any other written law, have power to do anything which is necessary or expedient for that purpose or is incidental thereto, including in particular but without prejudice to the generality of that power, power to enter into and carry out agreements and arrangements for the transfer of its property, rights, liabilities and obligations to any other body or person, including the Government and the Bank.

(3) Every deed, bond and agreement (other than an agreement for personal service) to which the Savings Bank was a party immediately

before the commencement of this Act, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, unless its terms or subject-matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment thereof, as if-

(a) the Bank had been a party thereto;

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

(c) for any reference to any employee of the Savings Bank not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such employee of the Bank as the Bank shall designate.

(4) Subject to the provisions of subsection (3), documents other than those referred to therein which refer specifically or generally to the Savings Bank shall be construed in accordance with the said subsection (3) as far as applicable.

34. Whenever, in pursuance of this Act, any property, rights, liabilities or obligations of the Savings Bank are transferred by it to the Bank or any person or the Government in respect of the transfer of which any written law provides for registration, it shall be the duty of the Savings Bank to make an application in writing to the proper officer of the appropriate registration authority for the registration of such transfer, and it shall be the duty of such officer to make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, to issue to the transferee concerned a Certificate of Title in respect of the said property or to make necessary amendments to the register, as the case may be, and, if presented therefor, to make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable in respect thereof. Registration of property to be transferred by Savings Bank

35. Where any person who was, whether on secondment or otherwise, in the service of the Savings Bank immediately before the Terms of service of employees on

commencement of this Act transfers from that service to the service of transfer to Bank the Bank, it shall be the duty of the Bank to ensure that his terms and conditions of service with the Bank shall be no less favourable than those he enjoyed while in the service of the Savings Bank, and that his service with the Savings Bank shall be treated as service with the Bank for the purposes of determining his rights to or eligibility for pension, gratuity, leave or other benefits.

36. The Post Office Savings Bank and Savings Certificates Act and regulations made thereunder shall be deemed to have been repealed on or from the appointed date. Repeal on or from appointed date.

37. The Board may, with the approval of the Minister, by statutory instrument, make regulations- Regulations

(a) prescribing anything for the purpose of giving effect to and for the better carrying out of the provisions of this Act; and

(b) as to all other matters incidental to the operation of the savings schemes under this Act.