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ZIMBABWE

MINISTRY OF LANDS AND RURAL  
RESETTLEMENT  
Block 2, Makombe Building  
Private Bag CY 7779  
Causeway  
Harare

6 October 2014

C / 5 / 16

Commercial Farmers Union  
Harare

Re: **STAKEHOLDER CONSULTATIVE MEETING ON THE ZIMBABWE LAND  
COMMISSION BILL**

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Reference is made to the above matter.

You are cordially invited to attend a Stakeholders Consultative Meeting to discuss and make contributions to the Draft Zimbabwe Land Commission Bill which will be presented to Parliament shortly.

The meeting will be held on the 23<sup>rd</sup> October 2014 at 1000 hours at the Ministry of Lands and Rural Resettlement Head Office's Main Boardroom.

Kindly second a representative from your organisation and bring copies of your submissions to the meeting.

A handwritten signature in blue ink, appearing to read 'S. C. Tsvakwi'.

S. C Tsvakwi (Mrs)  
**Secretary for Lands and Rural Resettlement**

Find **enclosed** a copy of the Draft Land Commission Bill.



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**ZIMBABWE LAND COMMISSION BILL**

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**To provide for the establishment of the Zimbabwe Land Commission and to prescribe the functions and duties thereof; to provide for settlement of persons on, and the alienation of agricultural land; and to provide for matters incidental to and connected with the foregoing.**

WHEREAS section 296 of the Constitution provides as follows:

*"296 establishment and composition of the Zimbabwe Land Commission*

- (1) There is a commission to be known as Zimbabwe Land Commission consisting of—
  - (a) a chairperson and deputy chairperson; and*
  - b) a minimum of two and a maximum of seven other members; appointed by the President.**
- (2) Members of the Zimbabwe Land Commission must—
  - (a) be chosen for their integrity and competence in, and knowledge and understanding of, the best practices in land management and administration; and*
  - (b) reflect the diversity of Zimbabwe's population, in particular its regional interests and gender balance.**
- (3) Section 237 applies in relation to the removal from office of members of the Zimbabwe Land Commission as if it were an independent Commission established by Chapter 12.*

**AND WHEREAS** section 297 of the Constitution provides as follows  
*297 functions of the Zimbabwe Land Commission*

- (1) The Zimbabwe Land Commission has the following functions—
    - (a) to ensure accountability, fairness and transparency in the administration of agricultural land that is vested in the State;*
    - (b) to conduct periodical audits of agricultural land;*
    - (c) to make recommendations to the Government regarding—
      - (i) the acquisition of private land for public purposes;*
      - (ii) equitable access to and holding and occupation of agricultural land, in particular—
        - A. the elimination of all forms of unfair discrimination, particularly gender discrimination;*
        - B. the enforcement of any law restricting the amount of agricultural land that may be held by any person or household;***
    - (iii) land usage and the size of agricultural land holdings;*
    - (iv) the simplification of the acquisition and transfer of rights in land;*
    - (v) systems of land tenure; and*
    - (vi) fair compensation payable under any law for agricultural land and improvements that have been compulsorily acquired;*
    - (vii) allocations and alienations of agricultural land;**
  - (d) to investigate and determine complaints and disputes regarding the supervision, administration and allocation of agricultural land.*
- (2) The Zimbabwe Land Commission, with the approval of the Minister responsible for land, may make regulations for any of the purposes set out in subsection (1).*
- (3) The Zimbabwe Land Commission must exercise its functions in accordance with any general written policy directives which the Minister responsible for land may give it.*

- (4) *In discharging its functions, the Zimbabwe Land Commission must be guided by the principles set out in section 289.*
- (5) *The State and all institutions and agencies of government at every level, through legislative and other measures, must assist the Zimbabwe Land Commission in carrying out its functions and must protect its independence, impartiality, integrity and effectiveness.*
- (6) *The Government must make adequate and suitable provision, through legislation and other appropriate means, to ensure that—*
- (a) *The Zimbabwe Land Commission is able to exercise its functions efficiently and independently; and*
- (b) *Persons employed by the Zimbabwe Land Commission carry out their duties conscientiously, fairly and impartially.*

**AND WHEREAS** it is desirable to make further provision for the Zimbabwe Land Commission and for persons employed in connection with that Commission;

**NOW THEREFORE**, be it enacted by the President and the Parliament of Zimbabwe as follows:-

**PART I  
PRELIMINARY**

**1 Short Title**

This Act may be cited as the Zimbabwe Land Commission Act , 2014.

**2 Interpretation**

In this Act—

“acquiring authority” has the same meaning as provided in the Gazetted Land (Consequential Provisions) Act [ Chapter 20:28]

“alienate” includes lease;

“Commission” means the Zimbabwe land Commission established by section 296 of the Constitution of Zimbabwe;

“farm” means any area of land which is not within—

- (a) parks and wild life land or forest land; or
- (b) a municipal area, town area or local government area as defined in the Urban Councils Act [Chapter 29:15];
- (c) a town ward of a rural district council or an area that has been declared a specified area in terms of the Rural District Councils Act [Chapter 29:13]; or
- (d) the area of any township as defined in the Land Survey Act [Chapter 20:12]; or
- (e) State land the layout of which has been approved in terms of—
  - (i) section 127 of the Town and Country Planning Act [Chapter 213 of 1974]; or
  - (ii) section 43 of the Regional, Town and Country Planning Act [Chapter 20:12];

“holding” means land subject of a permit, offer letter or lease in terms of this Act;

“lease” includes the tenure of a holding after the right to purchase the holding has been exercised and until title has been issued in respect thereof;

“member” means a member of the Commission;

“Minister” means the Minister responsible for Land or any other Minister to whom the President may, from time to time, assign the administration of this Act.

**PART II  
ZIMBABWE LAND COMMISSION**

**3 Appointment of members of the Zimbabwe Land Commission**

(1) (a) The Minister shall submit a list of recommended candidates from which the President will appoint commissioners

(b) The composition of the Commission shall be gender sensitive.

(c) The Minister shall within reasonable time after appointment of Commissioners, publish their names in the Government Gazette.

**4 Zimbabwe Land Commission to be a corporate body**

(1) The Zimbabwe Land Commission shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

## **5 Term of office of Commissioners**

- (1) A Commissioner shall hold office for such period, not exceeding 5 years, as the President may fix on his appointment.
- (2) On the expiry of a Commissioner's term of office, the President may re-appoint him for a further period not exceeding 5 years.

## **6 Conditions of service for Commissioners**

- (1) The members shall hold office on such terms and conditions, including such terms and conditions relating to the payment of salary, allowances and pensions benefits as the President may fix in consultation with the Minister and the Minister responsible for finance.
- (2) Each member shall, before entering upon his or her office, take and subscribe before the President, or some other person authorised by the President in that behalf, the oath or affirmation of office set out in Schedule 1 of the Constitution.
- (3) The salaries, allowances and any pension benefits payable to the members shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated for the purpose.
- (4) The salary, allowances and pension benefits payable to a member under subsection (1) shall not be reduced during the period he or she holds the office concerned or acts as holder thereof.
- (5) At the time of appointment every member shall undertake not to hold any other public office during his or her term of office

## **7 Disclosure of interests by Commissioners**

- (1) In this section—  
“relative”, in relation to a member of the Commission or a committee, means the member's spouse, child, parent, brother or sister.
- (2) Subject to subsection (4)—
  - (a) if a member of the Commission or of a committee—
    - (i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission or the committee; or
    - (ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member; or
    - (iii) knows or has reason to believe that a relative of his—
      - A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission or the committee; or
      - B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member;
  - or
  - (b) if for any reason the private interests of a member of the Commission or of a committee come into conflict with his functions as a member;  
the member shall forthwith disclose the fact to the Commission or to the committee, as the case may be.
- (3) A member referred to in subsection (2) shall take no part in the consideration or discussion of, or vote on, any question before the Commission or the committee, as the case may be, which relates to any contract, right, immovable property or interest referred to in that subsection.

(4) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

## **8 Disqualification for appointment as a Commissioner**

(1) In this section—

“Statutory body” means—

(a) any commission established by the Constitution; or

(b) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any statutory body or by a commission established by the Constitution.

(2) The President shall not appoint a person as a member and no person shall be qualified to hold office as a member who—

(a) has in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;

or

(b) has within the period of five years immediately preceding the date of his proposed appointment, been 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.

(3) A person who is—

(a) a member of Parliament; or

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

shall not be appointed as a member, nor shall he be qualified to hold office as a member.

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

## **9 Removal from office of members of the Commission**

(1) A member of the Commission may be removed from office only on the ground that the member concerned—

(a) is unable to perform the functions of his or her office because of physical or mental incapacity;

(b) has been grossly incompetent;

(c) has been guilty of gross misconduct; or

(d) has become ineligible for appointment to the Commission concerned.



(2) The procedure for the removal of judges from office applies to the removal from office of a member of the Commission.

#### **10 Suspension from office of member of the Commission**

(1) The President may suspend a member of the Commission—

(a) whom he or she suspects on reasonable grounds of having been guilty of conduct referred to in paragraph (b) and (c) of subsection (1) of section 9; or

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

(2) A member suspended in terms of paragraph (a) of subsection (1) shall be given notice in writing of the grounds for the suspension and may, within fourteen days of being so notified, make written representations to the President showing cause why no finding of misconduct rendering him or her unsuitable to be a member of the Commission should not be made.

#### **11 Vacation of office by Commissioner**

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

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

Or

(b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (b) of subsection (2) of section *eight* after conviction of an offence referred to in that paragraph:

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, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or

(c) if he becomes disqualified in terms of paragraph (a) of subsection (2) of section *eight* or in terms of subsection (3) of that section to hold office as a member; or

(d) if he is required in terms of section *eleven* to vacate his office.

#### **12 Filling of vacancies**

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

#### **13 Committees of the Commission**

(1) For the better exercise of its functions the Commission may establish one or more committees in which it may vest such of its functions as it thinks fit:

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

(2) The chairman of the Commission or of a committee may at any time and at any place convene a meeting of that committee.

(3) The procedure of any committee shall be fixed by the Commission.

(4) On the establishment of a committee in terms of subsection (1) the Commission

(a) shall appoint to that committee at least one member of the Commission who shall be the chairman of that committee

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

#### **14 Composition of Compensation Committee**

(1) The Compensation Committee, shall consist of—

(a) the Secretary of the Ministry responsible for lands; and

(b) the Secretary of the Ministry responsible for justice; and

(c) the Secretary of the Ministry responsible for finance; and

(d) the Director of Agricultural, Technical and Extension Services in the Ministry responsible for lands; and

(e) the Chief Land Officer; and

(f) the Chief Government Valuation Officer; and

(g) not more than five other members appointed by the Minister.

(2) The functions of the Compensation Committee shall be to determine the compensation payable in respect of specially Gazetted land and to perform such other functions as may be assigned to it by the Commission.

#### **15 Minutes of proceedings of Commission and committees**

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

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

(3) The Commission shall cause copies of all minutes that have been signed as provided in subsection (2) to be sent without delay to the Minister for his information.

#### **16 Secretary and staff of Commission**

(1) The Commission, in consultation with the Minister, shall appoint a secretary and such other staff as may be necessary for the proper exercise of the Commission's functions.

(2) The offices of the secretary of the Commission and other members of staff referred to in subsection (1) shall be public offices but not form part of the Public Service

(3) Subject to this section and the directions of the Commission, the control and supervision of the staff of the Commission shall be exercised by the secretary of the Commission

(4) The Commission, with the concurrence of the Minister, may make regulations providing for the conditions of service of the secretary of the Commission and the staff of the Commission.

(5) The Secretariat to the former Agricultural Land Settlement Board shall continue to perform its duties as the Secretariat for the Zimbabwe Land Commission in as far as they qualify for employment in the Secretariat.

**17 Remuneration and expenses of members of Commission and committees**

A member of the Commission or committee shall be paid from moneys appropriated for the purpose by Act of Parliament—

- (a) such remuneration, if any, as the Minister may in his case fix; and
- (b) such allowances as the Minister may fix to meet any reasonable expenses incurred by him in connection with the business of the Commission.

**PART II  
FUNCTIONS OF THE COMMISSION**

**18 Functions of the Commission**

(1) The Zimbabwe Land Commission has the following functions—

- (a) to ensure accountability, fairness and transparency in the administration of agricultural land that is vested in the State;
- (b) to conduct periodical audits of agricultural land;
- (c) to make recommendations to the Government regarding—
  - (i) the acquisition of private land for public purposes;
  - (ii) equitable access to and holding and occupation of agricultural land, in particular—
    - A. the elimination of all forms of unfair discrimination, particularly gender discrimination;
    - B. the enforcement of any law restricting the amount of agricultural land that may be held by any person or household;
  - (iii) land usage and the size of agricultural land holdings;
  - (iv) the simplification of the acquisition and transfer of rights in land;
  - (v) systems of land tenure; and
  - (vi) fair compensation payable under any law for agricultural land and improvements that have been compulsorily acquired;
  - (vii) allocations and alienations of agricultural land;
- (d) to investigate and determine complaints and disputes regarding the supervision, administration and allocation of agricultural land.

(2) The Zimbabwe Land Commission, with the approval of the Minister responsible for land, may make regulations for any of the purposes set out in subsection

(1).

(3) The Zimbabwe Land Commission shall exercise its functions in accordance with any general written policy directives which the Minister responsible for land may give it.

(4) In discharging its functions, the Zimbabwe Land Commission shall be guided by the principles set out in section 289 of the Constitution.

(5) In addition, the Zimbabwe Land Commission shall have the following functions:-

- (a) to assess and recommend applications for all forms of land tenure;
- (b) to consider and make reports upon all applications for leases of holdings in terms of this Act;
- (c) to select and recommend applicants for leases of holdings in terms of this Act;
- (d) to make inquiries into and declare, derelict land; and
- (e) to do such other things, not inconsistent with this Act, as may be required by the Minister.

(6) This section applies without prejudice to the duties and mandate of the acquiring authority to allocate and alienate agricultural land vested in the State.

#### **19 Powers of the Commission**

(1) The powers, rights and privileges of the Commission and its members in the exercise of the Commission's functions in terms of this Act shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, *mutatis mutandis*, in relation to an inquiry or investigation conducted by the Commission and to a person summoned to give evidence or giving evidence at the inquiry or investigation.

(2) If any person summoned to give evidence or to produce books, plans, accounts or other documents fails to appear before the Commission or refuses to be examined on oath or to answer any question or to produce any such document, he shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

#### **20 Commission may recommend schemes and other provisions**

The Commission may recommend to the Minister the establishment of a scheme or the making of other provision for any of the objects referred to in section *eighteen*.

#### **21 Commission to report annually**

As soon as possible after the 1st January in each year the Commission shall furnish to the Minister a report on its activities during the previous year.

### **PART IV LAND SETTLEMENT**

#### **22 Minister may make provisions for land settlement, etc.**

In this section-

“land resettlement lease” means a lease of any Gazetted land, or a portion of Gazetted land, issued by the acquiring authority to any person, whether in terms of the Rural Land Act [Chapter 20:18] or this Act or otherwise.

“offer letter” means a letter issued by the acquiring authority in terms of this Act to any person that offers to allocate to that person any Gazetted land, or a portion of Gazetted land, described in that letter;

“permit” means a permit issued by the acquiring authority in terms of this Act which entitles any person to occupy and use Gazetted land or a portion of Gazetted land, described in that permit.

The Minister may establish schemes or make other provision for all or any of the following objects—

- (a) the settlement of persons on and the alienation to such persons of agricultural land;
- (b) the training of persons in farming;
- (c) the development of the farming industry;
- (d) objects incidental to and connected with any object referred to in paragraph (a), (b) or (c).

### **23 Minister may issue leases, offer letters and permits**

The Minister may, subject to this Act, issue permits, offer letters and leases to applicants in respect of holdings of land.

### **24 Imposition of rentals**

The Minister may, in accordance with such recommendation of the Commission as he may approve, by statutory instrument, impose rentals on holdings for purposes of this Act.

### **25 Applications for leases to be referred to Commission**

No lease in respect of a holding of land referred to in section *twenty-three* shall be issued to an applicant therefore until the application has been referred to the Commission for its consideration and report.

### **26 Matters to be considered by Commission**

(1) In the exercise of its functions the Commission shall have regard to—

- (a) the age of the applicant;
- (b) the character and legal competence of the applicant to hold, acquire and farm the holding;
- (c) whether the applicant possesses the qualifications and capital necessary to make proper use of the holding, having regard to the purpose for which it is proposed to be alienated;
- (d) any other facts which, in the opinion of the Commission, are relevant to the individual applicant or the holding.

(2) The Commission shall not recommend an applicant who is a company or trust, unless the company or trust—

- (a) is incorporated under the law of Zimbabwe relating to companies or trusts; and
- (b) is legally competent to acquire, hold and farm the holding; and in the case of a company
- (c) possesses or is able to raise share capital which is necessary to make proper use of the holding, having regard to the purpose for which it is proposed to be alienated.

### **27 Issue of lease**

Where the Minister leases a holding to an applicant, such lease, subject to this Act—

- (a) may contain an option to purchase the holding to which it relates;
- (b) shall be on such terms and conditions as may be fixed by the Minister.

## **28 President may retake for public purposes**

(1) The President may, at any time and in such manner and under such conditions as he may deem fit, retake possession of land alienated in terms of this Act or any portion thereof for State, local authority or public purposes on payment to the lessee or grantee, as the case may be, of such compensation as may be agreed upon or, failing such agreement, as may be determined by the Administrative Court.

(2) Moneys required for the payment of compensation referred to in subsection (1) shall be paid out of moneys appropriated for the purpose by Act of Parliament.

## **29 Prohibition of cession, etc.**

(1) A lessee shall not—

- (a) cede, assign, hypothecate or otherwise alienate his lease or his rights thereunder or place any other person in possession of his holding;
- (b) enter into a partnership for the working of his holding;  
without the recommendation of the Commission and consent in writing of the Minister.

(2) A transaction entered into by a lessee in contravention of subsection (1) shall be of no force and effect.

## **30 Grant of title**

(1) Where a lease contains an option to purchase and such option has accrued and has been exercised, the lessee shall be entitled to a grant of title in respect of his holding, if—

- (a) the whole of the purchase price in respect of the holding has been paid or has been guaranteed to the satisfaction of the Minister; and
- (b) all rates and taxes due in respect of the holding to a rural district council have been paid; and
- (c) the lessee has complied in all respects with this Act as applicable to him and with the terms and conditions of his lease; and
- (d) in relation to a lease that commenced on or before the 30th September, 1975, in the case of an individual, the lessee is a citizen of Zimbabwe or, in the case of a company, the majority of the directors thereof are citizens of Zimbabwe; and
- (e) in relation to a lease that commenced on or after the 1st October, 1975, in the case of an individual, the lessee is a citizen of Zimbabwe or, in the case of a company, the controlling interest therein is held by a person who is or by persons who are, citizens of Zimbabwe.

(2) The President may in special circumstances approve the grant of title to a lessee in respect of his holding notwithstanding the fact that—

- (a) paragraph (c) of subsection (1) has not been complied with; or
- (b) an option to purchase has not yet accrued to the lessee; or
- (c) in the case of a company, the majority of the directors thereof are not citizens, or the controlling interest therein is not held by a person who is or by persons who are, citizens of Zimbabwe.

(3) A grant of title referred to in subsection (1) or (2) shall be subject to—

- (a) the payment by the lessee of any title registration fee and land grant stamp duty;
- (b) any servitudes which are registrable against the holding;
- (c) the registration or noting against the title of a debt which in terms of any law must be so registered or noted;
- (d) the right in terms of this Act of the President to retake the land or any portion thereof;
- (e) any special conditions upon which the holding was leased.

(4) Until the grant of title the lessee shall, notwithstanding that all moneys due from him to the State have been paid, continue in possession of the holding under the terms and conditions of his lease, including those under which the lease may be terminated or cancelled, and subject to this Act.

(5) For the purposes of this section, no person or persons shall be regarded as having controlling interest in a company unless such person has or such persons have the power to carry resolutions binding the company in all its affairs, by reason of holding shares in the company, and the power to appoint and dismiss the majority of its directors.

### **31 Insolvency of lessee**

(1) If the estate of a lessee is sequestrated or assigned under the laws relating to insolvency, the trustee or assignee, as the case may be, of his estate may cede the lease to a person approved by the Minister in writing and upon such terms and conditions as may be imposed by the Minister.

(2) If the trustee or assignee, as the case may be, fails within six months, or such longer period as the Minister may in writing approve, after the date of his appointment to cede the lease, the lease shall terminate.

(3) If a lessee which is a company is wound up, the provisions of this section relating to a trustee or assignee shall apply to the liquidator of such company.

### **32 Death or insanity of lessee**

(1) If a lessee dies or is detained as a mentally disordered or defective person under the laws relating to mental disorders or is, by order of a competent court, declared incapable of managing his own affairs, the legal representative of the lessee, including any person empowered by law to administer or to give directions as to the administration of his estate, may, subject to this section, cede the lease to a person approved by the Minister or continue the lease on behalf of the estate upon such terms and conditions as may be imposed by the Minister.

(2) Until the lease is ceded or during the period the legal representative continues the lease on behalf of the estate, as the case may be, the provisions of this Act applicable thereto and the conditions of the lease shall be fulfilled by the legal representative of the estate or on his behalf by a person nominated by him and approved in writing by the Minister.

(3) If the legal representative of the estate—

- (a) gives not less than three months' notice to the Minister of his intention to terminate the lease; or
- (b) fails within twelve months, or such longer period as the appropriate may approve, of the date of the death of the lessee or of the date of the issue of the order of court directing that the lessee be detained as a mentally disordered or defective person or of the date of issue of the order of court declaring the lessee incapable of managing his own affairs, to notify the Minister in writing that he intends to cede or to continue the lease; or
- (c) having notified the Minister of his intention to cede the lease, fails to cede it within such period as may be fixed by the Minister; the lease shall terminate.

### **33 Termination or cancellation of lease**

(1) A lessee may terminate his lease by giving not less than three months' written notice of his intention to do so.

(2) If a lessee fails to comply with any term or condition of his lease, the Minister may cancel the lease.

### 34 Rights and duties on termination or cancellation of lease

(1) Upon the termination or cancellation of a lease in terms of section *thirty one, thirty two or thirty three*, the Minister shall have the right to retake possession of and, subject to section *thirty two*, occupy the holding with all improvements thereon.

(2) The termination or cancellation of a lease in terms of section *thirty one, thirty two, or thirty three* shall not extinguish any debt due from the lessee to the State in terms of the lease.

### 35 Improvements

(1) Where the lease has been terminated or cancelled in terms of section *thirty one, thirty two or thirty three*, no compensation shall be payable to the lessee or his trustee, assignee or legal representative, as the case may be, for improvements effected on or to the holding:

Provided that the Minister may, from moneys appropriated for the purpose by Act of Parliament, make an *ex gratia* payment to the lessee or his trustee, assignee or legal representative, as the case may be, in respect of such improvements.

(2) In lieu of an *ex gratia* payment referred to in subsection (1) the Minister may permit the lessee or his trustee, assignee or legal representative, within three months of the termination or cancellation of his lease in terms of section *thirty three*, to remove any improvements effected by him or on his behalf on or to the holding:

Provided that—

- (i) any rent due in respect of the holding, any amount due to the State in respect of any improvement on the holding and any amount outstanding on any loan made to the lessee in respect of the holding or his farming operations on the holding by the State or the Corporation as defined in section 2 of the Agricultural Finance Corporation Act [*Chapter 18:02*] is paid or repaid, as the case may be, before such removal;
- (ii) such removal is effected without injury to the land.

## PART V

### CONTROL AND OCCUPATION OF AGRICULTURAL LAND

#### 36 Minister may require Commission to carry out investigation

In order to ensure that in the interests of Zimbabwe agricultural land is not being occupied adversely in regard to the land or the neighbouring community the Minister may by notice in writing, direct the Commission to all the farms or any farm within any area to ascertain whether or not the farms are or farm is, as the case may be, being so occupied.

#### 37 Duty of Commission to carry out investigations and report

On receipt of a notice in terms of section *thirty six* the Commission shall carry out as expeditiously as possible any investigation directed by the notice and shall report to the Minister thereon.

#### 38 Minister may give order to owner or lessee

(1) Subject to section *fourty*, after considering any report in terms of section *thirty seven*, the Minister may, by order in writing, served on the owner and, if there is a lessee, on the lessee of the farm concerned direct the owner and the lessee, if any—

- (a) not to permit any more than such number of persons, whether employees or otherwise, as is specified in the order; or
- (b) to permit only such class of persons as is specified in the order;



to occupy the farm and may in such order direct the owner or the lessee or both of them to take measures as may be specified in the order to ensure compliance therewith.

(2) Any owner or lessee of a farm who contravenes or fails to comply with an order served on him in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### **39 Minister may give order to occupiers**

(1) Subject to section *fourty*, where the Minister makes an order in terms of section *thirty eight* he may, in addition, by order in the *Gazette* and in a newspaper circulating in the district where the farm concerned is situated, direct such persons or classes of persons as are specified or described in the order to cease to occupy the farm concerned within such period as may be specified in the order and that—

- (a) no more than such number of persons; or
  - (b) no persons other than such class as is specified in the order;
- shall occupy the farm until such time as the order is revoked or varied in terms of section *fourty one*

(2) Any person who contravenes or fails to comply with an order in terms of subsection (1) 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 fine and such imprisonment.

### **40 Minister to give notice of proposal to make order**

(1) Before making an order in terms of section *thirty eight* or *thirty nine* the Minister shall give notice of his intention to make such order—

- (a) to the owner of the farm concerned and, if there is a lessee, to the lessee; and
  - (b) to the persons or classes of persons who will be required to cease occupying the farm concerned;
- and shall afford such persons the opportunity of making representations in writing in relation to the proposal.

(2) Notice to persons or classes of persons referred to in paragraph (b) of subsection (1) may be given by notice published in a newspaper circulating in the district where the farm concerned is situated.

### **41 Minister may revoke or vary order**

The Minister may at any time—

- (a) revoke; or
  - (b) with the consent of the owner and the lessee, if any, to whom an order was given, vary;
- an order made in terms of section *thirty eight* or *thirty nine*.

### **42 Extension of time**

If the owner, lessee or occupier of a farm to whom an order in terms of section *thirty eight* or *thirty nine* has been given feels that he will be unable to comply with the order within the time specified he may request the Minister to grant an extension of that time and if the Minister refuses to do so or grants him an extension which he considers to be inadequate he may, before the expiry of the specified time, appeal to the Administrative Court.

#### 43 Appeal against order

If the owner, lessee or occupier of a farm to whom an order in terms of section *thirty eight or thirty nine* has been given is aggrieved by the order he may—

- (a) in the case of an owner or lessee, within thirty days of the service of the order;
  - (b) in the case of an occupier, within thirty days of the giving of notice to him of the order;
- appeal against it to the Administrative Court.

#### 44 Appointment of inspectors

(1) Subject to the laws relating to the Public Service, the Minister may appoint persons as inspectors for the purposes of this Act.

(2) A person appointed as an inspector in terms of subsection (1) shall be issued with a written authority signed by or on behalf of the Minister stating that he has been appointed as an inspector.

#### 45 Entry upon land

(1) Any member of the Commission or inspector or a person authorized by the Minister may, at all reasonable times, enter upon a holding with such other persons, animals, vehicles and appliances as may be necessary for the purpose of examination of the holding or the farming operations being conducted thereon or ascertaining whether or not the lessee is complying with the terms and conditions of his lease:

Provided that nothing in this section contained shall be construed as authorizing entry into a dwelling-house.

(2) Any person who hinders, obstructs or prevents entry upon a holding in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### PART VI

#### PROVISIONS RELATING TO DERELICT LAND

#### 46. Appointment of Chief Land Officers etc

(1) There shall be a Chief Land Officer and such other land officers as may be required, whose offices shall be public offices and form part of the Public Service.

(2) Any land officer, when performing the functions of the Chief Land Officer in terms of this Act, shall be subject to the direction of the Chief Land Officer.

(3) The Chief Land Officer and any land officer appointed in terms of subsection (1) may at all reasonable times enter upon any land to ascertain the nature and extent of occupation thereon and for other purposes reasonably connected with their functions in terms of this Act:

Provided that, before any entry is made in terms of this subsection, the owner or occupier of the land shall be given not less than fourteen days' notice unless such notice is waived by such owner or occupier.

#### 47 Reports on derelict land

(1) Where the Chief Land Officer has reason to believe that any land is derelict, he shall investigate the matter and, if satisfied that the land in question is derelict, shall submit a report to the Derelict Land Board accordingly.

(2) The Commission shall consider any report submitted to it in terms of subsection (1) and, if it considers that there is substance in the report, shall hold an inquiry in terms of section *forty-eight* for the purpose of determining whether or not the land concerned should be declared derelict

**48 Inquiry by Commission and declaration of derelict land**

(1) If the Commission decides to hold an inquiry for the purpose of determining whether any land which is the subject of a report by the Chief Land Officer should or should not be declared derelict, it shall give notice of such inquiry—

(a) in writing to any person who appears to the Commission to have any interest or right in the land and whose whereabouts are ascertainable after diligent inquiry; and

(b) by publication—

(i) once in the *Gazette*; and

(ii) once a week for three consecutive weeks in a newspaper circulating in the area where the land concerned is situated.

(2) A notice given in terms of subsection (1) shall—

(a) specify the place of the inquiry and the date thereof, which date shall not be less than thirty days from the date of the last publication required to be made in a newspaper in terms of subparagraph (ii) of paragraph (b) of subsection (1); and

(b) call upon any person having an interest or right in the land to show cause at the inquiry why the land concerned should not be declared derelict.

(3) On the day fixed by the Commission for the purposes of subsection (2), the Commission shall consider the matter and, after hearing evidence from the Chief Land Officer and any land officer and from any person who makes representations, the Commission may, subject to subsection (4), determine the land in question to be derelict.

(4) In determining whether or not any land is derelict, the Commission shall have regard to—

(a) whether the land is or has been occupied; and

(b) whether the land is being worked or cultivated; and

(c) whether the owner can be found; and

(d) the control which the owner has exercised over the land; and

(e) the extent of compliance with any law regarding the payment of rates, levies or taxes in respect of the land; and

(f) any other matter which the Commission may consider appropriate.

(5) Where the Commission has determined that any land is derelict, the Commission shall declare it to be such and shall publish notice of its declaration in the *Gazette*.

(6) Any person who is aggrieved by any notice published in terms of subsection (5) may, within three months of the date of publication of the notice or such longer period as the Administrative Court may for good cause allow, appeal to the Administrative Court.

(7) The Administrative Court may, on an appeal in terms of subsection (6), confirm, vary or set aside the decision appealed against or give such decision as the case may require, and may in respect of any appeal—

(a) receive such evidence and order the production of such documents as it considers necessary;

(b) remit the matter to the Commission for reconsideration, with such instructions as regards the taking of further evidence or otherwise as the Administrative Court thinks fit;

(c) take any other course which it considers will lead to the just, speedy and inexpensive settlement of the matter.

(8) Where an appeal in terms of subsection (6) is dismissed or where there is no appeal after the expiry of the period of three months referred to in that subsection, the President may, by order describing the nature and extent of the land affected, acquire the land.

#### 49 Eviction of persons and registration of land

(1) A person ordered to vacate land acquired by the President in terms of this Part shall be given not less than three months' notice in writing by the acquiring authority and if he fails to do so, he shall be liable to be evicted by order of a competent court.

(2) Section *ten* of the Land Acquisition Act [Chapter 20:10] shall apply, *mutatis mutandis*, in relation to the registration of land acquired by the President in terms of this Part.

#### 50 Compensation not to be paid for derelict land

No compensation shall be paid in respect of any land declared to be derelict and acquired in terms of this Part.

### PART VII GENERAL

#### 51 Offences and penalties

(1) A person who, in connection with an application for a holding, makes a false statement, knowing it to be false or not having reasonable grounds for believing it to be true, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

#### 52 Reports of Commission

(1) The Commission shall, in addition to its annual report referred to in subsection (5), submit to the Minister—

(a) such reports as the Minister may require; and

(b) such occasional or periodic reports as it considers advisable;

in connection with any matter related to its functions.

(2) In the case of dissent from the majority recommendations of a report, the Commission shall, at the request of the dissenting member, record the dissent and the reasons therefore.

(3) At any time, before making a final report the Commission may, or, if so directed by the Minister, shall make an interim report on any matter under consideration by it.

(4) The Commission may, after submitting a report to the Minister, publish such report in such manner as it thinks fit.

(5) The Commission shall, as soon as practicable after the 1st of January in each year, prepare and submit to the Minister an annual report on all its activities during the previous year.

(6) The Minister shall lay before Parliament, on one of the fourteen days on which Parliament next sits after the report is received by him or her—

(a) the annual report submitted to him in terms of subsection (5); and

(b) any other report submitted to him or her in terms of this section which the Commission has requested should be laid before Parliament;

together with any comments as the Minister thinks fit to make thereon.

### **53 Meetings of Commission**

(1) The Chairperson shall, as often as he or she considers it necessary for the fulfilment of the objects and the exercise of the functions of the Commission, fix the date, time and place of meetings of the Commission.

(2) The Chairperson or Deputy Chairperson and any three members shall constitute a quorum.

(3) Any question arising at a meeting of the Commission shall be decided by a majority of the members present and voting and, in the event of there being equal votes, the Chairperson or Deputy Chairperson (as the case may be) shall have a casting vote.

(4) The Chairperson may, with the approval of the Commission, invite any person with special knowledge or experience of any matter under consideration in terms of this Act to attend a meeting of the Commission, but such person shall not vote on any question before the Commission.

(5) The Commission may regulate the proceedings at its meetings as it thinks fit, and shall keep minutes of the proceedings.

### **54 Right of certain officers to attend meetings**

(1) Such officers of the Public Service as the Minister may designate shall, subject to subsection

(2), be entitled—

(a) to attend meetings of the Commission; and

(b) to take part in the proceedings of the Commission;  
as if they were members.

(2) An officer referred to in subsection (1) shall not have a vote on a question before the Commission.

### **55 Funds of the Commission**

(1) The funds of the Commission shall consist of such moneys as may be payable to the Commission from moneys appropriated for the purpose by Act of Parliament.

(2) The Commission's financial year shall be the period of twelve months ending on the 31st December in each year or such other date as the Minister may prescribe.

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

(4) Not later than three months after the end of each financial year of the Commission, the Commission shall prepare and submit to the Minister a statement of accounts in respect of that financial year or such other period as the Minister may direct.

(5) Subject to the Audit and Exchequer Act [*Chapter 22:03*], the Commission shall appoint as auditors one or more persons who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

(6) The accounts kept by the Commission in terms of subsection (3) shall be examined by the auditors appointed in terms of subsection (5).

(7) The auditors appointed in terms of subsection (5) shall make a report to the Commission and to the Minister on the statement of accounts prepared in terms of subsection (4), and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Commission's financial affairs.

## 56 Regulations

(1) The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

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

- (a) the prohibition of the sale of rural land unless it has been offered for sale to the Minister or to such other person or authority as may be specified in the regulations;
- (b) notification to the Minister or to such other person or authority as may be specified in the regulations, before control over any company or body corporate that owns rural land is transferred from one person to another, whether through a sale or transfer of shares or otherwise.
- (c) rentals on land holdings in respect of tenure documents issued in terms of section *twenty three*

## 57 Savings

(1) Notwithstanding the amendment of the Rural Land Act [*Chapter 20:18*] by this Act and subject to subsection (2)—

(a) an agreement or transaction entered into or deemed to have been entered into under that Act, and in force immediately before the 1st January, 1970, shall continue in force and Part II and section 64 of Part VI of that Act shall, where applicable in terms of such agreement or transaction, continue to apply thereto;

(b) regulations made or deemed to have been made under that Act and in force immediately before the 1st January, 1970, shall continue in force until amended or repealed in terms of this Act and shall be deemed to have been made in terms of this Act.

(2) An agreement, transaction or regulation referred to in subsection (1) and the provisions of the Rural Land Act [*Chapter 20:18*] which are applicable to such agreement or transaction in terms of subsection (1) shall be construed, *mutatis mutandis*—

(a) as if any reference therein to the Minister, as defined in that Act, were a reference to the Minister as defined in section two;

(b) so as to give effect to the intention that the Minister replaces the Rural Land Commission which was established by that Act, is not required to consult with or refer any matter to that Commission for advice, consideration, recommendation or report and may act without such consultation or reference and without the advice, recommendation or report of that Commission.

(3) Where, notwithstanding subsections (1) and (2), an agreement or transaction referred to in subsection (1) or any term or condition thereof is, by virtue of the amendment of the Rural Land Act [*Chapter 20:18*] by this Act, rendered inoperative, the Minister may, subject to subsection (4), alter or amend such agreement or transaction or any term or condition thereof in such a manner as may appear to him to be most practicable and convenient for giving such agreement or transaction force and effect in accordance with the intention that, in so far as is possible without derogation from any rights acquired in terms of such agreement or transaction, such agreement or transaction shall be deemed to have been made in terms of this Act.

(4) A person who is aggrieved by any alteration or amendment made to an agreement or transaction in terms of subsection (3) may appeal to the Administrative Court which may confirm the alteration or amendment or make such alteration or amendment to the agreement or transaction as it thinks the Minister ought to have made and the decision of the Administrative Court shall be final.

## **58 Amendments to other Acts**

1. Sections 30 -44 (Derelict Land Board and Provisions Relating to Derelict Land Board) of the Land Acquisition Act (Chapter 20:10) is repealed and any reference to the Board in that Act is hereby substituted by the Zimbabwe Land Commission.

2. Section 29C relating to assessment of compensation in the Land Acquisition Act (20:10) is amended by the insertion of —

(1) Any indigenous Zimbabwean whose agricultural land was acquired by the State before the effective date shall be compensated by the State for the land and any improvements that were on the land when it was acquired.

(2) Any person whose agricultural land was acquired by the State before the effective date and whose property rights at that time were guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the government of another country, shall be compensated by the State for the land and any improvements in accordance with that agreement.

3. In Section 2 (1) of the Gazetted Land (Consequential Provisions) Act (Chapter 20:28), the definition of "land settlement lease", "offer letter" and "permit" is repealed and substituted by the following definitions;

"land resettlement lease" means a lease of any Gazetted land, or a portion of Gazetted land, issued by the acquiring authority to any person whether in terms of this Act or the Rural Land Act [Chapter 20:18] or otherwise.

"offer letter" means a letter issued by the acquiring authority in terms of this Act to any person that offers to allocate to that person any Gazetted land, or a portion of Gazetted land, described in that letter;

"permit", when used as a noun, means a permit issued by the acquiring authority in terms of this Act which entitles any person to occupy and use Gazetted land or a portion of Gazetted land, described in that permit.

## **SCHEDULE**

### **1. 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 or 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 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 dwelling-houses for use or occupation by members 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, tools or other equipment to be used by the members in carrying out their duties; or  
(b) not exceeding six 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.

16. To provide such services as the Commission considers appropriate and to charge for such services such fees as the Commission, may from time to time determine.

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.

**OATH OF SECRECY**

*Oath of Secrecy of Secretary*

I, ....., having been appointed as Secretary of the Zimbabwe Land Commission do swear [or solemnly affirm] that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons or otherwise in the course of my duty.

So help me God.