NATIONAL PEACE AND RECONCILIATION BILL, 2015

EXPLANATORY MEMORANDUM

This Bill seeks to give effect to sections 251, 252 and 253 of the Constitution which provide for the establishment and composition of the National Peace and Reconciliation Commission, its functions and its reports of the commission, respectively.

Clause 1

This clause sets out the Bill's short title and date of commencement.

Clause 2

This clause contains definitions of words and phrases used throughout the Bill.

Clause 3

This clause provides that members of the Commission shall be appointed by the President and sets out the qualities required of the appointees. It further provides for gender equality in the membership of the Commission. According to this clause at any given time the Chairperson and the Vice-Chairperson shall be of opposite genders. The Vice-Chairperson's performance shall be reviewed by the Committee on Standing Rules and Orders whereas the performance of the Chairperson shall be reviewed by the Committee and the Judicial Services Commission. A member shall serve for a five year term and be eligible for reappointment for not more than one term. Further administrative provisions applicable to the Commission are contained in the First Schedule.

Clauses 4 and 5

The Commission shall enjoy the independence provided for in terms of section 235 of the Constitution. The Commission shall have a seal for use as occasion may require and the design may be prescribed by the President by proclamation in the *Gazette*. The seal shall be kept in the custody of the Chief Executive Officer.

Clause 6

This clause sets out the functions of the Commission which include investigating of disputes and conflicts, making recommendations for conflict prevention, management and resolution and any other duties assigned to it through this or another statute. Ancillary powers of the Commission are contained in the Second Schedule.

Clause 7

This clause elaborates on the Commission's investigative function.

Clause 8

This clause sets out the procedure of conducting investigations and empowers Commission to issue summons to any person to attend and produce evidence related to any investigation. The clause also relieves the Commission from adherence strict rules of evidence. However the law relating to the competence and compellability of any person on the grounds of privilege to give any evidence shall apply. The Commission will also request the services of the police where necessary. The identities of witnesses who testified in a closed hearing will not be disclosed. Any unauthorised disclosure will be penalised.

Clause 9

After an investigation the Commission shall make a report to the Minister detailing the nature and extent of investigation, results of its investigation and make recommendations on what legislative, administrative or other practical reforms or strategies should be taken to prevent, manage and resolve future potential conflicts. The Minister shall annually lay before Parliament a report detailing the cases handled by the Commission that year, the recommendations he or she received and the steps taken to implement the recommendations.

Clause 10

This clause provides for the appointment of a Chief Executive Officer of the Commission who must be a citizen or ordinarily resident in Zimbabwe and who will supervise the staff, manage activities, property and funds of the Commission.

Clause 11

This clause provides for the appointment and functions of a Secretary of the Commission who will keep records of all meetings of the Commission and act as Acting Chief Executive officer in the absence of the Chief Executive Officer.

Clause 12

The Commission in consultation with the Minister and Minister of Finance will appoint such other staff as is necessary for the proper exercise of its functions and may, subject to any other law, suspend or discharge such persons.

Clause 13

The Commission shall submit its annual report to the Minister not later than sixty days after the end of a financial year. The report shall include the balance sheet, the income and expenditure account and the Auditor's report.

Clause 14

This clause provides for the funding of the Commission.

Clauses 15 and 16

Clause 15 enjoins the Commission to keep proper books of accounts and to appoint an internal auditor in the manner provided for in the Public Finance Management Act [*Chapter 22:19*]. Clause 16 provides for the auditing of the Commission's books by the Auditor-General.

Clause 17

This clause empowers the Commission to make regulations providing for all matters which are permitted to be prescribed or required or are necessary or convenient to be prescribed in order to give effect to this Bill.

Clause 18

This clause provides that this Act shall expire ten years after the Commission becomes operational.

NATIONAL PEACE AND RECONCILIATION COMMISSION BILL, 2015

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

PART II

NATIONAL PEACE AND RECONCILIATION COMMISSION

PART III

INVESTIGATIVE FUNCTIONS OF NATIONAL PEACE AND RECONCILIATION COMMISSION

PART IV

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PRESENTED BY THE MINISTER OF NATIONAL PEACE AND RECONCILIATION

BILL

To put the National Peace and Reconciliation Commission into operation; to confer additional jurisdiction on the Commission, including the investigative powers; and to provide for matters connected with or incidental to the foregoing.

WHEREAS sections 251 to 253 of the Constitution provide as follows:

"251 Establishment and composition of National Peace and Reconciliation Commission

(1) For a period of ten years after the effective date, there is a commission to be known as the National Peace and Reconciliation Commission consisting of—

(a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and

(b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) The chairperson of the National Peace and Reconciliation Commission must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe.

(3) If the appointment of a chairperson to the National Peace and Reconciliation Commission is not consistent with a recommendation of the Judicial

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Service Commission, the President must cause the Committee on Standing Rules and Orders to be informed as soon as practicable.

(4) Members of the National Peace and Reconciliation Commission must be chosen for their integrity and their knowledge and understanding of, and experience in, mediation, conciliation, conflict prevention and management, post-conflict reconciliation or peace building.

252 Functions of National Peace and Reconciliation Commission

The National Peace and Reconciliation Commission has the following functions—

(a) to ensure post-conflict justice, healing and reconciliation;

(b) to develop and implement programmes to promote national healing, unity and cohesion in Zimbabwe and the peaceful resolution of disputes;

(c) to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice;

(d) to develop procedures and institutions at a national level to facilitate dialogue among political parties, communities, organisations and other groups, in order to prevent conflicts and disputes arising in the future;

(e) to develop programmes to ensure that persons subjected to persecution, torture and other forms of abuse receive rehabilitative treatment and support;

(f) to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate;

(g) to develop mechanisms for early detection of areas of potential conflicts and disputes, and to take appropriate preventive measures;

(h) to do anything incidental to the prevention of conflict and the promotion of peace;

(i) to conciliate and mediate disputes among communities, organisations, groups and individuals; and

(j) to recommend legislation to ensure that assistance, including documentation, is rendered to persons affected by conflicts, pandemics or other circumstances.

253 Reports of National Peace and Reconciliation Commission

In addition to the report it is required to submit in terms of section 323, the National Peace and Reconciliation Commission may, through the appropriate Minister, submit reports to Parliament on particular matters relating to national peace and reconciliation which, in the Commission's opinion, should be brought to the attention of Parliament.":

NOW, THEREFORE, be it enacted by the Parliament and the President of Zimbabwe as follows—

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the National Peace and Reconciliation Commission Act [*Chapter 10:32*].

(2) This Act shall come into operation on the date to be fixed by President by statutory instrument.

2 Interpretation

In this Act—

"annual report" means the annual report of the Commission referred to in section 13(1);

"Commission" means the National Peace and Reconciliation Commission established in terms of section 251 of the Constitution;

"Chief Executive Officer" means the Chief Executive Officer of the Commission appointed in terms of section 10;

"dispute" or "conflict" means any dispute or conflict of a kind falling within the scope of the Commission's constitutional mandate;

"Minister" means Minister of National Healing, Peace and Reconciliation or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"seal" means seal of the Commission provided for in terms of section 5;

"Secretary" means Secretary of the Commission appointed in terms of section 11.

PART II

NATIONAL PEACE AND RECONCILIATION COMMISSION

3 National Peace and Reconciliation Commission

(1) Subject to this Act, a member shall hold office for such period, being not more than five years, and subject to such other terms and conditions, as the President shall fix on his or her appointment and shall be eligible for reappointment for not more than one term.

(2) The President shall appoint one member as Vice-Chairperson from amongst the members of the Commission and the Vice-Chairperson shall, save where the President otherwise directs, exercise the functions and powers and perform the duties of the Chairperson during any period that the Chairperson is unable to exercise his or her functions or the office of the Chairperson is vacant:

Provided that the Vice-Chairperson shall be of different sex from the Chairperson.

(3) In the appointment of the members of the Commission in terms of section 251(1)(b) of the Constitution, the President shall ensure that at least half of the members of the Commission shall be women.

(4) The First Schedule applies to the qualifications of members of the Commission, their terms and conditions of office, vacation of office, suspension and dismissal, and the procedure to be followed by the Commission at its meetings.

(5) The Chairperson and other members of the Commission must be—

(a) appointed in their individual capacity and must not represent a particular group; and

(b) independent; and

(c) non-partisan; and

(d) of good standing.

(6) No member of the Commission shall be eligible for renewal for his or her term of office in terms of subsection (1) unless there is evidence of satisfactory performance.

(7) The Committee on Standing Rules and Orders shall review the performance of the Vice Chairperson and the Commissioners and make recommendations to the President.

(8) In addition to the review and recommendations of the Committee on Standing Rules and Orders, the Judicial Service Commission shall also review the performance of the Chairperson and recommend to the President whether the Chairperson's term of office should be renewed.

4 Commission to be independent

The Commission shall enjoy the independence provided for in terms of section 235 of the Constitution.

5 Seal of Commission

(1) The Commission shall have for use as occasion may require, a seal of such design as may be prescribed by the President by proclamation in the *Gazette*.

(2) The seal of the Commission shall be kept in the custody of the Chief Executive Officer.

6 Functions of Commission

(1) In addition to the provisions of section 252 of the Constitution, the functions of the Commission shall be—

(a) to make investigations of any dispute or conflict of a kind falling within the scope of its constitutional mandate; or

(b) to make appropriate recommendations for peace building strategies and conflict prevention, management and resolution; or

(c) to conduct research on—

(i) the nature, scope, extent and causes of disputes and conflicts of a kind falling within the scope of its constitutional mandate; or

(ii) the intervening strategies for disputes and conflict referred to in subparagraph (i);

or

(d) to perform any other function that the Commission may be required or permitted to perform by or under this Act or any other enactment.

(2) The Second Schedule sets out the ancillary powers of the Commission.

PART III

INVESTIGATIVE FUNCTION OF NATIONAL PEACE AND RECONCILIATION COMMISSION

7 Investigative function of Commission

(1) Before launching an investigation, the Commission shall publish a notice in the *Gazette* and in any one or more national newspapers informing the public that, no earlier than fourteen days or later than thirty days after the publication of the notice in the *Gazette*, it intends to investigate any conflict in a specific named sphere of activity or named sector of the society or economy.

(2) Any person affected by conflict arising out of any action or omission on the part of an authority or person, may make a written complaint to the Commission requesting it to investigate such action or omission.

(3) When a person by whom a complaint might have been made under this section has died or is for any reason unable to act for himself or herself, the complaint may be made by his or her legal representative or a member of his or her family or such other person as the Commission considers suitable to represent him or her.

(4) The Commission shall not investigate a complaint where the action or omission complained of is the subject matter of civil proceedings before any court of competent jurisdiction.

8 Manner of conducting investigations

(1) Subject to subsection (7) (concerning non-disclosure of certain evidence), the Commission may in its discretion conduct an investigation in the form of a public or closed hearing, for which purpose the Commission shall have the following powers—

(a) to issue summons to any person to attend before the Commission and to produce any document or record as relevant evidence in any investigation by the Commission; and

(b) to put such questions to any person as the Commission considers will assist its investigation of the matter in question; and

(c) to require any person questioned by it to answer such questions and to disclose any information within such person's knowledge which the Commission considers relevant to any investigation by it; and

(d) to request the assistance of the police during an investigation.

(2) Every witness who testifies before the Commission shall do so under oath.

(3) In conducting a hearing, the Commission shall not be bound by the strict rules of evidence, and it may ascertain any relevant fact by any means which it thinks fit and which is not unfair or unjust to any party.

(4) The Commission shall afford any person who is alleged to be directly or indirectly responsible for perpetrating, implementing, perpetuating or permitting the continuance of any violence or conflict fourteen working days from the date when he or she is notified of the allegation in writing by the Commission to respond to such allegation in writing.

(5) Any person appearing before the Commission may be represented by a legal practitioner.

(6) Information obtained by the Commission or any member of its staff at a closed hearing shall not be disclosed to any person except—

(a) without disclosing the identity of any person who gave the information in confidence, for the purposes of the investigation and for any report to be made thereon; or

(b) for the purposes of any proceedings for perjury alleged to have been committed in the course of an investigation.

(7) The Minister may, at any stage during an investigation by the Commission, produce to the Commission a certificate in writing signed by him or her to the effect that the disclosure of any evidence or documentation or class of evidence or documentation specified in the certificate is, in his or her opinion, contrary to the public interest on the grounds that it may prejudice the defence, external relations, internal security or

economic interests of the State, whereupon the Commission shall make arrangements for evidence relating to that matter to be heard *in camera* at a closed hearing and shall take such other action as may be necessary or expedient to prevent the disclosure of that matter.

(8) The Minister shall ensure that the certificate issued in terms of subsection (7) shall not prejudice the process of hearing and resolving disputes by the Commission and that such certificate shall guarantee impartiality of such process.

(9) For the avoidance of doubt a certificate issued in terms of subsection (7) shall only protect the information to which it refers from disclosure and shall not immunise any person for any unlawful acts mentioned therein.

(10) Where the Commission receives a certificate under subsection (7), it may, if it has already commenced an investigation as a public hearing—

(a) convert the public hearing into a closed hearing; or

(b) close its proceedings to the public for the purpose of taking the evidence and documentation in question.

(11) Any person who—

(a) has been summoned by the Commission to give evidence or to produce any documentation for the purposes of an investigation and who fails to attend or to remain in attendance until excused by the Commission from further attendance, or refuses without sufficient cause, the onus of proof whereof lies upon him or her, to be sworn as a witness or to answer fully and satisfactorily a question lawfully put to him or her, or to produce the evidence or documentation requested; or

(b) gives false evidence to the Commission, knowing such evidence to be false or not knowing or believing it to be true;

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

(12) Any member of the Commission or member of staff of the Commission who without being authorised to do so by the Commission discloses any information referred to in subsection (6), or makes any use of such information for his or her benefit, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(13) The Commission shall guarantee safe and impartial space for the hearing of the matters before it and before other committees appointed by the Commission and anyone who—

(a) threatens; or

(b) victimises; or

(c) discourages; or

(d) dissuades;

any witness from testifying before the Commission or before other committees appointed by the Commission, shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(14) For the avoidance of doubt, it is declared that the law relating to the competence or compellability of any person on the grounds of privilege to give evidence, answer any questions or produce any book or document before the Commission, shall apply.

9 Report and recommendations to Minister after investigation

(1) After conducting an investigation, the Commission shall report in writing to the Minister—

(a) the nature and extent of its investigation and its principal findings and determinations arising therefrom; and

(b) the nature, extent and consequences of the conflict found by the Commission to be in existence; and

(c) appropriate recommendations for the implementation of peace building measures; and

(d) a comprehensive strategy for incorporating the gender perspective in conflict prevention, management and resolution and peace building measures; and

(e) strategies for incorporating the interests of children in peace building measures; and

(f) a summary of all its decisions to prevent, manage or resolve conflict; and

(g) appropriate steps for the maintenance and promotion of peace; and

(h) whether the conflict in question is specifically attributable to any identifiable practice, custom, law or other impediment prejudicial to the peace building exercise, or to the absence of any law or to any deficiency in the law; and

(i) what legislative, administrative or other practical reforms, if any, should be taken to prevent, manage or resolve future potential conflicts; and

(j) whether a class action under the Class Actions Act [*Chapter 8:17*] (No. 10 of 1999) or a prosecution for the breach of any law, or a reference or complaint to the Zimbabwe Human Rights Commission established in terms of section 242 of the Constitution as read with Zimbabwe Human Rights Commission Act [*Chapter 10:30*] (No. 2 of 2012) or other immediate legal action is appropriate; and

(k) advising him or her that it is apparent that the perpetrator of violence took advantage of the victim and that such perpetrator ought to be prosecuted; and

(l) advising him or her that the perpetrator of violence offers compensation to the victim and that such compensation should be considered as a mitigating factor when such perpetrator is being prosecuted; and

(m) any other matter or consideration it deems fit to bring to the Minister's attention.

(2) Upon receiving the recommendations of the Commission in terms of subsection (1), the Minister shall—

(a) take all necessary steps to implement the recommendations of the Commission; or

(b) deal with the recommendations in any manner that the Minister deems necessary in the circumstances.

(3) The Minister shall annually lay before Parliament a report detailing—

(a) the cases handled by the Commission for the year under review; and

(b) the recommendations that the Minister received from the Commission; and

(c) the steps that the Minister took in implementing the recommendations of the Commission; and

(d) any further action which Parliament may need to take in order to implement the recommendations of the Commission.

PART IV

ADMINISTRATION OF NATIONAL PEACE AND RECONCILIATION COMMISSION

10 Appointment and functions of Chief Executive Officer of Commission

(1) Subject to this section, the Commission shall appoint, in consultation with the Minister, on such terms and conditions as the Commission may fix, a person to be the Chief Executive Officer of the National Peace and Reconciliation Commission and, subject to any other law, may suspend or discharge such person:

Provided that the Minister, with the approval of the Civil Service Commission, may assign persons employed in his or her Ministry to act as the Chief Executive Officer of the Commission.

(2) No person shall be appointed as Chief Executive Officer and no person shall be qualified to hold office as Chief Executive Officer if he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe.

(3) The appointment of the Chief Executive Officer shall terminate if he or she would be required in terms of paragraph 2 or 4(a) of the First Schedule to vacate his or her office had that paragraph applied to him or her:

Provided that his or her appointment shall not terminate on the grounds that he or she has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority for the Chief Executive Officer to continue as such despite subsection (2).

(4) The Chief Executive Officer shall, subject to the Commission's directions—

(a) supervise and manage the Commission's staff, activities, funds and property; and

(b) be a non-voting participant in the meetings and deliberations of the Commission; and

(c) perform such other functions on behalf of the Commission as the Commission may assign to him or her.

(5) Any assignment of functions in terms of subsection (4)(c)—

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

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

(c) shall not preclude the Commission itself from exercising such assigned functions.

11 Appointment and functions of Secretary of Commission

(1) Subject to this section, the Commission shall appoint, in consultation with the Minister and the Chief Executive Officer, on such terms and conditions as the Commission may fix, a person to be the Secretary of the National Peace and Reconciliation Commission and, subject to any other law, may suspend or discharge such person:

Provided that the Minister, with the approval of the Civil Service Commission, may assign persons employed in his or her Ministry to act as the Secretary of the Commission.

(2) No person shall be appointed as Secretary and no person shall be qualified to hold office as Secretary if he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe.

(3) The appointment of the Secretary shall terminate if he or she would be required in terms of paragraph 2 or 4(a) of the First Schedule to vacate his or her office had that paragraph applied to him or her:

Provided that his or her appointment shall not terminate on the grounds that he or she has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority for the Secretary to continue as such despite subsection (2).

(4) The Secretary shall, subject to the Chief Executive Officer's directions—

(a) keep or cause to be kept the proper record of the minutes of all the Commission's meetings; and

(b) be the acting Chief Executive Officer if the Chief Executive Officer is not in office; and

(c) perform such other functions on behalf of the Commission in the absence of the Chief Executive Officer as the Commission may assign to him or her.

(5) Any assignment of functions in terms of subsection (4)(c)—

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

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

(c) shall not preclude the Chief Executive Officer from exercising such delegated functions.

12 Other staff of Commission

The Commission shall, in consultation with the Minister and the Minister responsible for Finance, appoint such other staff as may be convenient or necessary for the proper exercise of its functions and, subject to any other law, may suspend or discharge such persons.

13 Reports of Commission

(1) The Commission shall, as soon as possible, and in any case not later than sixty days after the end of its financial year, submit to the Minister, in such forms as the Minister may determine, an annual report on the activities of the Commission.

(2) The annual report submitted in terms of subsection (1) shall include a copy of—

(a) a balance sheet; and

(b) the income and expenditure account; and

(c) the audit report in terms of section 16.

(3) The annual report submitted in terms of subsection (1) shall be laid before the National Assembly by the Minister on one of the ten days on which the National Assembly sits next after the Minister has received the report.

(4) The Commission shall submit to the Minister together with the annual report submitted in terms of subsection (1) a statement of capital expenditure reported upon by the Auditors showing the general heads of such expenditure as compared with the figures provided for in the capital budget or supplementary capital budget approved for that financial year.

(5) The Commission in regard to its operations, undertakings and property—

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

(b) may submit to the Minister such other reports as the Commission may deem advisable.

PART V

FINANCIAL PROVISIONS

14 Funds of Commission

(1) The funds of the Commission shall consist of—

(a) such moneys appropriated by an Act of Parliament for the programmes of the Commission, salaries and allowances payable to and in respect of members of the Commission and the recurrent administrative expenses of the Commission; and

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

(c) any donations, grants, bequests or loans made by any person or organisation or any government of any country to the Commission with the approval of the Minister; and

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

(2) The Commission shall apply its funds to the fulfilment of its functions and shall further observe public finance management principles established in terms of section 298 of the Constitution.

(3) Moneys not immediately required by the Commission may be invested in such a manner as the Commission, with the approval of the Minister and the Minister responsible for Finance, considers appropriate.

15 Accounts of Commission and appointment of internal auditor

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

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

(3) Section 80 of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009), shall apply, with such changes as may be necessary, to the appointment of an internal auditor to the Commission in all respects as if the Commission were a Ministry or a department of a Ministry.

16 Audit of Accounts

(1) The accounts of the Commission shall be audited by the Auditor-General, who for that purpose shall have the functions conferred on him or her by sections 7 and 8 of the Audit Office Act [*Chapter 22:18*] (No. 12 of 2009).

(2) Any person under the authority or supervision of the Commission who refuses to provide the Auditor-General with an explanation or information required by him or her for the purposes of an audit or knowingly provides the Auditor-General with a false explanation or information, or an explanation or information that the person has no grounds for believing to be true, shall be guilty of an offence and liable to a fine not

exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Despite subsection (1), the Auditor-General may appoint a suitably qualified person to audit the accounts of the Commission and if he or she does so—

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

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

PART VI

MISCELLANEOUS PROVISIONS

17 Regulations

(1) The Commission may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in the Commission's opinion, are necessary or convenient to be prescribed in order to carry out or give effect to this Act.

(2) Regulations may provide for the terms and conditions of service of the Chief Executive Officer and the Commission's staff.

(3) Regulations may provide for the manner in which the committees of the Commission may be constituted and perform their work.

(4) Regulations may provide for offences and penalties which may be imposed for contraventions of the regulations, which penalties shall not exceed a fine of level six or imprisonment for a period not exceeding one year or both.

(5) The regulations of the Commission shall not have effect until they have been approved by the Minister and published in the *Gazette*.

18 Expiry of Act

This Act shall cease to have effect ten years after the Commission is first appointed.

FIRST SCHEDULE (Section 3(4))

PROVISIONS APPLICABLE TO COMMISSION

Paragraph

Interpretation in First Schedule

1. In this Schedule—

"member" —

(a) means a member of the Commission;

(b) in relation to a statutory body, includes a person who is appointed to a Commission or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body;

"statutory body" means—

(a) any Commission established by the Constitution;

(b) any body corporate established directly by or under any Act of Parliament for special purposes specified in that Act.

Disqualification for appointment as member

2. (1) Subject to this Act, a person shall not be qualified for appointment as a member if—

(a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or

(b) he or she 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 or composition with his or her creditors which has not been rescinded or set aside;

or

(c) within the period of five years immediately preceding his or her proposed appointment, he or she has been sentenced in any country by a competent court to a term of imprisonment imposed without the option of a fine, whether or not any portion thereof has been suspended, and has not received a free pardon; or

(d) he or she is a Member of Parliament.

(2) A person shall not be qualified for appointment as a member, nor shall he or she hold office as a member, if he or she is a member of two or more other statutory bodies.

Expiry of membership and re-appointment of members

3. (1) On the expiry of the period for which a member has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:

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

(2) A person who ceases to be a member shall be eligible for re-appointment.

Vacation of office by members

4. Any member shall vacate his or her office and his or her office shall become vacant—

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

(b) if he or she is removed from office in terms of section 237(3) of the Constitution as read with section 187 of the Constitution.

Filling of vacancies of Commission

5. On the death of, or the vacation of office by a member, his or her office shall be filled within three months.

Meetings and procedure of Commission

6. (1) The Commission shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.

(2) The Chairperson may convene a special meeting of the Commission at any time.

(3) Written notice of a special meeting shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting other than—

(a) such business as may be determined by the Chairperson, where he or she convened the meeting in terms of subparagraph 3(a); or

(b) the business specified in the request for the meeting, where the Chairperson convened the meeting in terms of subparagraph 3(b).

(5) The Chairperson or, in his or her absence, the Vice-Chairperson shall preside at all meetings of the Commission:

Provided that, if the Chairperson and Vice-Chairperson are both absent from any meeting of the Commission, the members present may elect one of their number to preside at that meeting as Chairperson.

(6) All acts, matters or things, authorised or required to be performed by the Commission may be decided by a majority vote at any meeting of the Commission at which a quorum of five members is present:

Provided that in the event of an equality of votes the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(7) With the Commission's approval, the Chairperson of the Commission may invite any person to attend a meeting of the Commission or a committee, where the Chairperson considers that the person has special knowledge or experience in any matter to be considered by the Commission or the committee, as the case may be, at that meeting.

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

(2) A person who ceases to be a member shall be eligible for re-appointment.

Vacation of office by members

4. Any member shall vacate his or her office and his or her office shall become vacant—

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

(b) if he or she is removed from office in terms of section 237(3) of the Constitution as read with section 187 of the Constitution.

Filling of vacancies of Commission

5. On the death of, or the vacation of office by a member, his or her office shall be filled within three months.

Meetings and procedure of Commission

6. (1) The Commission shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.

(2) The Chairperson may convene a special meeting of the Commission at any time.

(3) Written notice of a special meeting shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting other than—

(a) such business as may be determined by the Chairperson, where he or she convened the meeting in terms of subparagraph 3(a); or

(b) the business specified in the request for the meeting, where the Chairperson convened the meeting in terms of subparagraph 3(b).

(5) The Chairperson or, in his or her absence, the Vice-Chairperson shall preside at all meetings of the Commission:

Provided that, if the Chairperson and Vice-Chairperson are both absent from any meeting of the Commission, the members present may elect one of their number to preside at that meeting as Chairperson.

(6) All acts, matters or things, authorised or required to be performed by the Commission may be decided by a majority vote at any meeting of the Commission at which a quorum of five members is present:

Provided that in the event of an equality of votes the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(7) With the Commission's approval, the Chairperson of the Commission may invite any person to attend a meeting of the Commission or a committee, where the Chairperson considers that the person has special knowledge or experience in any matter to be considered by the Commission or the committee, as the case may be, at that meeting.

(8) A person invited to attend a meeting of the Commission or of a committee may take part in the proceedings of the Commission or the committee as if he or she were a member thereof, but he or she shall not have a vote on any question before the Commission or committee, as the case may be.

(9) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the members and shall be incorporated into the minutes of the next succeeding meeting of the Commission:

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

Committees of Commission

7. (1) For the better exercise of its functions the Commission may establish one or more committees in which the Commission may vest its functions as it considers appropriate:

Provided that the committees shall not make decisions on behalf of the Commission but shall only make recommendations to the Commission.

(2) On the establishment of a committee in terms of subparagraph (1), the Commission—

(a) shall appoint at least one member of the Commission as a member of the committee, and that member or one of those members, as the case may be, shall be the chairperson of the committee; and

(b) may appoint as members of the committee persons who are not members of the Commission and may fix terms and conditions of their appointment.

(3) Meetings of a committee may be convened at any time and at any place by the Chairperson of the Commission.

(4) If the Chairperson of a committee is absent from any meeting of the committee, the members present may elect one of their number to preside at that meeting as Chairperson.

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

(6) Anything authorised or required to be performed by a committee may be decided by a majority vote at a meeting of the committee at which a quorum is present.

(7) At all meetings of a committee, each member present shall have one vote on each question before the committee:

Provided that in the event of an equality of votes the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(8) Subject to this paragraph, the procedure to be followed at any meeting of a committee shall be as fixed by the Commission.

Minutes of proceedings of Commission and its committees

8. (1) The Commission shall cause minutes of all proceedings of and decisions taken at every meeting of the Commission and recommendations of every committee to be entered in books kept for the purpose.

(2) Any minutes which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Commission or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of proceedings, recommendations and decisions taken at the meeting concerned.

Validity of decisions and acts of Commission and committees

9. No decision or act of the Commission or a committee or act that is authorised by the Commission or a committee, shall be invalid solely because there was a vacancy in the membership of the Commission or the committee or because a disqualified person purported to act as a member of the Commission or the committee, as the case may be, at the time the decision was taken or the act was done or authorised.

SECOND SCHEDULE (Section 6(2))

ANCILLARY POWERS OF COMMISSION

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and any interest therein and any rights concessions, grants, powers and privileges in respect thereof.

2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.

3. To maintain, alter or improve property acquired by it.

4. To mortgage any assets, or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.

5. To open bank accounts in the name of the Commission and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions, promissory notes, bills of exchange, securities and other negotiable or transferable instruments.

6. To insure against losses, damages, risks and liabilities which it may incur.

7. With the approval of the Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Commission considers appropriate or necessary for the proper exercise of its functions.

8. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to staff of the Commission as it considers fit.

9. To provide pecuniary benefits for staff of the Commission on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, provident funds or make such other provision as may be necessary to secure for its staff and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

10. To purchase, take on lease or in exchange or otherwise acquire land for residential purposes or dwellings-houses for use or occupation by staff of the Commission.

11. To construct dwellings, outbuildings or improvements for use or occupation by members of the Commission.

12. To provide or guarantee loans made to members of the Commission for the purchase of dwelling-houses or land for residential purposes, the construction of

dwelling-houses and the improvement of dwelling houses or land which are the property of its members, subject to any conditions that may be imposed by the Commission from time to time.

13. To provide security in respect of loans by the deposit of securities, in which the Commission may invest such money as it may consider necessary for the purpose.

14. Subject to any conditions that may be imposed by the Commission from time to time, to provide loans to any members of the Commission—

    (a) for the purpose of purchasing vehicles or other equipment to be used by the members in carrying out their duties; or

    (b) for the procuring of vehicles for the staff which may be resold to the staff after five years:

    Provided that the Commission may fix further terms and conditions for this vehicle scheme; or

    (c) not exceeding twelve months' salary or wages payable to the members concerned, for any purpose on such security as the Commission thinks adequate.

15. To do anything for the purpose of improving the skill, knowledge or usefulness of members of the Commission, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training:

    Provided that the duration of such training shall not exceed two years.

16. To engage in any activity, either alone or in conjunction with civil society organisations and other organisations or international agencies, to promote better understanding of peace building strategies and conflict prevention, management, resolution and transformation.

17. To do anything which by this Act or any other enactment is required or permitted to be done by the Commission.

18. Generally, to do all such things that are conducive to the performance of the functions of the Commission in terms of this Act or any other enactment.