
Chapter 12:03

POSTS AND TELECOMMUNICATIONS CORPORATION ACT

Acts 9/1970, 30/1971 (s. 20), 45/1972 (s. 34), 57/1972 (s. 25), 39/1973 (s. 53), 24/1975 (s. 5), 41/1978 (s. 21), 17/1979 (s. 12), 29/1981, 29/1990.

" [In terms of section 115 of CHAPTER 12:05, this Act will be repealed when the President is satisfied that the assets and liabilities of the Posts and Telecommunications Corporation referred to in section 3 thereof have been transferred to the appropriate successor company and that nothing remains to be done -Editor.]"

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AN ACT to establish the Posts and Telecommunications Corporation and to provide for the functions, powers and duties thereof; to establish and provide for the constitution and functions of the Posts and Telecommunications Board; to provide for the appointment of the Postmaster-General and the transfer of certain assets and liabilities to the Posts and Telecommunications Corporation; to regulate the financial affairs of the Posts and Telecommunications Corporation; to provide for the transfer and secondment of employees of the State to employment with the Posts and Telecommunications Corporation; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st July, 1970.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Posts and Telecommunications Corporation Act [Chapter 12:03].

2 Interpretation

In this Act—

“appointed member” means a member appointed in terms of paragraph (b) of subsection (1) of section five;

“Board” means the Posts and Telecommunications Board established by section four;

“broadcasting service” means a radiocommunication service for reception by members of the general public;

“Corporation” means the Posts and Telecommunications Corporation established by section three;

“fixed date” means the 1st July, 1970;

“Hertzian waves” means electromagnetic waves of frequencies between ten kilohertz and three million megahertz propagated in space without artificial guide;

“member” means a member of the Board;

“Minister” means the Minister of Information, Posts and Telecommunications or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“postal services” includes services by means of which—

(a) goods may be transmitted for cash on delivery;

(b) money may be remitted whether by means of money orders, postal orders or otherwise;

“Postmaster-General” means the person appointed in terms of section twenty-two to be the Postmaster-General;

“radiocommunication service” means the transmission, emission or reception of writing, signs, signals, pictures, impulses or sounds of any description whatsoever wholly or partly by means of Hertzian waves;

“radio station” means—

(a) apparatus, other than generating apparatus, capable of being used for the transmission or emission of writing, signs, signals, pictures, impulses and sounds of all descriptions whatsoever wholly or partly by means of Hertzian waves; or

(b) apparatus capable of being used for the reception of writing, signs, signals, pictures, impulses and sounds of all descriptions whatsoever wholly or partly by means of Hertzian waves; or

(c) apparatus referred to in paragraph (a) and apparatus referred to in paragraph (b) in combination.

PART II

POSTS AND TELECOMMUNICATIONS CORPORATION AND BOARD

3 Establishment of Posts and Telecommunications Corporation

There is hereby established a corporation, to be known as the Posts and Telecommunications Corporation, which shall be a body corporate and shall, in the name of the Posts and Telecommunications Corporation, be capable of suing and being sued and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

4 Establishment of Posts and Telecommunications Board

The operations of the Corporation shall, subject to this Act, be controlled by a board, to be known as the Posts and Telecommunications Board, appointed in terms of this Part.

5 Constitution of Board

(1) The Board shall consist of not less than five members of whom—

(a) one shall be the Postmaster-General ex officio;

(b) the others shall be appointed by the Minister after consultation and in accordance with any directions the President may give him.

(2) The Minister shall designate one member as chairman of the Board and another member as deputy chairman of the Board and the deputy chairman shall exercise the functions and powers and perform the duties of the chairman during any period that the chairman is unable to exercise his functions.

(3) The Minister may appoint any person to the Board as an alternate to an appointed member and such member—

(a) shall act as a member only when a member to whom he is alternate is unable to exercise his functions on the Board by reason of illness, absence from Zimbabwe or other cause;

(b) when acting as a member shall exercise the functions and powers and perform the duties of a member to whom he is alternate:

Provided that an alternate to the member who has been designated as chairman or deputy chairman of the Board shall not exercise the functions and powers or perform the duties of the chairman or deputy chairman, as the case may be.

6 Conditions of office of appointed members

(1) An appointed member shall, subject to this Part, hold office for such period, not exceeding three years, as the Minister may fix on his appointment.

(2) Subject to section thirteen, an appointed member shall hold office on such conditions as the Minister may in his case fix.

(3) A retiring member shall be eligible for reappointment as a member.

7 Disqualification for appointment as member

The Minister shall not appoint a person as a member and no person shall be qualified to hold office as an appointed member who—

(a) is not a citizen of Zimbabwe permanently resident in Zimbabwe; or

(b) has, or is married to a person who has, a financial interest in any business concerned with the manufacture or sale of postal, telecommunication or radio-communication equipment or the operation of postal, telecommunication or radiocommunication services or is, or is married to a person who is, engaged in any activity connected with such a business or service which, in the opinion of the Minister, is likely to interfere with the impartial discharge by that person of the duties of the office of member; or

(c) 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

(d) has, within the period of five years immediately preceding the date of his proposed appointment, been convicted—

(i) within Zimbabwe of a criminal offence; or

(ii) outside Zimbabwe of an offence, by whatever name called, which if committed within Zimbabwe would have been a criminal offence; and sentenced by a court to imprisonment for a term of six months or more, without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon.

8 Vacation of office by appointed member

An appointed 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 expiration of such shorter period as he and the Minister may agree; or

(b) thirty days after the date he is sentenced by a court to a period of imprisonment imposed without the option of a fine, whether or not the sentence is suspended:

Provided that if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted a free pardon, his conviction is set aside or a punishment other than imprisonment is substituted; or

(c) if he becomes disqualified in terms of paragraph (a), (b) or (c) of section seven to hold office as a member; or

(d) if he is required in terms of section nine to vacate his office; or

(e) if he is absent from two consecutive meetings of the Board, of which he has had notice, without the permission of the Board.

9 Minister may require appointed member to vacate office

The Minister may require an appointed member to vacate his office if the Minister is satisfied that the member—

(a) has been guilty of improper conduct as a member; or

(b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section six; or

(c) is mentally or physically incapable of efficiently performing his duties as a member.

10 Filling of vacancies

On the death of, or the vacation of office by, an appointed member, the Minister may appoint a person to fill the vacancy until the expiration of the period during which the member would, but for his death or the vacation of his office, have continued in office.

11 Meetings and procedure of Board

(1) The Board shall meet for the dispatch of business and adjourn, close and

otherwise regulate its meetings and procedure as it thinks fit:

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

(2) The chairman of the Board may himself at any time and shall, at the request in writing of not less than two members, convene a special meeting of the Board which meeting shall be convened for a date not less than seven days or more than thirty days after receipt of such request.

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

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

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

(6) At all meetings of the Board each member present shall, subject to section fourteen, have one vote on a question before the Board and, in the event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.

12 Committees of Board

(1) For the better exercise of its functions and powers the Board may establish one or more committees in which may be vested and on which may be imposed such of the functions and powers of the Board as the Board, with the consent of the Minister, may direct:

Provided that the vesting or imposition of any such functions and powers in a committee shall not thereby divest the Board of such functions and powers and the Board may amend or withdraw any decision of any such committee in the exercise of its functions and powers.

(2) The procedure of a committee of the Board shall be fixed by the Board:

Provided that the chairman of the Board may at any time convene a meeting of a committee of the Board.

(3) On the establishment of a committee in terms of subsection (1) the Board—

(a) shall appoint to that committee not less than two members of the Board, one of whom shall be designated as chairman of the committee;

(b) may appoint to that committee persons who are not members of the Board.

13 Remuneration and expenses of appointed members and members of committee

An appointed member or a member of a committee of the Board shall be paid from the funds of the Corporation—

(a) such remuneration, if any, as the Minister may in his case fix;

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

14 Members to declare connection with companies and firms dealing with Corporation

(1) If a member or his spouse—

(a) tenders for or acquires or holds a direct or indirect pecuniary interest in a contract with the Corporation; or

(b) knowingly acquires or holds a direct or indirect pecuniary interest in a company or firm applying or negotiating for a contract with the Corporation; or

(c) owns immovable property or a right in immovable property or a direct or indirect pecuniary interest in a company or firm which results in his private interests coming or appearing to come into conflict with his duties as a member;

the member shall forthwith disclose the facts to the Minister:

Provided that this subsection shall not apply in relation to a contract with the Corporation for the provision of any postal, telecommunication or

radiocommunication service entered into by a member or his spouse in which the member or his spouse receives no preferential treatment over or more advantageous terms than other members of the public.

(2) A member referred to in subsection (1) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to a contract, right, immovable property or interest referred to in that subsection.

(3) The Postmaster-General and any appointed member who is an employee of the Corporation shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to the terms and conditions of his appointment as Postmaster-General or as an employee, as the case may be.

15 Validity of decisions and acts of Board

No decision or act of the Board or act done under the authority of the Board shall be in-valid by reason only of the fact that—

(a) the Board consisted of less than the minimum number of persons for which provision is made in subsection (1) of section five; or

(b) a disqualified person acted as a member at the time the decision was taken or the act was done or authorized;

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

16 Execution of contracts and instruments by Corporation

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

17 Transaction of business of an urgent nature

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

18 Minutes of proceedings at meetings of Board and committees

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

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or of the committee 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.

PART III

FUNCTIONS, POWERS AND DUTIES OF CORPORATION AND TRANSFER OF ASSETS

19 Functions of Corporation

The functions of the Corporation shall be—

(a) subject to the law relating to postal and telecommunication services, to provide postal and telecommunication services within, into and from Zimbabwe to the fullest extent possible consistent with the resources of the Corporation;

(b) subject to the law relating to radiocommunication services—

(i) to regulate, control and supervise radio stations in Zimbabwe; and

(ii) to establish such radiocommunication services, other than broadcasting services, as the Board considers to be necessary or desirable in the public interest;

(c) to provide, on behalf of the Post Office Savings Bank, the services necessary in connection with the operation thereof in terms of the Post Office Savings Bank Act [Chapter 24:10];

(d) to provide such services as may be required for the issue and repayment of savings certificates in terms of the Savings Certificates Act [Chapter 22:12];

(e) to provide such other services for or on behalf of the State, a local authority or some other statutory body as may be required by or in terms of this Act or any other enactment or by the President.

20 Powers of Corporation

For the better exercise of its functions the Corporation shall, subject to this Act, have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule, either absolutely or conditionally and either solely or jointly with others.

21 Reports of Corporation

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

(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 Corporation may deem advisable;

in regard to the operations, undertakings and property of the Corporation.

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

(3) The Minister may lay a report submitted to him by the Corporation in terms of subsection (1) before Parliament.

22 Appointment of Postmaster-General

(1) For the better exercise of its functions and powers the Corporation, with the approval of the Minister—

(a) shall appoint, subject to this Act and on such terms and conditions as the Board deems fit, a person to be Postmaster-General in whom, subject to the control of the Board, shall be vested the management of the operations and property of the Corporation; and

(b) may delegate to the Postmaster-General such of the powers of the Corporation as the Board deems fit.

(2) Notwithstanding any terms and conditions fixed in terms of paragraph (a) of subsection (1), the appointment of the Postmaster-General shall be terminated if the Postmaster-General—

(a) being a citizen of Zimbabwe at the time of his appointment, ceases for any reason to be a citizen of Zimbabwe; or

(b) not being a citizen of Zimbabwe at the time of his appointment, fails to become a citizen of Zimbabwe within six months after the earliest date permitted in terms of the Citizenship of Zimbabwe Act [Chapter 4:01] or within six months after his appointment as Postmaster-General, whichever is the later; or

(c) would be required, in terms of paragraph (b) or (c) of section eight, to vacate his office had that section and paragraphs (b) and (c) of section seven applied to him.

(3) Any delegation of powers in terms of paragraph (b) of subsection (1)—

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

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

(c) shall not preclude the exercise of the powers by the Board itself.

23 By-laws of Corporation

(1) The Board may make by-laws for—

(a) the good management and conduct of the postal, telecommunication and radiocommunication services and other operations and property of the Corporation; and

(b) any other matter which, in the opinion of the Board, is necessary or

convenient to be provided for in by-laws in connection with any matter referred to in paragraph (a).

(2) By-laws made by the Board in terms of subsection (1) for the protection of the property of the Corporation—

(a) may provide for the imposition of penalties for breaches of the by-laws and for different penalties in the case of successive breaches but, subject to this Act, no penalty shall—

(i) in the case of a first conviction, exceed a fine of twenty dollars or, in default of payment, imprisonment for a period of one month;

(ii) in the case of a second or subsequent conviction, exceed a fine of fifty dollars or, in default of payment, imprisonment for a period of three months;

(iii) in the case of a continuing offence, exceed a daily penalty of five dollars;

and

(b) shall not have effect unless and until the by-laws have been approved by the Minister and published in a statutory instrument.

24 Directions required in national interest

(1) The Minister may, after consultation with the Board, give to the Corporation such directions of a general character as to the exercise by it of its powers as appear to the Minister to be requisite in the national interest.

(2) If it appears to the Minister that there is a defect in the general plan or arrangements of the Corporation for exercising any of its powers he may, after consultation with the Board, give to the Corporation directions of a general character for remedying the defect.

(3) Without derogation from subsections (1) and (2), if it appears to the Minister to be requisite or expedient so to do—

(a) in the interests of national security or relations with the government of a country or territory outside Zimbabwe; or

(b) in order—

(i) to discharge or to facilitate the discharge of an obligation binding on the State by virtue of its being a member of an international organization or a party to an international agreement; or

(ii) to attain or to facilitate the attainment of any other object, the attainment of which is, in the opinion of the Minister, requisite or expedient in view of the State being a member of an international organization or a party to an international agreement; or

(iii) to enable the State to become a member of an international organization or a party to an international agreement;

he may, after consultation with the Board, give to the Corporation directions requiring it, according to the circumstances of the case, to secure that a particular thing that it is doing is no longer done or that a particular thing that it has power to do but is not doing is so done.

(4) If it appears to the Minister that the Corporation is exercising undue discrimination against any person or persons of any class or description in the charges or other terms and conditions applicable to services provided by it, being services which by virtue of the law relating to telecommunication services it has the exclusive privilege of providing, he may, after consultation with the Board, give the Corporation such directions as appear to him requisite to secure that it ceases so to do.

(5) The Corporation shall, with all due expedition, comply with any direction given to it in terms of subsection (1), (2), (3) or (4).

(6) The Corporation shall not disclose any direction given to it in terms of subsection (1), (2), (3) or (4) if the Minister notifies the Corporation that he is of the opinion that it is against the interests of national security to do so.

(7) The President may give to the Postmaster-General such directions in relation to

the provision of services or facilities which the Corporation is capable of providing as appear to the President to be requisite in the interests of public security or the maintenance of law and order.

(8) The Postmaster-General—

(a) shall ensure that any direction given to him in terms of subsection (7) is complied with, with all due expedition; and

(b) shall not disclose to any person any direction given to him in terms of subsection (7) otherwise than to the extent necessary to ensure compliance therewith.

(9) No member, auditor or other person shall query any action taken or expense incurred on behalf of the Corporation by the Postmaster-General if the Postmaster-General produces a certificate, in writing, signed on behalf of the President stating that the action was taken or expense incurred, as the case may be, in accordance with a direction given in terms of subsection (7).

(10) Notwithstanding any other law, no information shall be given in any report or statement by the Corporation, the Board, a member, the auditors or any other person concerning any direction given in terms of subsection (7) or any action taken or expense incurred by the Postmaster-General in compliance with that direction unless the President has authorized that such information may be given.

25 Minister may direct Corporation to do work for State or local authority

(1) Subject to this section, the Minister, after consultation with the Board, may give the Corporation a direction that it shall do work of such a description as may be specified in the direction, being work consisting in the effecting of transactions in normal business hours in such parts of post offices as are open to the public during those hours for the transaction of postal business.

(2) Subject to this section, the Minister, after consultation with the Board, may give to the Corporation a direction that it shall in normal business hours issue on behalf of a local authority specified in the direction licences of a kind specified in the direction: Provided that no direction shall be given in terms of this subsection with reference to a local authority unless at the request of that local authority.

(3) The Corporation shall, with all due expedition, comply with a direction given to it in terms of subsection (1) or (2).

(4) In the event of a dispute as to the places at which, days on which or period during which work is to be done in compliance with a direction given in terms of subsection (1) or licences are to be issued in compliance with a direction given in terms of subsection (2), the dispute shall be determined by the Minister.

(5) The Minister shall not give a direction in terms of subsection (1) or (2) or proceed to a determination in terms of subsection (4) without taking into consideration—

(a) the administrative arrangements of the Corporation for the time being in force; and

(b) the facilities available to the Corporation for the time being for doing the work or issuing the licences, as the case may be, and for exercising and performing its other functions.

(6) In consideration of its complying with a direction given in terms of subsection (1) the Corporation shall be entitled to receive payment from the State of an amount to be determined, in the event of a dispute arising, by the Minister with the concurrence of the Minister responsible for finance and the direction may include provision as to the person by whom the payment is to be made and the manner in which it is to be defrayed.

(7) In consideration of its complying with a direction given in terms of subsection (2) the Corporation shall be entitled to receive payment from the local authority concerned of an amount to be determined, in the event of a dispute, by the Minister with the concurrence of the Minister responsible for finance.

PART IV

FINANCIAL PROVISIONS RELATING TO CORPORATION

26 Conduct of financial affairs of Corporation

It shall be the object of the Corporation so to exercise its functions and conduct its business as to ensure that its income, taking one year with another, is not less than sufficient to enable the Corporation to meet the expenditure of the Corporation properly chargeable to revenue account and in general the Corporation shall conduct its business on sound commercial lines.

27 Funds of Corporation

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

(a) such moneys as may be payable to the Corporation 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 Corporation, whether in the course of its operations or otherwise.

(2) Moneys collected and held by the Corporation on behalf of the State, the Post Office Savings Bank, a local authority or any other person, including moneys held in respect of savings certificates, shall not be included as part of the funds of the Corporation.

28 Corporation to make certain charges to revenue account

(1) The Corporation shall charge to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account and, in so doing, shall make in each financial year proper provision for—

(a) the depreciation or diminution in value of assets; and

(b) the payment of interest on and all other charges and expenses incurred in connection with loans; and

(c) the redemption of loans at due times to the extent that such redemption exceeds provision for depreciation; and

(d) the redemption of the amount payable for the assets and rights transferred to it by the State.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be made to revenue account as provided in subsection (1) the Corporation may also, in each financial year, make provision for—

(a) meeting, in whole or in part, increases in the cost of replacing assets to an extent approved by the Minister after consultation with the Minister responsible for finance;

(b) making payments to an insurance fund established by the Corporation to meet, in whole or in part, such liabilities of the Corporation as the Minister may approve;

(c) making payments to a pension fund established by the Corporation to meet, in whole or in part, superannuation liabilities of the Corporation.

(3) Moneys set aside by the Corporation in pursuance of subsection (1) or paragraph (a) of subsection (2) shall, until such time as they are used for the purposes referred to therein, be invested by the Corporation in its undertakings or otherwise as the Board deems fit on such terms as may be approved by the Minister and the Minister responsible for finance.

29 Establishment and operation of general reserve

(1) The Corporation shall establish a general reserve to which, subject to this Part, may be appropriated from a surplus of income over expenditure at the end of its financial year such sums as the Minister may approve.

(2) Subject to this Part, moneys in the general reserve established in terms of subsection (1) may, with the approval of the Minister, be used for such purposes as the Board may consider expedient for the proper exercise by the Corporation of its functions, including the development of its undertakings.

(3) The Board shall comply with any directions which the Minister may give in relation to the management of the general reserve established in terms of subsection (1).

(4) Moneys in the general reserve established in terms of subsection (1) shall not be reduced, without the approval of the Minister, below such an amount as the Minister

may fix, otherwise than for the purpose of meeting a deficiency as is provided in subsection (1) of section thirty.

30 Meeting of deficiencies

(1) If in any financial year the income of the Corporation, together with any surplus income brought forward from a previous financial year, is insufficient to enable the Corporation to meet the charges and to make the provisions required by section twenty-eight, the deficiency shall, unless the Minister otherwise directs, be met from the general reserve established in terms of section twenty-nine.

(2) If the moneys in the general reserve are insufficient for the purpose of meeting the deficiency referred to in subsection (1), the Minister may, out of moneys appropriated for the purpose by Act of Parliament, meet the whole or any portion of the amount of the deficiency outstanding after the application of the moneys in the general reserve to that purpose either at the end of the financial year or at such time thereafter as he considers expedient.

(3) Any payment made in terms of subsection (2) shall be regarded as a loan made by the State to the Corporation and shall be repayable by the Corporation on such terms and conditions as the Minister, with the concurrence of the Minister responsible for finance, may fix.

31 Accounts of Corporation

(1) The Corporation 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 Corporation shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct.

32 Appointment of auditors and audit of accounts of Corporation

(1) The Corporation shall, subject to the approval of the Minister, appoint an auditor, which auditor may be the Comptroller and Auditor-General or one or more persons who are registered as public auditors in terms of the Public Accountants and Auditors Act [Chapter 27:12]:

Provided that if the Comptroller and Auditor-General is appointed as auditor—

(a) persons in the employment of the Corporation shall not be regarded as officers for the purposes of the Audit and Exchequer Act [Chapter 22:03], notwithstanding the definition of “officer” in section 2 of that Act;

(b) section 16 of the Audit and Exchequer Act [Chapter 22:03] shall not apply.

(2) The accounts of the Corporation kept in terms of subsection (1) of section thirty-one shall be examined by the auditors.

(3) The auditors shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section thirty-one and such report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the state of the financial affairs of the Corporation.

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

(5) If, in the opinion of the auditors—

(a) they have not obtained the information and explanations they require;

or

(b) the accounts and records referred to in subsection (1) of section thirty-one have not been properly kept; or

(c) the Corporation has not complied with this Part;

the auditors shall include in the report made in terms of subsection (3) or (4), as the case may be, statements to this effect.

33 Powers of auditors

Without derogation from subsection (6) of section 9 of the Audit and Exchequer Act

[Chapter 22:03], the auditors shall be entitled at all reasonable times to require to be produced to them all accounts and other records relating thereto kept by the Corporation or its agents and to require from any member or person employed by the Corporation or its agents such information and explanations as in their opinion are necessary for the purposes of their audit.

PART V

TRANSFERRED EMPLOYEES OF THE STATE

34 Interpretation in Part V

In this Part—

“average pensionable emoluments” bears the meaning assigned to it in regulations made in terms of the State Service (Pensions) Act [Chapter 16:06] in relation to officers;

“pensionable emoluments”, in relation to a transferred officer or transferred employee, means the emoluments on which he is paying contributions towards a pension in terms of his conditions of service with the Corporation;

“transferred employee” means an employee who was transferred from the Public Service to employment with the Corporation before the 1st July, 1975;

“transferred officer” means an officer who was transferred from the Public Service to employment with the Corporation before the 1st July, 1975.

35 Conditions of employment of transferred officers

(1) A transferred officer shall enjoy conditions of service with the Corporation in relation to the following matters which are no less favourable than those enjoyed by him immediately prior to the date of his transfer—

- (a) security of tenure;
- (b) salary and salary scale;
- (c) pension, including commutation of pension;
- (d) leave, whether vacation, sick or other leave, and holiday benefits;
- (e) acting, overtime and travelling and subsistence allowances;
- (f) hours of duty:

Providing that nothing in this subsection shall be construed as precluding a transferred officer from waiving any rights conferred by this subsection by accepting in writing conditions which are less favourable.

(2) A transferred officer who was, immediately before the date of his transfer, on the fixed establishment shall not be discharged by the Corporation unless the President, on the recommendation of the Public Services Commission, has approved such discharge.

(3) If a transferred officer has a formal complaint regarding his conditions of service with the Corporation, he shall have the right to represent his case to the Board and, if he does not obtain satisfaction, he shall have a right of appeal to the Minister who may direct the Public Service Commission to inquire into the matter if he considers that the circumstances justify such a course of action.

36 Pension rights of transferred officer or transferred employee

(1) On the termination of the service of a transferred officer or of a transferred employee who, immediately before the fixed date, was contributing in terms of the Public Service (Employee) (Terminal Benefits) Regulations, 1965 (Rhodesia Government Notice No. 138 of 1965), he or his estate and any dependant of his shall be entitled—

(a) in respect of his service with the State or the Corporation prior to the 1st July, 1975, to the pension or other benefits that would have been payable had his service with the State been terminated immediately before that date in the same circumstances, and any pension shall be calculated on his average pensionable emoluments or pensionable emoluments, as the case may be, immediately before that date:

Provided that no payment shall be made in respect of—

- (i) an additional pension awarded as compensation for loss of office with

the Corporation on grounds similar to those specified in paragraph (d) or (e) of subsection (1) of section 36 of the Public Services Act [Chapter 271 of 1974]; or

(ii) an additional period added to a period of pensionable service as compensation for such loss of office with the Corporation; or

(iii) a pension accrued or other benefit awarded as compensation for ill-health, physical unfitness, physical incapacity, personal injury or loss of life caused or aggravated by the discharge of his official duties with the Corporation, although compensation shall be payable in respect of any such ill-health or injury which occurred prior to the fixed date even though such ill-health or injury does not manifest itself until on or after the fixed date;

and

(b) in respect of his service with the Corporation on and after the 1st July, 1975, to such pension and other benefits as may be provided for in his conditions of service with the Corporation.

(2) On the termination of the service of a transferred employee not referred to in subsection (1) he or his estate and any dependant of his shall be entitled—

(a) in respect of his service with the State prior to the fixed date, to the pension or other benefits that would have been payable had his service with the State been terminated immediately before the fixed date in the same circumstances; and

(b) in respect of his service with the Corporation on and after the fixed date, to such pension and other benefits as may be provided for in his conditions of service with the Corporation.

(3) In calculating the benefits payable in terms of subsection (1) or (2) in respect of a transferred officer or transferred employee who retires, resigns or is discharged or who dies after the 1st July, 1975—

(a) in the case of a transferred officer or transferred employee referred to in subsection (1), he or his widow, dependants or estate, as the case may be, shall be entitled in respect of his service with the State and his service with the Corporation to the benefits under paragraph (a) and paragraph (b) of subsection (1) and subparagraph (ii) of that paragraph which would have been payable had his retirement, resignation or discharge or his death whilst in the service of the Corporation, as the case may be, taken place after a period equal to the aggregate of his pensionable service with the State and his service with the Corporation, calculated—

(i) in accordance with paragraph (a) of subsection (1) in respect of the period of his pensionable service with the State and his service with the Corporation prior to the 1st July, 1975; and

(ii) in accordance with paragraph (b) of subsection (1) in respect of the period of his service with the Corporation on and after the 1st July, 1975;

(b) in the case of a transferred employee referred to in subsection (2), he or his widow, dependants or estate, as the case may be, shall be entitled in respect of his service with the State and his service with the Corporation to the benefits under paragraph (a) and paragraph (b) of subsection (2) which would have been payable had his retirement, resignation or discharge or his death whilst in the service of the Corporation, as the case may be, taken place after a period equal to the aggregate of his service with the State and his service with the Corporation, calculated—

(i) in accordance with paragraph (a) of subsection (2) in respect of the period of his pensionable service with the State; and

(ii) in accordance with paragraph (b) of subsection (2) in respect of the period of his service with the Corporation.

(4) If, on the resignation, discharge, retirement or death of a transferred officer, the aggregate of the pensions or any other benefits, from whatever source, payable to him or to his widow or any dependant of his is less than the aggregate of the pensions or any other benefits that would have been payable had he not been transferred to the Corporation and had his service with the Corporation been pensionable service with the State and had he been paid the pensionable emoluments paid to him by the

Corporation, the pension or other benefits payable to him or to his widow or dependants shall be increased by the amount of the difference.

(5) If, on the retirement or discharge of a transferred employee, the aggregate of any pensions payable to him in terms of subsection (1) or (2) is less than the pension that would have been payable to him had he not been transferred to the Corporation and had his service with the Corporation been continuous service with the State and had he been paid the pensionable emoluments paid to him by the Corporation, the pension payable to him by the Corporation shall be increased by the amount of the difference.

(6) For the purposes of subsections (3) and (4)—

(a) section 3 of the Pensions and Other Benefits Act [Chapter 16:01] shall apply, mutatis mutandis, in relation to a transferred officer or transferred employee as though the reference to the Public Services Act were a reference to his conditions of service under this Act; and

(b) sections 4 to 10 of the said Act shall apply, mutatis mutandis, in relation to a transferred officer who retires in accordance with the said section 4 as though—

(i) the references to the State Service (Pensions) (Public Service) Regulations, 1976, were a reference to his conditions of service under this Act; and

(ii) the reference to officers occupying posts which are classified in terms of the Public Services Act as Group I or Group II employee posts were a reference to transferred officers who—

A. immediately before the fixed date were occupying posts which were classified in terms of the law relating to the Public Service as Group I, Group II or Group III employee posts; and

B. at the 30th April, 1979, are occupying posts which are classified by the Corporation as Group I, Group II or Group III employee posts.

(7) Any pension or other benefits payable in terms of subsection (1), (2), (3) or (4) to a transferred officer or transferred employee shall be paid—

(a) in the case of benefits referred to in paragraph (a) of subsection (1) or paragraph (a) of subsection (2), from the Consolidated Revenue Fund, which is hereby appropriated to the purpose;

(b) in the case of benefits referred to in paragraph (b) of subsection (1), paragraph (b) of subsection (2) or subsection (3) or (4), by the Corporation:

Provided that where any benefits referred to in subsection (3) are paid by the Corporation in respect of a transferred officer who resigned, was discharged, retired or died after the 1st July, 1975, a proportion of such benefit equal to the amount that would have been paid in terms of subsection (3) had the resignation, discharge, retirement or death taken place immediately prior to the 1st July, 1975 shall be paid to the Corporation from the Consolidated Revenue Fund which is hereby appropriated to the purpose.

(8) For the purposes of this section, in determining whether a transferred officer has completed a period of pensionable service amounting to ten, twenty or twenty-five years, as the case may be, his period of employment with the Corporation shall be deemed to be continuous with and form part of his pensionable service.

(9) Subsections (1) and (5) shall apply, mutatis mutandis, in relation to a transferred employee referred to in that subsection who attains the age of sixty years as if his services were terminated on the date he attains that age.

PART VI

GENERAL

37 Exemption of Corporation from liability

No liability shall attach to the Corporation or to any member for any loss or damage sustained by any person as a result of the bona fide exercise or performance by the Corporation, the Board or a committee thereof or by any employee or agent of the Corporation of any power or duty conferred or imposed upon the Corporation or the Board by or in terms of this Act:

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

38 Long-term plans of Corporation

The Board may, whenever it considers it expedient to do so, and shall, when the Minister so requires, prepare and submit to the Minister a plan which—

(a) describes the nature of the postal, telecommunication and radiocommunication services and other operations which the Corporation proposes to undertake during the period to which the plan relates; and

(b) shows the capital expenditure estimated to be required in connection with the proposed services and other operations referred to in paragraph (a).

39 Restriction on use of name of Corporation

No person shall, on or after the fixed date, assume for the purposes of business or be registered in terms of the Companies Act [Chapter 24:03] under—

(a) a name which includes with the words “posts and telecommunications” or a cognate expression, the word “National”, “Zimbabwe”, “Zimbabwean”, or “State”;

(b) the name “Posts and Telecommunications Corporation” or a name so nearly resembling “Posts and Telecommunications Corporation” as to be likely to be mistaken for it;

without the approval, in writing, of the Minister.

40 Proceedings on failure of Board or Corporation to comply with Act

(1) If at any time the Minister is satisfied that the Postmaster-General, the Board or the Corporation has failed to comply with this Act, he may, by notice in writing, require the Postmaster-General, the Board or the Corporation, as the case may be, to make good the default within a specified time.

(2) If the Postmaster-General, the Board or the Corporation fails to comply with a notice issued in terms of subsection (1), the Minister may apply to the High Court for an order compelling the Postmaster-General, the Board or the Corporation, as the case may be, to remedy the default and the High Court may make such order on the application as it thinks fit.

41 Declaration of secrecy

(1) Every member shall take and subscribe before a justice of the peace or commissioner of oaths such oath or, if he objects to taking an oath, such affirmation of fidelity and secrecy as may be prescribed.

(2) Every employee of the Corporation who is required by the Minister, or who is a member of a class of employees required by the Minister, to take a declaration of fidelity and secrecy shall take and subscribe before a justice of the peace or commissioner of oaths such oath or, if he objects to taking an oath, such affirmation of fidelity and secrecy as may be prescribed.

42 Regulatory powers of Minister

The Minister may, by regulation, order or notice, prescribe any matter which is required by section forty-one to be prescribed or which, in his opinion, is necessary or convenient to be pre-scribed for carrying out or giving effect to this Act.

SCHEDULE (Section 20)

POWERS OF CORPORATION

1. To do any thing which this Act provides may or shall be done by the Corporation.

2. To acquire, establish and construct workshops, telephone exchanges, post offices, radio stations, offices and other premises necessary or convenient for the performance of the functions of the Corporation, and for that purpose to buy, take on loan or in exchange, hire or otherwise acquire immovable property and interests therein and rights over the same, and concessions, grants, rights, powers and privileges in respect thereof.

3. To purchase, manufacture, take on loan or in exchange, hire or

otherwise acquire movable property, including vehicles, machinery, plant, equipment and apparatus, necessary or convenient for the performance of the functions of the Corporation.

4. To supply, install, maintain, repair or test equipment or apparatus used in connection with postal, telecommunication or radiocommunication services.

5. To provide consultancy and advisory services in relation to postal, telecommunication, radiocommunication or other services carried on by the Corporation.

6. To purchase, take on lease or in exchange or otherwise acquire and hold property and interests in or rights over land, water rights and any other rights which may be necessary or convenient for the exercise of the functions or the discharge of the duties of the Corporation.

7. To apply for, buy or otherwise acquire patents, licences, concessions or the like conferring an exclusive or non-exclusive or limited right to use information or a process which may seem to the Board capable of being used for the purposes of the Corporation or the acquisition of which may seem to the Board calculated, directly or indirectly, to benefit the Corporation and to use, exercise, develop and grant licences in respect of or otherwise turn to account rights, information and processes so acquired.

8. Subject to the approval of the Minister, to acquire, take on lease or in exchange or invest in all or part of the business, property and liabilities of any company, society or partnership, or persons carrying on postal, telecommunication or radiocommunication services, and to carry on or liquidate or wind up such business or undertaking.

9. With the approval of the Minister, to enter into agreements with other State bodies, or any person, to obtain from or grant to such State bodies or persons rights or concessions in connection with postal, telecommunication or radiocommunication services and other operations.

10. (1) To maintain, alter and improve property of the Corporation.

(2) To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with property of the Corporation or any part thereof for such consideration, if any, as the Board may determine.

11. Subject to the approval of the Minister and the Minister responsible for finance—

(a) to borrow or advance money to enable the Corporation to exercise its functions and discharge its duties;

(b) to invest the funds of the Corporation not immediately required and any other moneys held by the Corporation;

(c) to establish and administer such funds, reserves and accounts not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the functions and discharge of the duties of the Corporation.

12. To appoint, upon such terms and conditions as the Board thinks fit, such persons as may be necessary for conducting the affairs and carrying out the functions of the Corporation and to suspend or discharge any such persons:

Provided that the Corporation shall not suspend or discharge the Postmaster-General without the approval of the Minister.

13. Subject to paragraph 12, to pay to employees of the Corporation such remuneration and allowances and bonuses and grant such leave of absence as the Board may consider fit.

14. To provide pecuniary benefits for employees of the Corporation on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants and, for that purpose, to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for such employees and their dependants any

or all of the pecuniary benefits to which this paragraph relates.

15. (1) To construct, purchase, take on lease or in exchange or otherwise acquire dwelling-houses, including hostels, for occupation by employees of the Corporation.

(2) To purchase land and construct thereon dwelling-houses, including hostels, for occupation by employees of the Corporation.

(3) To sell or lease dwelling-houses and land for residential purposes to employees of the Corporation.

16. On such terms and conditions as the Board, with the approval of the Minister responsible for finance, may determine—

(a) to guarantee loans made to employees of the Corporation or their spouses 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 such employees or their spouses;

(b) to provide security in respect of loans such as are described in subparagraph (a) by the deposit of securities in which the Corporation is hereby authorized to invest such moneys as the Board may deem necessary for the purpose.

17. To make loans, not exceeding such amount as the Minister may from time to time fix, to employees of the Corporation for the purpose of purchasing vehicles, tools or other equipment to be used by those employees in carrying out their duties.

18. To provide recreational facilities for and activities conducive to the welfare of employees and pensioners of the Corporation and the families of such persons and to assist the promotion by other persons of such activities.

19. To make loans, not exceeding the equivalent of three months' salary or wages, to employees of the Corporation for any purpose on such security as the Board may consider adequate.

20. (1) To do any thing for the purpose of improving—

(a) the skill, knowledge or usefulness of employees of the Corporation, or

(b) the efficiency of the equipment of the Corporation or the manner in which the equipment is operated;

and in that connection to provide or assist other persons in providing facilities for training, education and research.

(2) To promote or embark upon research in connection with, and to investigate anything affecting, postal, telecommunication or radiocommunication services.

21. To make contracts and enter into suretyships or give guarantees in connection with the exercise of the functions or the discharge of the duties of the Corporation and to modify or rescind such contracts and to modify or rescind such suretyships or guarantees.

22. To enter into agreements with any person connected with the establishment, operation or maintenance of any postal, telecommunication or radiocommunication service.

23. To insure with an insurer registered in terms of the Insurance Act [Chapter 24:07] against any losses, damages, risks or liabilities which the Corporation may incur.

24. To draw, make, accept, endorse, discount, execute and issue for the purpose of the business of the Corporation promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.

25. Subject to the approval of the Minister responsible for finance and to any other law, to levy charges for services rendered by the Corporation.

26. Subject to the approval of the Minister, to grant such scholarships or bursaries as the Board considers to be in the interests of the postal, telecommunication or radiocommunication services on such terms and conditions as the Board may fix in each particular case.

27. Subject to the approval of the Minister, to make grants to any benevolent fund established with the approval of the Corporation for employees of the Corporation and to make donations to charitable organizations.

28. To reimburse to the State the whole or any part of a sum paid by the State by way of contributions towards the expenses of an international organization of which the State is a member, being an organization concerned with activities that the Corporation has power to carry on.

29. To provide assistance, including financial assistance, to any institution or body whose activities or part of whose activities are such as to be, in the opinion of the Board, of benefit to the Corporation.

30. To provide for the State or Parliament such services as the Board considers the Corporation to be capable of providing.

31. Generally, to do all such things not specified in this Schedule as, in the opinion of the Board, are incidental or conducive to the performance of the functions of the Corporation or are incidental to the powers specified in this Schedule or which are calculated, directly or indirectly, to enhance the value of or to develop the postal, telecommunication, radiocommunication or other services or property of the Corporation.
