

Zimbabwe

## National Prosecuting Authority Act

### Chapter 7:20

Legislation as at 23 October 2020

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PDF created on 10 June 2025 at 10:02.

*Collection last checked for updates: 31 December 2017.*

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FRBR URI: /akn/zw/act/2014/5/eng@2020-10-23

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## National Prosecuting Authority Act (Chapter 7:20)

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## Zimbabwe

# National Prosecuting Authority Act

## Chapter 7:20

Commenced on 2 January 2015

*[This is the version of this document from 23 October 2020.]*

*[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe. This version is up-to-date as at 31st December 2016.]*

*[Amended by [Money Laundering and Proceeds of Crime Amendment Act, 2018 \(Act 12 of 2018\)](#) on 20 July 2018]*

*[Amended by [National Prosecuting Authority Amendment Act, 2020 \(Act 7 of 2020\)](#) on 23 October 2020]*

*[Act 5/2014; 2/2016; [SI 1/2015](#)]*

**AN ACT to establish the National Prosecuting Authority Board and to provide for its functions; to provide for the appointment of the National Director of Public Prosecutions; to provide for the administration of the National Prosecuting Authority and the conditions of service of its members; to provide for the transfer of persons from the Civil Service to the National Prosecuting Authority; and to provide for matters connected with or incidental to the foregoing.**

WHEREAS sections 258, 259, 260, 261, 262 and 263 of the Constitution provide as follows:

“258 Establishment and functions of National Prosecuting Authority

There is a National Prosecuting Authority which is responsible for instituting and undertaking criminal prosecutions on behalf of the State and discharging any functions that are necessary or incidental to such prosecutions.

259. Prosecutor-General and other officers

- (1) There is a Prosecutor-General who is the head of the National Prosecuting Authority.
- (2) The office of the Prosecutor-General is a public office but does not form part of the Civil Service.
- (3) The Prosecutor-General is appointed by the President on the advice of the Judicial Service Commission following the procedure for the appointment of a judge.
- (4) The Prosecutor-General must be a person qualified for appointment as a judge of the Supreme Court.
- (5) The term of office of the Prosecutor-General is a period of six years and is renewable for one further such term.
- (6) Before taking office, the Prosecutor-General must take, before the President or a person authorised by the President, the oath of office in the form set out in the Third Schedule.
- (7) The provisions relating to the removal of a judge from office apply to the removal of the Prosecutor-General from office.
- (8) The conditions of service of the Prosecutor-General, including his or her remuneration, must be provided for in an Act of Parliament, but the remuneration must not be reduced during the Prosecutor-General's tenure of office.
- (9) The remuneration of the Prosecutor-General is a charge on the Consolidated Revenue Fund.
- (10) An Act of Parliament must provide for the appointment of a board to employ persons to assist the Prosecutor-General in the exercise of his or her functions, and must also provide—
  - (a) for the qualifications of those persons;

- (b) for the conditions of service, conduct and discipline of those persons;
  - (c) that in exercising their functions, those persons must be independent and impartial and subject only to the law and to the direction and control of the Prosecutor-General;
  - (d) for the structure and organisation of the National Prosecuting Authority; and
  - (e) generally, for the efficient performance and well-being of the National Prosecuting Authority.
- (11) The Prosecutor-General may direct the Commissioner-General of Police to investigate and report to him or her on anything which, in the Prosecutor-General's opinion, relates to an offence or alleged or suspected offence, and the Commissioner-General of Police must comply with that direction.

#### 260. Independence of Prosecutor-General

- (1) Subject to this Constitution, the Prosecutor-General—
- (a) is independent and is not subject to the direction or control of anyone; and
  - (b) must exercise his or her functions impartially and without fear, favour, prejudice or bias.
- (2) The Prosecutor-General must formulate and publicly disclose the general principles by which he or she decides whether and how to institute and conduct criminal proceedings.

#### 261. Conduct of officers of National Prosecuting Authority

- (1) The Prosecutor-General and officers of the National Prosecuting Authority must act in accordance with this Constitution and the law.
- (2) No officer of the National Prosecuting Authority may, in the exercise of his or her functions—
- (a) act in a partisan manner;
  - (b) further the interests of any political party or cause;
  - (c) prejudice the lawful interests of any political party or cause; or
  - (d) violate the fundamental rights or freedoms of any person.
- (3) Officers of the National Prosecuting Authority must not be active members or office-bearers of any political party or organisation.
- (4) An Act of Parliament may make further provision to ensure the political neutrality of officers of the National Prosecuting Authority.

#### 262. Prosecutor-General to report annually to Parliament

The Prosecutor-General must submit to Parliament, through the appropriate Minister, an annual report on the operations and activities of the National Prosecuting Authority, the report being submitted not later than six months after the beginning of the year following the year to which the report relates.

#### 263. Other powers of prosecution

An Act of Parliament may confer powers of prosecution on persons other than the National Prosecuting Authority, but those powers must not limit or conflict with the Authority's powers under this Part."

AND WHEREAS it is incumbent on the legislature to constitute the National Prosecuting Authority as a separate entity in order to enhance its independence, effectiveness and efficiency:

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

## Part I – Preliminary

### 1. Short title and date of commencement

- (1) This Act may be cited as the National Prosecuting Authority Act *[Chapter 7:20]*.
- (2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

### 2. Interpretation

In this Act—

“**Authority**” means the National Prosecuting Authority established in terms of section 258 of the Constitution;

“**authority to prosecute**” means the authority to prosecute given to a professional member of the Authority by the Prosecutor-General in terms of [section 12\(4\)](#) and (5);

“**Board**” means the National Prosecuting Authority Board established by [section 5](#);

“**Department of Administration**” means the department of the Authority established in terms of [section 15](#);

“**Deputy Prosecutor-General**” means the Deputy Prosecutor-General appointed in terms of section 340(3) of the Constitution;

*[definition inserted by section 48 of Act 2 of 2016]*

“**Deputy Prosecutor-General**” means a person appointed as such in terms of [section 8](#);

*[second definition of “Deputy Prosecutor-General” inserted by section 2(b) of Act 7 of 2020]*

“**Director for Administration**” *[definition of “Director for Administration” repealed by section 2(a) of Act 7 of 2020]*

“**fixed date**” means the date fixed in terms of [section 1\(2\)](#) as the date of commencement of this Act;

“**Minister**” means the Minister responsible for Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“**National Director of Public Prosecutions**” *[definition of “National Director of Public Prosecutions” repealed by section 2(a) of Act 7 of 2020]*

“**member**”, in relation to the Authority, means a member of the Authority referred to or appointed in terms of [section 4](#);

“**Prosecutor-General**” means the Prosecutor-General appointed in terms of section 259 of the Constitution;

“**Secretary to the Authority**” means the person appointed in terms of [section 8A](#).

*[definition of “Secretary to the Authority” added by section 2(b) of Act 7 of 2020]*

## Part II – National Prosecuting Authority and National Prosecuting Authority Board

### 3. Corporate status of Authority

The Authority is a body corporate capable of suing and being sued in its own name and, subject to this Act, of doing everything that bodies corporate can do by law.

#### 4. Constitution of National Prosecuting Authority

- (1) The National Prosecuting Authority shall consist of the following members—
- (a) the Prosecutor-General appointed in terms of section 259 of the Constitution; and
  - (b) the Deputy Prosecutors-General;  
*[paragraph (b) substituted by section 3 of [Act 7 of 2020](#)]*
  - (c) the Secretary to the Authority;  
*[paragraph (c) substituted by section 3 of [Act 7 of 2020](#)]*
  - (d) professional members of the Authority appointed in terms of [section 9](#); and
  - (e) the staff of the Department of Administration.  
*[paragraph amended by section 48 of [Act 2 of 2016](#)]*
- (2) Members of the National Prosecuting Authority are public officers but do not form part of the Civil Service.

#### 5. Establishment and composition of National Prosecuting Authority Board

- (1) Subject to subsection (2), there is hereby established a Board, to be known as the National Prosecuting Authority Board.  
*[subsection (1) substituted by section 4(a) of [Act 7 of 2020](#)]*
- (1a) The Board shall consist of—
- (a) the Prosecutor-General; and
  - (b) a person who has been or is qualified to be a judge of the High Court or Supreme Court, appointed by the Minister after consultation with the Judicial Service Commission; and
  - (c) a Commissioner of the Civil Service Commission appointed by the Chairperson of the Civil Service Commission; and
  - (d) five members appointed, subject to subsection (2), by the Minister, of whom—
    - (i) one shall be a person employed in the Ministry responsible for justice, nominated by the Minister responsible for justice; and
    - (ii) one shall be a person employed in the Ministry responsible for finance nominated by the Minister responsible for finance; and
    - (iii) one shall be a person appointed for his or her ability and experience in human resources management and development; and
    - (iv) one shall be a person registered in terms of the Public Accountants and Auditors Act *[Chapter 27:12]*, nominated by the Minister responsible for finance after consultation with the Accountant General; and
    - (v) one shall be a person registered in terms of the Legal Practitioners Act *[Chapter 27:07]*, nominated by the Law Society of Zimbabwe.
- [subsection (1a) inserted by section 4(b) of [Act 7 of 2020](#)]*
- (1b) The President shall appoint one of the members referred to in subsection (1a)(b), (c) or (d) as the Chairperson and another as the Deputy Chairperson and shall ensure that the Chairperson and the Deputy Chairperson are of different genders.  
*[subsection (1b) inserted by section 4(b) of [Act 7 of 2020](#)]*

- (1c) The Prosecutor-General shall appoint his or her Deputy Prosecutor-General as his or her alternate, or if there are two or more Deputy Prosecutors-General, shall appoint each of them on an alternating basis as his or her alternate in any meeting of the Board that he or she is unable to attend.

*[subsection (1c) inserted by section 4(b) of [Act 7 of 2020](#)]*

- (1d) The Secretary to the Authority shall be the Secretary of the Board.

*[subsection (1d) inserted by section 4(b) of [Act 7 of 2020](#)]*

- (2) At least half of the members of the Board shall be women.
- (3) The First Schedule shall apply—
- (a) to the qualifications, terms and conditions of office, vacation of office, suspension and dismissal of members of the Board appointed in terms of subsection (1)(d);
  - (b) to the procedure to be followed by the Board at its meetings.
- (4) The Board may, for and in connection with its functions in terms of this Act, have the additional powers specified in the Second Schedule.

*[section amended by section 48 of Act [2 of 2016](#)]*

## 6. Functions of Board

- (1) The Board shall have the following functions—
- (a) administering and supervising the Authority; and
  - (b) appointing persons to the Authority, whether as permanent members on pensionable conditions of service, or on contract or otherwise, and assigning and promoting them to offices, posts and grades in the Authority, and fixing their conditions of service; and
  - (c) inquiring into and dealing with complaints and grievances made by or against members of the Authority; and
  - (d) exercising disciplinary powers in relation to members of the Authority, other than the Prosecutor-General; and
  - (e) exercising any other functions that may be imposed or conferred upon it in terms of this Act or any other enactment.
- (2) The Board shall exercise its functions under this Act so as to ensure the well-being and good administration of the Authority and its maintenance in a high state of efficiency.
- (3) Subject to this Act, in the exercise of its functions, the Board shall not be subject to the control or direction of any person or authority, other than for the purpose of audit by the Auditor-General of those funds of the Authority that are voted by Parliament or charged on the Consolidated Revenue Fund by this Act or any other law.

## 7. Delegation of functions

- (1) For the better exercise of its functions and in the interest of ensuring the greatest degree of devolution of decision-making consistent with good administration, the Board may—
- (a) ensure that the exercise of its functions, including in particular the appointment of members of the Authority, and the assignment and promotion of members of the Authority to offices, posts and grades in the Authority, is delegated wherever practicable to the appropriate member; and



- (b) take whatever steps as are necessary to encourage the greatest possible delegation of decision-making to all departments and sub-departments of the Authority.
- (2) The delegation of a function by the Board in terms of subsection (1)—
  - (a) shall be in writing; and
  - (b) may be made absolutely or subject to conditions; and
  - (c) may be amended or revoked at any time; and
  - (d) shall not preclude the Board from exercising the function so delegated.
- (3) Where the Board has delegated a function in terms of subsection (1)(a) to a member, any conditions or limitations applicable to the exercise of that function by the Board shall apply to the exercise of that function by the member.
- (4) Where a person has been or is about to be appointed to or promoted within the Authority pursuant to a power delegated by the Board under subsection (1)(a), and the Board considers that—
  - (a) the person does not have the qualifications or ability necessary to carry out the duties of the position he or she occupies or would occupy, as the case may be; or
  - (b) his or her appointment or promotion has contravened or would contravene, as the case may be, any condition under which the power was delegated;

the Board shall without delay revoke the appointment or promotion or direct that the appointment or promotion shall not be made, as the case may be, and may take such other action in the matter as the Board thinks necessary:

Provided that before taking any action in terms of this subsection, the Board shall give the person whose appointment or promotion is in issue and the person who appointed or promoted him or her or proposed to appoint or promote him or her, an adequate opportunity to make representations in the matter.

## 8. Deputy Prosecutors General

- (1) The Board shall, in consultation with the Minister, appoint such number of Deputy Prosecutors-General as it deems necessary.
- (2) The Deputy Prosecutors-General shall—
  - (a) head specific sections or departments of the Authority and shall supervise the members assigned thereto by the Prosecutor-General; and
  - (b) shall be subject to the direction of, and report, to the Prosecutor-General on the discharge of their duties.

*[section 8 substituted by section 5 of [Act 7 of 2020](#)]*

## 8A. Appointment and functions of Secretary to Authority

- (1) The Board shall, in consultation with the Minister, appoint the Secretary to the Authority on such terms and conditions as it shall fix.
- (2) The Secretary to the Authority shall, supervise and manage the Authority's staff activities, funds and property and perform such other functions on behalf of the Prosecutor-General as the Prosecutor-General may assign to him or her.
- (3) The Secretary to the Authority is prescribed for the purposes of section 49 of the Public Finance Management Act *[Chapter 22:19]* (Act [No. 11 of 2009](#)) to be the accounting officer of the Authority.

*[section 8A inserted by section 5 of [Act 7 of 2020](#)]*

## 9. Appointment of professional members of Authority

Subject to [section 30](#), any person appointed as a professional member of the Authority shall—

- (a) possess legal qualifications that entitle him or her to practise in all courts in Zimbabwe; and
- (b) be a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned.

## 10. Provincial, district and other offices of Authority

The Board shall establish a principal office and such offices at provincial, district and other administrative levels as it considers fit for the better performance of its functions.

## 11. Reports of Board

- (1) The Board shall, as soon as possible after the end of each financial year, submit an annual report to the Minister.
- (2) In addition to the report referred to in subsection (1), the Board—
  - (a) shall submit to the Minister any other report, and provide him or her with any other information, that he or she may require in regard to the operation of the Authority; and
  - (b) may submit to the Minister any other report that the Board considers desirable.
- (3) The Minister—
  - (a) shall table before Parliament every annual report submitted to him or her by the Board in terms of subsection (1); and
  - (b) may table before Parliament any report submitted to him or her by the Board in terms of subsection (2).

## Part III – Powers, duties and functions of members of Prosecuting Authority

## 12. Power to institute and conduct criminal proceedings

- (1) The Prosecutor-General—
  - (a) shall institute and conduct criminal proceedings on behalf of the State; and
  - (b) shall carry out any necessary functions incidental to instituting and conducting such criminal proceedings; and
  - (c) may discontinue criminal proceedings; and
  - (d) shall issue certificates *nolle prosequi* in accordance with the Criminal Procedure and Evidence Act [*Chapter 9:07*], to persons intending to institute private prosecutions, where the Prosecutor-General chooses not to prosecute; and
  - (e) perform such other functions as are conferred or imposed upon him or her by or in terms of this Act or any other enactment.
- (2) The Prosecutor-General may assign any duty referred to in subsection (1) to the a Deputy Prosecutor-General, subject to the control and directions of the Prosecutor-General.

[subsection (2) amended by section 6 of [Act 7 of 2020](#)]

- (3) Subject to the Constitution and this Act, a member shall, subject to the control and directions of the Prosecutor-General, exercise the powers referred to in subsection (1), in respect of—
  - (a) the area of jurisdiction for which he or she has been appointed; and
  - (b) any offences which have not been expressly excluded from his or her jurisdiction, either generally or in a specific case, by the Prosecutor-General.
- (4) A member shall be competent to exercise any of the powers referred to in subsection (1), to the extent that he or she has been authorised thereto in writing by the Prosecutor-General, or by a person designated by the Prosecutor-General.
- (5) The written authorisation referred to in subsection (4), shall set out—
  - (a) the area of jurisdiction; and
  - (b) the offences; and
  - (c) the court or courts in respect of which such powers may be exercised, in the form set out in the Third Schedule.

### **13. Publication of general principles pursuant to section 260(2) of the Constitution**

The Prosecutor-General shall—

- (a) not less than six months after the enactment of this Act, in the case of the first Prosecutor-General; or
- (b) not less six months after his or her appointment;

publish by General Notice in the *Gazette* and in such other media as he or she considers will bring such principles to public notice the general principles by which he or she decides whether and how to institute and conduct criminal proceedings.

## **Part IV – Administration of National Prosecuting Authority**

### **14. Policy directions concerning Board's functions**

Subject to the Constitution and this Act, the Minister may give the Board such directions of a general character relating to the policy which the Board is to observe in the exercise of its functions, as the Minister considers to be requisite in the public interest.

### **15. Department of Administration**

- (1) There shall be a department of the Authority, whose staff shall be appointed by the Board in consultation with the Minister, known as the Department of Administration, which shall be responsible for—
  - (a) managing the administrative, human resource management and financial affairs of the Authority and implementing the decisions of the Board; and
  - (b) providing technical advice and support to the Board; and
  - (c) formulating administrative rules, guidelines and procedures to facilitate the achievement of the mission of the Authority; and
  - (d) exercising any other functions that may be imposed or conferred upon it by this Act or any other enactment.
- (2) The Department of Administration shall be controlled by the Secretary to the Authority (subject to the general control of the Board and to any specific directions given to him or her by the Board) and

staffed by such persons as the Board may think necessary to ensure that the Department is able to discharge its functions.

*[subsection (2) amended by section 7(a) of [Act 7 of 2020](#)]*

- (3) The Secretary to the Authority shall report to the Prosecutor-General.

*[subsection (3) substituted by section 7(b) of [Act 7 of 2020](#)]*

## **16. Departments and classification of members of Authority**

- (1) In addition to the Department of Administration, the Authority shall have such departments and sub-departments as the Board may establish from time to time, each headed by an member of such grade and designation as the Board shall determine.
- (2) For each department the Board shall assign such members of the Authority as may be necessary to carry out the department's functions.
- (3) Members of the Authority shall be classified in such a manner as may be prescribed.

## **17. Persons under contract**

- (1) The Board may engage as members of the Authority persons under contract, on such conditions as it may prescribe.
- (2) There may be incorporated in the conditions referred to in subsection (1), such provisions of any service regulations applicable to a member of the Authority as the Board shall determine.
- (3) Upon the termination of a contract entered into in terms of subsection (1), the person under contract shall cease to be a member of the Authority, unless the contract is renewed or he or she is appointed to the Authority in some other capacity.

## **18. Probationary period**

- (1) A member of the Authority appointed otherwise than under contract shall serve a probationary period of not less than six months and not more than one year, as the Board may prescribe or fix in relation to that member.
- (2) The appointment of a member under subsection (1) shall be confirmed at the end of the probationary period unless, at any time during the probationary period, the Board considers that the member does not meet the required standard of performance, in which case the Board may—
  - (a) discharge the member; or
  - (b) extend the probationary period by not more than twelve months, at the end of which period the member shall be discharged if he or she fails to meet the required standard of performance.

## **19. Conditions of service of members of Authority**

- (1) Subject to the Constitution and any other enactment, the conditions of service applicable to members of the Authority, including their remuneration, allowances, pension benefits, leave of absence, hours of work, discipline and discharge, shall be fixed by the Board:

Provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund, the concurrence of the Minister responsible for finance shall be obtained.
- (2) Conditions of service may be fixed in terms of subsection (1), by means of service regulations, notices, circulars or in any other manner that the Board considers will best bring the conditions to the attention of members of the Authority who are affected by them:

Provided that, in the event of any conflict between service regulations and the contents of any notice, circular or other instrument by means of which any conditions of service are made known to members, the service regulations shall prevail.

- (3) The Board may, in terms of subsection (1), alter the conditions of service of existing members of the Authority:

Provided that no member's fixed salary or salary scale shall be reduced except when the member has been found guilty of misconduct or has consented to the reduction.

- (4) Without derogating from the generality of subsection (1), conditions of service fixed in terms of that subsection may provide for the dismissal or discharge of a member of the Authority—
- (a) owing to—
    - (i) the abolition of his or her post or the withdrawal of his or her authority to prosecute; or
    - (ii) a reduction in, or an adjustment of the Authority; or
  - (b) if the removal will help to improve efficiency or economy in the Authority.
- (5) Except with the written permission of the Board, no member of the Authority shall engage in any occupation or work for remuneration outside his or her employment in the Authority.

## **20. Consultations on conditions of service of members of Authority with recognised associations and organisations**

- (1) The Minister responsible for labour may, after consultation with the Board, by written notice to the association or organisation concerned, declare any association or organisation representing all or any members of the Authority to be a recognised association or a recognised organisation, as the case may be, for the purpose of this Act.
- (2) The Minister responsible for labour may, after consultation with the Board, at any time, by written notice to the recognised association or organisation concerned, revoke any declaration made in terms of subsection (1).
- (3) The Board may consult with a recognised association or organisation on such matters affecting the efficiency, well-being or good administration of the Authority or the interests of the members of the recognised association or organization, as the Board thinks appropriate; and a recognised association or organisation may make representations to the Board concerning the conditions of service of the members of the Authority represented by the association or organisation, and the Board shall pay due regard to any such representations when exercising any function in terms of this Act.
- (4) Any member of the Authority who is eligible to do so may join a recognised association or organisation and, subject to this Act, participate in its lawful activities.
- (5) A member of the Authority who fails or refuses to join a recognised association or organisation shall not, on account of such failure, be debarred from or prejudiced in respect of any appointment, promotion or advancement within the Authority.

## **Part V – Discipline of members of National Prosecuting Authority**

### **21. Investigation and adjudication of misconduct cases**

Subject to [section 23](#), any case involving misconduct or suspected misconduct on the part of a member (other than the Prosecutor-General) of the Authority shall be investigated, adjudicated upon and, where appropriate, punished by the Board or by such person or authority as may be prescribed.

## **22. Removal of members from Authority**

- (1) If the Prosecutor-General advises the Board that a member of the Authority who has been confirmed as a member under this Act is found to have committed such an act of misconduct as may justify the member's discharge from the Authority, the Board shall appoint a disciplinary committee consisting of—
  - (a) a member who heads a department of the Authority other than the member to whom the member who committed the misconduct reports to; and
  - (b) two other members of the Authority who have been confirmed as members, who shall not be junior in rank to the member alleged to have committed the act of misconduct in question.
- (2) The procedure to be followed by a disciplinary committee and the penalties that it may impose upon a member found by it to have committed an act of misconduct, shall be as prescribed.

## **23. Appeals to Labour Court**

Any member or former member of the Authority who is aggrieved by—

- (a) any decision reached; or
- (b) any penalty imposed upon him or her;

or both the decision reached and the penalty imposed upon him or her; in respect of misconduct found to have been committed by him or her may appeal against the decision or penalty to the Labour Court within thirty days from the date of the decision or imposition of the penalty.

## **Part VI – Financial provisions**

## **24. Funds of Authority**

- (1) The funds of the Authority shall consist of—
  - (a) moneys appropriated by Act of Parliament for the salaries and allowances payable to and in respect of members of the Authority and the recurrent administrative expenses of the Authority; and
  - (b) any other moneys that may be payable to the Authority from monies appropriated for the purpose by Act of Parliament; and
  - (c) any donations, grants, bequests or loans made by any person or organisation or any government of any country to the Authority and accepted by the Board in consultation with the Minister; and
  - (d) any other moneys that may vest in or accrue to the Authority, whether in terms of this Act or otherwise.
- (2) The Board shall apply the funds referred to in subsection (1) to the fulfilment of its functions.

## **25. Accounts of Authority and appointment of internal auditor**

- (1) The Authority shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Authority's activities, funds and property, including such particular accounts and records as the Board may direct.
- (2) As soon as possible after the end of each financial year, the Authority shall prepare and submit to the Board a statement of accounts in respect of that financial year or in respect of such other period as the Board may direct.

- (3) Section 80 of the Public Finance Management Act [Chapter 22:19] (No. 12 of 2009) shall apply, with such changes as may be necessary, to the appointment of an internal auditor to the Authority in all respects as if the Authority were a Ministry or department of a Ministry.

## 26. Audit of accounts

- (1) The accounts of the Authority shall be audited by the Auditor-General, who for that purpose shall have the functions conferred on him or her by sections 7 and 8 of the Audit Office Act [Chapter 22:18] (Act No. 12 of 2009).
- (2) Any person under the authority or supervision of the Board who refuses to provide the Auditor-General with an explanation or information required by him or her for the purposes of an audit in terms of subsection (1), or knowingly provides the Auditor-General with a false explanation or information, or an explanation or information that the person has no grounds for believing to be true, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.
- (3) Notwithstanding anything contained in subsection (1), the Auditor-General may appoint a suitably qualified person to audit the accounts of the Authority, and if he or she does so—
- (a) subsections (1) and (2) shall apply in respect of the person so appointed as if he or she were the Auditor-General; and
  - (b) any expenses incurred by the person so appointed in carrying out his or her audit shall be met from the funds of the Authority.

## Part VII – General

### 27. Engagement of persons to perform services in specific cases

- (1) The Prosecutor-General may, in consultation with the Minister, engage under agreement in writing any person having suitable qualifications and experience to perform services for the Authority in specific cases.
- (2) The terms and conditions of service of a person engaged under subsection (1) shall be determined from time to time by the Minister in consultation with the Minister responsible for finance.

### 27A. Establishment of Asset Forfeiture Unit of the NPA

- (1) There is hereby established an Asset Forfeiture Unit (the "AFU") within the National Prosecuting Authority whose functions shall be—
- (a) to give assistance to prosecutors in making, and co-ordinate the making of, and oversee the discharge of, applications for—
    - (i) interdicts under Part II of Chapter IV of the Money Laundering and Proceeds of Crime Act [Chapter 9:24] (hereinafter referred to as the "Money Laundering Act"); and
    - (ii) confiscation orders under Part III of Chapter IV of the Money Laundering Act; and
    - (iii) benefit recovery orders under Part IV of Chapter IV of the Money Laundering Act; and
    - (iv) compensation orders under Part V of Chapter IV of the Money Laundering Act; and
    - (v) investigative orders for criminal investigation under Part VI of Chapter IV of the Money Laundering Act; and
    - (vi) civil forfeiture orders under Part I of Chapter V of the Money Laundering Act; and
    - (vii) investigative orders for civil forfeiture under Part II of Chapter IV of the Money Laundering Act; and

- (viii) the confiscation of property that are the instrumentalities or proceeds of crime under any law other than the Money Laundering Act;
  - and
  - (b) on the instruction of the Prosecutor-General to make the applications referred to in paragraph (a) through any of its designated officers referred to in subsection (3); and
  - (c) to manage the storage and maintenance of assets seized and forfeited pursuant to the Money Laundering Act; and
  - (d) to provide mutual legal assistance to foreign states seeking the tracing, identification, freezing and confiscation of property under the Money Laundering Act and foreign anti-money-laundering laws.
- (2) The AFU shall be headed by a Chief Public Prosecutor who shall be appointed by the Board and must be a Registered Legal Practitioner.
- (3) The AFU shall be staffed on a casual, part-time, rotational or full-time basis by other prosecutors specially designated by the Prosecutor-General:
- Provided that the Prosecutor-General may, with the leave of the Board and in consultation with the Minister, engage under agreement in writing any person having suitable qualifications and experience to perform services for the AFU in specific cases.
- (4) In the exercise of its functions, the AFU shall work in cooperation with the Zimbabwe Anti Corruption Commission, Zimbabwe Revenue Authority, the Financial Intelligence Unit and other supervisory, regulatory or investigative authorities for purposes of facilitating the tracing, identification, recovery, seizure or confiscation of proceeds of crime.
- (5) The AFU may cooperate with foreign counterpart agencies, foreign supervisory, regulatory or investigative authorities and regional and international organisations involved in combating money laundering, terrorist financing or other crimes, for purposes of facilitating the tracing, identification, recovery, seizure or confiscation of proceeds of crime, whether in relation to offences committed in Zimbabwe or elsewhere.

*[section 27A inserted by section 17 of [Act 12 of 2018](#)]*

## 28. Legal proceedings against Authority

The State Liabilities Act *[Chapter 8:14]* applies with necessary changes to legal proceedings against the Authority, including the substitution of references therein to the Minister by references to the Prosecutor-General.

## 29. Pension rights of members of Authority

- (1) Every member of the Civil Service who, immediately before the fixed date, is employed in the Criminal Division of the Attorney-General's Office on pensionable conditions of service and who on that date is engaged as a member of the Authority, shall continue to contribute towards the Civil Service Pension Scheme as if his or her service with the Authority forms part of and is continuous with his or her service with the Civil Service prior to his or her engagement.
- (2) Any person who is engaged by the Authority after the fixed date shall, on the date of his or her engagement, have the option to contribute—
  - (a) towards the Civil Service Pension Scheme; or
  - (b) towards any pension scheme that the Board may establish or permit members of the Authority to participate in.



### 30. Service regulations

- (1) Subject to this Act, the Board may, with the concurrence of the Minister, make regulations providing for the conditions of service of members of the Authority.
- (2) Regulations made in terms of subsection (1) may provide for—
  - (a) the appointment, classification, qualifications, salaries, allowances and other remuneration and benefits of members of the Authority, and their promotion, functions, hours of work and leave of absence;
  - (b) the pension benefits payable to the members of the Authority and other persons in respect of members' service with the Civil Service, the contributions payable in respect of such benefits and the circumstances in which such pension benefits may be reduced, suspended or withdrawn;
  - (c) a code of ethical and professional conduct for members of the Authority;
  - (d) training and development courses for members of the Authority and the attendance of such members thereat;
  - (e) the use by members of the Authority of vehicles, equipment and other property of the State or the Authority, their indemnification in respect of such use and additionally, or alternatively, the recovery from them of compensation and penalties in respect of damage or loss caused by such use;
  - (f) the manner in which members of the Authority may make representations in regard to matters affecting their conditions of service and general welfare;
  - (g) the manner in which grievances of members of the Authority may be expressed, investigated and redressed;
  - (h) the terms and conditions of contracts entered into in terms of [section 17](#);
  - (i) the circumstances in which the Board may assent to cessions of salary, allowances or other remuneration;
  - (j) the discipline of members of the Authority, and the penalties that may be imposed upon them and other measures that may be taken against them for misconduct if they are inefficient or unsuitable or incapable of performing their duties or if they are convicted of criminal offences;
  - (j) the suspension, retirement, resignation, discharge, abandonment and employment and other termination of service of members of the Authority;

*[Please note: numbering as in original.]*

  - (k) the conduct of investigations, inspections and examinations for the purposes of this Act;
  - (l) any other matter which, in the opinion of the Board, it is necessary or convenient to prescribe in order to ensure the well-being and good administration of the Authority and its maintenance in a high state of efficiency.
- (3) To the extent that regulations made in terms of subsection (1) may result in an increase in expenditure chargeable on the Consolidated Revenue Fund, the Board shall obtain the concurrence of the Minister responsible for finance before they are enacted.
- (4) Regulations made in terms of subsection (1) may provide that any enactment relating to the conditions of service of members of the Civil Service shall apply to or in respect of any members of the Authority, subject to such modifications or conditions as may be specified in the regulations, and thereupon the enactment concerned shall apply to or in respect of those members of the Authority.

- (5) If, after an enactment has been made applicable to any members of the Authority as provided in subsection (4), the enactment concerned is amended, the amendment shall also apply to or in respect of the members concerned unless the Board provides in regulations that it shall not apply.

### 31. Act not to affect application of certain other laws

To the extent that the appointment, conditions of service, termination of service or pension benefits of a member of the Authority is or are provided for by or under the Constitution or any other enactment, this Act shall not apply to or in respect of that member.

### 32. Transitional provisions

- (1) In this section—

“transferred member” means a member who has been transferred to the service of the Authority in terms of subsection (3) or (4).

- (2) The person who immediately before the fixed date was employed by the State as the Deputy Attorney-General responsible for the Criminal Division of the Attorney-General’s Office shall be deemed to have been appointed as the Deputy Prosecutor-General in terms of this Act, and his or her service with the Authority as the National Director of Public Prosecutions shall be deemed to be continuous with his or her service as the Deputy Attorney-General responsible for the Criminal Division of the Attorney-General’s Office.

*[subsection amended by section 48 of Act 2 of 2016]*

- (3) The person who immediately before the commencement of National Prosecuting Authority Amendment Act, 2019 was employed by the Authority as the National Director of Public Prosecutions shall be deemed to have been appointed as one of the Deputy Prosecutors-General in terms of this Act, and his or her service with the Authority as the Deputy Prosecutor-General shall be deemed to be continuous with his or her service as the National Director of Public Prosecutions.

*[subsection (3) amended by section 48 of Act 2 of 2016 and substituted by section 8(a) of Act 7 of 2020]*

- (4) Any person who immediately before the fixed date was employed by the State as a member of the Criminal Division of the Attorney-General’s Office and who has been delegated in terms of any law to institute criminal proceedings and to conduct any prosecution in criminal proceedings on behalf of the State—

- (a) shall continue in such employment; and

- (b) shall be deemed to have been authorised to exercise the powers referred to in [section 12\(4\)](#):

Provided that no member shall, by virtue of this section, have more powers than he or she would have had under the delegation concerned.

- (5) Criminal proceedings which have been instituted before the fixed date must be disposed of as if the decision to institute and prosecute in such criminal proceedings had been taken by a member of the Authority.
- (6) As from the fixed date, all offices of the Attorney-General at the courts shall become offices of the Authority.
- (7) Notwithstanding the commencement of this Act, all measures regulating the institution and conducting of prosecutions in any court shall remain in force until repealed or amended under this Act or by any competent authority.
- (8) For the avoidance of doubt any term limits referred to in this Act shall not apply to any person referred to in this section.
- (9) The Courts Administration Fund that was established under the Audit and Exchequer Act [Chapter 22:03] and saved under section 93(3)(b) of the Public Finance Management Act [Chapter 22:19]

(No. 11 of 2009) shall continue in force subject (notwithstanding anything to the contrary in the constitution of that Fund) to the following reallocation of the public monies retained in it with effect from the date of the commencement of National Prosecuting Authority Amendment Act, 2019—

- (a) thirty-five *per centum* of the monies shall be allocated to the Judicial Service Commission; and
- (b) twenty-five *per centum* of the monies shall be allocated to the National Prosecuting Authority; and
- (c) fifteen *per centum* of the monies shall be allocated to the Attorney-General's Office; and
- (d) ten *per centum* of the monies shall be allocated to the Ministry responsible for the administration of this Act.
- (e) fifteen *per centum* of the monies shall be allocated to the Zimbabwe Prisons and Correctional Services

*[subsection (9) amended by section 48 of Act 2 of 2016 and substituted by section 8(b) of Act 7 of 2020]*

- (10) Any regulation, notice, circular or other document which, immediately before the fixed date, regulated the conditions of service of any class of transferred members in terms of the Public Service Act *[Chapter 16:04]* shall continue, on and after that date, to regulate the conditions of service of—

- (a) those transferred members; and
- (b) any persons who join the Authority after the fixed date and who are in the same class as those transferred members;

until the Authority replaces the regulation, notice, circular or other document concerned or otherwise alters the conditions of service concerned in terms of this Act.

- (11) If on the fixed date—

- (a) there were disciplinary proceedings in terms of the Public Service Act *[Chapter 16:04]* pending against a person who, but for this subsection, would be a transferred member, such proceedings shall continue after the fixed date in all respects as if such person is a member of the Civil Service and, if the proceedings result in the dismissal of that person, that person shall not be transferred to the Authority;
- (b) any promotion or advancement was being processed in terms of the Public Service Act *[Chapter 16:04]* in relation to any transferred member, such promotion or advancement shall be processed and completed after the fixed date in all respects as if such transferred member is a member of the Civil Service and, if the promotion or advancement proceedings result in the promotion or advancement of that transferred member, that member shall be transferred to the Authority at the equivalent grade or post;
- (c) any civil proceedings were instituted and are pending against any transferred member in his or her official capacity, such proceedings shall continue and be completed after the fixed date in all respects as if such transferred member is a member of the Civil Service.

- (12) Subsection (9) as amended by the Criminal Procedure and Evidence Amendment Act, 2016, takes effect from the 2nd January, 2015.

*[subsection inserted by section 48 of Act 2 of 2016]*

### 33. Amendment of Acts

The Acts specified in each Part of the Fourth Schedule are amended to the extent set out in that Part.

## First Schedule (Section 5(3))

### Provisions applicable to Board

#### 1. Interpretation in First Schedule

In this Schedule—

“**appointed member**”, in relation to the Board, means a member appointed under [Section 5](#);

“**Chairperson**” means the Chairperson of the Board referred to in [Section 5\(1\)](#).

#### 2. Disqualification for appointment to Board

- (1) Subject to this Act, a person shall not be qualified for appointment as a member of the Board, nor shall he or she hold office as an appointed member, if—
  - (a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
  - (b) he or she is a member of two or more other statutory bodies; or
  - (c) he or she is a member of Parliament; or
  - (d) he or she is a member of a local authority or is in the full-time employment of a local authority; or
  - (e) in terms of the law in force in any country—
    - (i) he or she has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
    - (ii) he or she has made an assignment to or composition with his or her creditors which has not been rescinded or set aside;or
  - (f) within the period of five years immediately preceding his or her proposed appointment, he or she has been sentenced in a country to a term of imprisonment imposed with or without the option of a fine, whether or not any portion thereof has been suspended, and has not received a free pardon.
- (2) For the purposes of subparagraph (1)(b)—
  - (a) a person who is appointed to a council, board or 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;
  - (b) “statutory body” means—
    - (i) any Commission established by the Constitution; or
    - (ii) any corporate body 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 other statutory body or by a Commission established by the Constitution.

#### 3. Term of office and conditions of service of members of Board

- (1) Subject to this Schedule, the term of office of an appointed member of the Board shall be such period not exceeding five years as the Minister may fix on his or her appointment.

Provided that notwithstanding paragraph (2), the Minister shall ensure that at least two members who have held office in the Board continue for another term.

- (2) On the expiry of an appointed member's term of Authority, he or she shall be eligible for reappointment.
- (3) Subject to this Schedule, the conditions of service of an appointed member of the Board, including allowances, shall be fixed by the Minister in consultation with the Minister responsible for finance, at the time of his or her appointment.
- (4) Notwithstanding any other provision of this paragraph, the allowances payable to an appointed member of the Board shall not be reduced during his or her tenure of office.

#### **4. Vacation of office by members of Board**

- (1) An appointed member of the Board may resign from his or her office at any time by giving the Minister and the Board such notice of his or her intention to resign as may be fixed in his or her conditions of service in terms of paragraph 3 or, if no such period has been fixed, after the expiry of thirty days from the date he or she gives notice or after the expiry of such other period of notice as he or she and the Minister may agree.
- (2) An appointed member of the Board shall be deemed to have resigned from his or her office and his or her office shall become vacant—
  - (a) if he or she becomes disqualified for appointment to the Board in terms of paragraph 2(a), (b), (c), (d) or (e); or
  - (b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion was suspended, imposed with or without the option of a fine—
    - (i) in Zimbabwe, in respect of an offence; or
    - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence.

#### **5. Filling of vacancies of Board**

On the death of, or vacation of office by, an appointed member of the Board, the Minister shall fill the vacancy within three months.

#### **6. Procedure of Board**

- (1) Subject to subparagraph (2), the Board shall meet at such dates, times and places as may be fixed by the chairperson:

Provided that the Board shall meet at least once every three months.

- (2) The chairperson—
  - (a) may convene a special meeting of the Board at any time; and
  - (b) shall convene a special meeting of the Board on the written request of not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairperson's receipt of the request.
- (3) Written notice of a special meeting convened in terms of subparagraph (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened:

Provided that a failure by a member to receive such a notice, or an inadvertent failure to send notice to a member, shall not invalidate the meeting.

- (4) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—
  - (a) such business as may be determined by the chairperson where he or she convened the meeting in terms of subparagraph (2)(a); or
  - (b) the business specified in the request for the meeting, where the chairperson convened the meeting in terms of subparagraph (2)(b).
- (5) In the absence of the chairperson the deputy chairperson shall preside over the meeting of the Board as chairperson.
- (6) In the absence of the chairperson or deputy chairperson, the members present shall, if they constitute a quorum, elect one of their numbers to preside over the meeting of the Board as chairperson.
- (7) At any meeting of the Board, five of the members of the Board shall form a quorum.
- (8) The Board will undertake to make decisions by consensus among the members present at the meeting of the Board at which a quorum is present; failing which anything authorised or required to be done by the Board shall be decided by a majority vote of the members at that meeting.
- (9) At all meetings of the Board each member present shall have one vote on each question before the Board:

Provided that, in the event of an equality of votes, the chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- (10) With the approval of the Board, the chairperson may invite any person to attend a meeting of the Board where the chairperson considers that the person has special knowledge or experience in any matter to be considered at the meeting.
- (11) A person invited to attend a meeting of the Board under subparagraph (9) may take part in the meeting as if he or she were a member of the Board, but shall not have a vote on any question before the meeting.
- (12) Any proposal circulated among all members of the Board and agreed to in writing by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the members and shall be incorporated into the minutes of the next meeting of the Board:

Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subparagraph shall not apply to the proposal.
- (13) Except as otherwise provided in this paragraph, the procedure for the convening and conduct of meetings of the Board shall be as fixed from time to time by the Board.

## 7. Committees of Board

- (1) For the better exercise of its functions, the Board may establish one or more committees in which it may vest such of its functions as it considers appropriate.
- (2) The vesting of a function in a committee in terms of subparagraph (1)—
  - (a) may be made absolutely or subject to conditions and may be amended or withdrawn at any time; and
  - (b) shall not divest the Board of that function;and the Board may amend or rescind any decision of the committee in the exercise of that function.

- (3) On the establishment of a committee under subparagraph (1) the Board—
- (a) shall appoint at least one of its members as a member of the committee, and that member or one of those members designated by the Board, as the case may be, shall be chairperson of the committee; and
  - (b) may appoint as members of the committee persons who are not members of the Board and fix the terms and conditions of their appointment.
- (4) Meetings of a committee may be convened at any time and at any place by the chairperson of the committee.
- (5) If the chairperson of the committee is absent from a meeting of the committee, the members present may elect one of their number to preside at that meeting as chairperson.
- (6) A majority of members of a committee shall form a quorum at any meeting of a committee.
- (7) Anything authorised or required to be done by a committee may be decided by a majority vote at a meeting of the committee at which a quorum is present.
- (8) At all meetings of a committee each member present shall have one vote on each question before the committee:
- Provided that, in the event of an equality of votes, the chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- (9) Subject to this paragraph, the procedure to be followed at any meeting of a committee shall be fixed by the Board.

## **8. Minutes of proceedings**

- (1) The Board shall cause minutes to be taken at its meetings and at meetings of its committees and enter them in books kept for the purpose.
- (2) Any minutes which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Board or committee, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.
- (3) The Board and any committee of the Board shall cause copies of all minutes that have been signed to be sent to the Minister for his or her information.

## **9. Validity of decisions and acts of Board**

- (1) No decision or act of the Board or act done under the authority of the Board shall be invalid solely because there were one or more vacancies on the Board when the decision was taken or the act was done or authorised or a disqualified person partook in the act or decision.
- (2) If any decision or other act of the Board is rendered invalid through a procedural irregularity, the Board may at a duly convened meeting ratify the decision or act, and any decision or act so ratified shall be valid in all respects with effect from the date of its ratification.

## **Second Schedule (Section (5)(4))**

### **Powers of National Prosecuting Authority Board**

- 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 interests therein and rights thereof and concessions, grants, powers and privileges in respect thereof.

2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets, or part of any assets and, with the approval of the minister, to sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.
5. To open bank accounts in the name of the national prosecuting authority 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. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify and rescind such contracts or rescind such suretyships or guarantees.
8. With the approval of minister, to establish and administer such funds and reserves not specifically provided for in this act as the board considers appropriate or necessary for the proper exercise of the functions of the national prosecuting authority.
9. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to members as it considers fit.
10. To provide pecuniary benefits for members 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 members and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
11. To purchase, take on lease or in exchange or otherwise acquire land or dwelling-houses for use or occupation by members.
12. To construct dwellings, outbuildings or improvements for use or occupation by members.
13. To sell or lease dwelling-houses and land for residential purposes to members.
14. To provide or guarantee loans made to members 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 members, subject to any conditions that may be imposed by the board from time to time.
15. To provide security in respect of loans by the deposit of securities, in which the national prosecuting authority may invest such money as the board may consider necessary for the purpose.
16. Subject to any conditions that may be imposed by the board from time to time, to provide loans to any members—
  - (a) for the purpose of purchasing vehicles, tools or other equipment to be used by members in carrying out their duties; or
  - (b) not exceeding six months' salary or wages payable to the members concerned, for any purpose and on such security as the Board thinks adequate.
17. To do anything for the purpose of improving the skill, knowledge or usefulness of members 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.
18. To provide technical advice or assistance, including training facilities, to the national prosecuting authority of other countries.
19. To accept, with the approval of the minister, any donations, gifts or assistance from any organisation or person.



20. To do anything which by this act is required or permitted to be done by the national prosecuting authority.
21. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the national prosecuting authority in terms of this act or any other enactment.

### Third Schedule (Section 12(5))

#### Authority to prosecute in the courts of Zimbabwe

Authority to prosecute issued in terms of Section 12(5) of the National Prosecuting Authority Act
I, _____, Prosecutor-General of Zimbabwe, do hereby
nominate and appoint _____ to appear before the Magistrates
Court, High Court, Supreme Court and Constitutional Court of Zimbabwe, for me and in my name, to prosecute all such cases as shall be therein pending.
Dated at Harare this _____ day of _____, 20____
Prosecutor-General

### Fourth Schedule (Section 33)

#### Amendment of various Acts

#### Part I – Interpretation Act [Chapter 1:01]

In section 3 (“Definitions”) (3), by the insertion of the following definitions—

“National Prosecuting Authority” means the National Prosecuting Authority established in terms of section 258 of the Constitution;

“Prosecutor-General” means the Prosecutor-General appointed in terms of section 259 of the Constitution;”.

#### Part II – Privileges, Immunities and Powers of Parliament Act [Chapter 2:08]

In section 22 (“Prosecutions by Attorney-General”)—

- (a) by the deletion of the heading thereto and the substitution of “Prosecutions by Prosecutor-General”
- (b) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
- (c) in subsection (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part III – Electoral Act [Chapter 2:13]**

In section 133J (“Investigations, prosecutions and trials of cases of politically-motivated violence and intimidation”) (4) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;

### **Part IV – Children’s Act [Chapter 5:06]**

In section 4 (“Officers of juvenile courts”) (7) by the deletion of Attorney-General and the substitution of “Prosecutor-General”.

### **Part V – Insolvency Act [Chapter 6:04]**

In section 70 (“Steps to be taken on suspicion of offence”) (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part VI – High Court Act [Chapter 7:06]**

1. In section 6 (“Assessors in criminal trials”) (4) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 29 (“Powers on review of criminal proceedings”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In section 35 (“Concession of appeal by Attorney-General”)—
  - (a) by the deletion of the heading thereto and the substitution of “Concession of appeal by Prosecutor-General”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
4. In section 36 (“Prosecution of appeals in person”) (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
5. In section 38A (“Special powers of High Court in respect of appeals by Attorney-General on points of law”)—
  - (a) by the deletion of the heading thereto and the substitution of “Special powers of High Court in respect of appeals by Prosecutor-General on points of law”;
  - (b) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (c) in subsection (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
6. In section 44 (“Right of appeal from High Court in criminal cases”)—
  - (a) in subsection (5)(b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) in subsection (6) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (c) in subsection (7) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part VII – Inquest Act [Chapter 7:07]**

In section 13 (“Transmission of inquests and reports”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part VIII – Magistrates Court Act [Chapter 7:10]**

1. In section 49 (“Jurisdiction in criminal cases”)—
  - (a) by the deletion in subsection (2)(a) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) by the deletion in subsection (2)(b) of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 50 (“Ordinary jurisdiction as to punishment”)—
  - (a) by the deletion in subsection (1)(b) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) by the deletion in subsection (2) of “Attorney-General [” and the substitution of “Prosecutor-General”;
  - (c) by the deletion in subsection (3) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (d) by the deletion in subsection (4) of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In section 51 (“Special jurisdiction as to punishment”)—
  - (a) by the deletion in subsection (1)(c) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) by the deletion in subsection (2)(b) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (c) by the deletion in subsection (4)(a) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (d) by the deletion in subsection (4)(c) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (e) by the deletion in subsection (4)(d) of “Attorney-General” and the substitution of “Prosecutor-General”.
4. In section 52 (“Magistrate may be assisted by assessors”)—
  - (a) by the deletion in subsection (1) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) by the deletion in subsection (2) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (c) by the deletion in subsection (5) of “Public Service” and the substitution of “Civil Service”.
5. In section 54 (“Stopping and conversion of trials”)—
  - (a) by the deletion in subsection (1) of “Attorney-General” and the substitution of “Prosecutor-General”;

- (b) by the deletion in subsection (2) of “Attorney-General” and the substitution of “Prosecutor-General”.
- 6. In section 55 (“Imposition or bringing into operation of sentences suspended by High Court”)—
  - (a) by the deletion in subsection (1) of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (b) by the deletion in subsection (2) of “Attorney-General” and the substitution of “Prosecutor-General”.
- 7. In section 56 (“Local limits of jurisdiction”) (9) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 8. In section 61 (“Attorney-General may appeal to supreme court on point of law or against acquittal”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General may appeal to Supreme Court on point of law or against acquittal”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 9. In section 62 (“Attorney-General may appeal to Supreme Court against sentence”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General may appeal to Supreme Court against sentence”;
  - (b) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part IX – Supreme Court Act [Chapter 7:13]**

- 1. In section 10 (“Concession of appeal by Attorney-General”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”—
  - (a) by the deletion of the heading thereto and the substitution of “Concession of appeal by Prosecutor-General”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 2. In section 11 (“Prosecution of appeals in person”) (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 3. In section 13 (“Special powers of Supreme Court in respect of appeals by Attorney-General on points of law or against acquittals”)—
  - (a) by the deletion of the heading thereto and the substitution of “Special powers of Supreme Court in respect of appeals by Prosecutor-General on points of law or against acquittals”;
  - (b) in subsections (1) and (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part X – Transfer of Offenders Act [Chapter 7:14]**

- 1. In section 4 (“Application for and agreement to transfer of offender”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 2. In section 11 (“Juvenile offenders and mentally disordered or defective offenders”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- 3. In section 12 (“Transfer of foreign offenders”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XI – Legal Aid Act [Chapter 7:16] (No. 18 of 1996)**

1. In section 3 (“Establishment and of Legal Aid Directorate”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 10 (“Legal aid at instance of court or Attorney-General”)—
  - (a) by the deletion of the heading thereto and the substitution of “Legal aid at instance of court or Prosecutor-General”;
  - (b) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In section 12 (“Reassignment of legal practitioner”) (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XII – Judicial College Act [Chapter 7:17] (No. 18 of 1998)**

1. In section 7 (“Establishment and membership of Council”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 13 (“Principal of College”) in subsection (2)(b) by the deletion of “Attorney-General’s office” and “Attorney-General” and the substitution of “National Prosecuting Authority” and “Prosecutor-General” respectively

### **Part XIII – Criminal Matters Mutual Assistance Act [Chapter 9:06]**

1. In section 2 (“Interpretation”) by the deletion of “police force” and substitution of “police service”.
2. By the repeal of section 2A and the substitution of the following—
 

“2A Purpose of Act and powers and responsibilities of Prosecutor-General

  - (1) The purpose of this Act is to enable the Prosecutor-General and appropriate authorities to provide the widest possible range of cooperation to each other for purposes of mutual legal assistance in criminal matters, including (without derogating from the generality of the foregoing) mutual legal assistance in connection with criminal investigations and proceedings related to money laundering and financing of terrorism and to associated predicate offences.
  - (2) This Act shall be construed in such manner as best ensures the attainment of its purpose referred to in subsection (1).
  - (3) The Prosecutor-General has the responsibility and power to make and receive requests for assistance in any criminal matter in accordance with this Act, and in so doing shall ensure the timeous, expeditious and proper processing of the same, for which purpose the Prosecutor-General may avail himself or herself of the services of the International Criminal Police Organization (commonly called “Interpol”).”.
3. In section 6 (“Refusal of assistance”) by the deletion in subsection (1), (2) and (6) of “Attorney-General” and the substitution of “Prosecutor-General”.
4. In section 7 (“Assistance may be conditional”) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
5. In section 8 (“Requests by Zimbabwe”) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.

6. In section 9 (“Request for assistance by foreign country”) (1) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
7. In section 10 (“Requests by Zimbabwe”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
8. In section 11 (“Request for evidence, etc., by foreign country”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
9. In section 12 (“Requests by Zimbabwe for search and seizure”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
10. In section 13 (“Requests by foreign countries for search and seizure”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
11. In section 14 (“Request for removal of certain persons to Zimbabwe”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
12. In section 15 (“Arrangements between Attorney-General and the Minister in relation to custody of certain persons”)—
  - (a) by the deletion of the heading thereto and the substitution of “Arrangements between Prosecutor-General and the Minister in relation to custody of certain persons”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
13. In section 16 (“Custody of certain persons”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
14. In section 17 (“Immunities”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
15. In section 18 (“Status of person prosecuted for offence committed after departure from foreign country”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
16. In section 19 (“Limitation on use of General” wherever it appears.
17. In section 20 (“Conditions of imprisonment”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
18. In section 21 (“Release of certain persons upon request by foreign country”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
19. In section 24 (“Requests for giving of evidence at hearing in foreign countries”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
20. In section 25 (“Requests for assistance in relation to investigations in foreign countries”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
21. In section 27 (“Transit”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
22. In section 30 (“Requests for enforcement of orders”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
23. In section 31 (“Requests for issue of orders in foreign countries”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
23. In section 32 (“Registration of orders”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.

*[Please note: numbering as in original.]*

24. In section 33 (“Requests for search and seizure warrants in respect of tainted property”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
25. In section 34 (“Requests for interim interdicts”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
26. In section 35 (“Requests for information gathering orders”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
27. In section 36 (“Service of documents”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
28. In section 37 (“Evidence”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part XIV – Criminal Procedure and Evidence Act [Chapter 9:07]**

1. In section 2 (“Interpretation”), in the definition of “public prosecutor”, by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. By the deletion of the subheading to Part II and the substitution of “Prosecutor-General”.
3. By the repeal of section 6 and the substitution of—
 

“6 delegation of functions by Prosecutor-General

  - (1) Subject to the general or specific instructions of the Prosecutor-General, the officer to whom responsibility for public prosecutions is assigned under the National Prosecuting Authority Act [Chapter 7:20], shall exercise all the rights and powers and perform all of the functions conferred upon the Prosecutor-General by section 259 of the Constitution, this Act or any other enactment, insofar as they relate to criminal proceedings.
  - (2) The Prosecutor-General may, when he or she deems it expedient, appoint any legal practitioner entitled to practise in Zimbabwe to exercise (subject to the general or specific instructions of the Prosecutor-General) all or any of the rights and powers or perform all or any of the functions conferred upon the Prosecutor-General by section 259 of the Constitution, this Act or any other enactment, whether or not they relate to criminal proceedings.
  - (3) The officer referred to in subsection (1) or a legal practitioner appointed in terms of subsection (2) may, subject to any conditions which the Prosecutor-General may impose—
    - (a) sign any certificate, authority or other document required or authorised by an enactment referred to in those subsections; and
    - (b) appoint a member of the National Prosecuting Authority constituted in terms of the National Prosecuting Authority Act [Chapter 7:20], or a legal practitioner entitled to practise in Zimbabwe, as the case may be, to exercise the rights and powers or perform the functions delegated to him or her in terms of subsection (1) or (2), and the provisions of this subsection shall apply, with such changes as may be necessary, in respect of that appointment.”.
4. By the repeal of section 7 and the substitution of the following—
 

“7 National Director of Public Prosecutions

There shall be a National Director of Public Prosecutions appointed in terms of section 8 of the National Prosecuting Authority Act [Chapter 7:20].”.
5. In section 9 (“Attorney-General’s power of stopping prosecutions”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General’s power of stopping prosecutions”;

- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
6. In section 9A (“Prosecutions for contempt of court proceedings”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
7. In section 10 (“Power of ordering liberation of persons committed for further examination, sentence or trial”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
8. In section 11 (“Functions of local Public Prosecutor”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears—
- (a) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
- (b) in subsection (3)(b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
9. In section 13 (“Private prosecution on refusal of Attorney-General to prosecute”)—
- (a) by the deletion of the heading thereto and the substitution of “Private prosecution on refusal of Prosecutor-General to prosecute”;
- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
10. In section 15 (“Private prosecutor may apply to court for warrant”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”
11. In section 16 (“Certificate of Attorney-General that he declines to prosecute”)—
- (a) by the deletion of the heading thereto and the substitution of “Certificate of Prosecutor-General that he or she refuses to prosecute”;
- (b) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
12. In section 18 (“Failure of private prosecutor to appear on appointed day”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
13. In section 20 (“Competency of Attorney-General to take up and conduct prosecution at public instance”)—
- (a) by the deletion of the heading thereto and the substitution of “Competency of Prosecutor-General to take up and conduct prosecution at public instance”;
- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
14. In section 22 (“Costs of private prosecution”) (3) (proviso) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
15. In section 25 (“Arrest without warrant by peace officer or other officer”) (1)(b) (proviso) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
16. In section 32 (“Procedure after arrest without warrant”)—
- (a) in subsection (3b)(a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears;
- (b) in subsection (3c) (proviso) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
17. In section 33 (“Warrant of arrest by judge, magistrate or justice”) (1)(a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
18. In section 34 (“Execution of warrants”)—
- (a) in subsection (4)(b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears;



- (b) in subsection (5)(proviso) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.
19. In section 41 (“Breaking open of doors after failure in obtaining admission for purpose of arrest or search”) (5) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
20. In section 65 (“Accused to be committed for trial by Magistrates before High Court”) (provisos (i) and (iv)) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
21. In section 66 (“Summary committal for trial of accused person”)—
- (a) in subsection (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears;
  - (b) in subsection (6)(b)(ii) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (c) in subsection (7) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (d) in subsection (8)(a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
  - (e) in subsection (9) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
22. In section 115A (“Verification of witnesses’ depositions in certain circumstances”) (1)(c) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
23. In section 116 (“Power to admit to bail”) (b) (proviso) and (c)(i) and (iii) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
24. In section 117 (“Entitlement to bail”) (7)(a) and (9) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
25. In section 118 (“Conditions of recognizance”) (2)(e) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
26. In section 121 (“Appeals against decisions regarding bail”) (1)(a), (3), (3)(a) and (b), 8(b) and (9), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
27. In section 123 (“Power to admit to bail pending appeal or review”) (1) (provisos (i) and (iii)) and (13), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
28. In section 131 (“Deposit instead of recognizance”) (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
29. In section 134 (“Remission of bail”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
30. In section 136 (“Charge in High Court to be laid in indictment”) (2) by the deletion wherever it appears of “Attorney-General” and the substitution of “Prosecutor-General”.
37. In section 143 (Charges in remitted cases”) (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
- [Please note: numbering as in original.]*
38. In section 151 (“Rules applicable to particular indictments”) by the deletion of “Public Service” and the substitution of “Civil Service”.
39. In section 160 (“Bringing of accused persons to trial before High Court”) (1) and (2) by the deletion wherever it appears of “Attorney-General” and the substitution of “Prosecutor-General”.

40. In section 161 ("Change of place of trial") (1) and (2), by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
41. In section 162 ("When removed prisoner to be tried") by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
42. In section 179 ("Notice of application to quash indictment and certain pleas to be given") by the deletion wherever it appears of "Attorney-General" and the substitution of "Prosecutor-General".
43. In section 181 ("Person committed or remitted for sentence") (1) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
44. In section 198 ("Conduct of trial") (4) and (5), by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
45. In section 225 ("Powers of Attorney-General")—
  - (a) by the deletion of the heading thereto and the substitution of "Powers of Prosecutor-General";
  - (b) by the deletion of "Attorney-General" wherever it appears and the substitution of "Prosecutor-General".
46. In section 226 ("Duties of Magistrate") by the deletion of "Attorney-General" wherever it appears and the substitution of "Prosecutor-General".
47. In section 227 ("Powers of judge in respect of case transferred to High Court for sentence") (1) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
48. In section 266A ("Admissibility of evidence obtained from certain foreign countries")—
  - (a) in subsection (1) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General";
  - (b) in subsection (6) by the deletion of "Attorney-General or his deputy" and the substitution of "Prosecutor-General or the National Director of Public Prosecutions".
49. In section 309 ("Evidence on charge of theft against employee or agent") (1) by the deletion of "Public Service" and the substitution of "Civil Service".
50. In section 320 ("Dismissal of charge in default of prosecution") (3) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
51. In section 322 ("Further proceedings against accused discharged for want of prosecution or whose recognizance has expired") (2) by the deletion wherever it appears of "Attorney-General" and the substitution of "Prosecutor-General".
52. In section 330 ("Withdrawing charges") (3) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
53. In section 342 ("Manner of carrying out death sentences") (1), (2) (proviso) and (3), by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
54. In section 350D ("Amendment or revocation of community service order") (1) (b) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
55. In section 377 ("President may commute sentence") (2) by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".
56. In the Third Schedule ("Offences in respect of which power to admit persons to bail is excluded or qualified") in paragraph 8 of Part II, by the deletion of "Attorney-General" and the substitution of "Prosecutor-General".

### **Part XV – Extradition Act [Chapter 9:08]**

1. In section 16 (“General restrictions on extradition in terms of Part III”) (1)(b)(ii) and (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In (“Bail and legal representation”) (2) by the deletion from subsection 2 of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In (“Evidence”) (1)(h) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XVI – Prevention of Corruption Act [Chapter 9:16]**

In section 7 (“Appointment of investigators”) by the deletion from subsection (1) and (4) of “Attorney-General” and substitution of “Prosecutor-General” wherever it appears.

### **Part XVII – Stock Theft Prevention Act [Chapter 9:18]**

In section 2 (“Interpretation”) in the definition of “special jurisdiction” by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.

### **Part XVIII – Genocide Act [Chapter 9:20]**

In section 5 (“Attorney-General to authorize prosecutions under this Act”)—

- (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General to authorise prosecutions under this Act”
- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XIX – Anti-Corruption Commission Act [Chapter 9:22]**

1. In section 13 (“Powers of Commission”) (5) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
2. In the Schedule (“Powers of Commission”)—
  - (a) in paragraph 1 by the deletion of “Attorney-General” and substitution of “Prosecutor-General”;
  - (b) by the repeal of paragraph (b) of paragraph 1 and the substitution of—
 

“(b) contravening the Money Laundering and Proceeds of Crime Act [Chapter 9:24] (No. 4 of 2013) section 63 (“Money-laundering”) of the Serious Offences (Confiscation of Profits) Act [Chapter 9:17];”
  - (c) in paragraphs 4, and 8 by the deletion of “Attorney-General’s Office” and substitution of “National Prosecuting Authority”.

### **Part XX – Criminal Law (Codification and Reform Act [Chapter 9:23]**

1. In section 34 (“Attorney-General to authorise prosecutions under Chapter III”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General to authorise prosecutions under Chapter III”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

2. In section 68 (“Unavailable defences to rape, aggravated indecent assault and indecent assault”) (a) (proviso) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
3. In section 120 (“Joint ownership no defence”) (proviso) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
4. In section 142 (“Damage by co-owners, spouses and partners”) (proviso) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
5. In section 231 (“Attorney-General to authorise prosecutions of children under fourteen years”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General to authorise prosecutions of children under fourteen years”;
  - (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part XXI – Money Laundering and Proceeds of Crime Act [Chapter 9:24]**

1. In section 2 (“Interpretation”), in the definition of “law enforcement agency”, by the deletion of “police force” and the substitution of “police service”.
2. In section 40 (“Application for interdict”) (1) and (4) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
3. In section 41 (“Interdict and notice thereof”) (1), (2) (b) and (6) by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
4. In section 42 (“Enforcement of interdicts abroad”) by the deletion of “Attorney-General” and substitution of “prosecutor-general” wherever it appears.
5. In section 43 (“Further orders”) (1)(a) and (2)(a) and (a)(i), and (2)(b), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
6. In section 45 (“recording of interdicts against title to certain properties”) (1), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
7. In section 46 (“Contravention of interdict”) (1) and (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
8. In section 47 (“Property seizure order under Chapter IV”) (1), (4) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
9. In section 49 (“Duration of interdict”) (1) and (2), by the deletion of “Attorney-General” and substitution of “prosecutor-general”.
10. In section 50 (“Application for confiscation orders”) (1), (2), (3)(b), (4) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
11. In section 51 (“Application for confiscation order in cases where concerned person absconds or dies”) (1) and (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
12. In section 52 (“Service of application for confiscation order and appearances”) (1), (1)(a) and (c), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
13. In section 54 (“Confiscation order on conviction”), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
14. In section 55 (“Enforcement of confiscation orders abroad”) (1), by the deletion of “attorney-general” and substitution of “Prosecutor-general”.
15. In section 56 (“Effect of confiscation order and recording of order against title to certain properties”) (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General” wherever it appears.

16. In section 58 (“Advance notification of application for benefit recovery orders”) (2) and (3), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
17. In section 59 (“Application for benefit recovery order”) (4) and (6), by the deletion of “attorney-general” and substitution of “prosecutor-general”.
18. In section 60 (“application for benefit recovery order in cases where concerned person absconds or dies”) (1) and (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
19. In section 61 (“Service of application for benefit recovery order and appearances”) (1), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
20. In section 63 (“Benefit recovery order on conviction”) (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
21. In section 65 (“Statements relating to benefit”) (1), by the deletion of “Attorney-General” and substitution of “prosecutor-general”.
22. In section 66 (“Amount recovered under benefit recovery orders”) (2), (5)(c), (6) and (8), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
23. In section 69 (“Realisation of property subject to confiscation or benefit recovery order”) (1), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
24. In section 71 (“Compensation orders”) (4), by the deletion of “Attorney-General” and substitution of “prosecutor-general”.
25. In section 76 (“Customer information orders”) (1), by the deletion of “Attorney-General” and substitution of “prosecutor-general”.
26. In section 77 (“Monitoring orders”) (1), by the deletion of “Attorney-General” and substitution of “prosecutor-general”.
27. In section 78 (“Interpretation in Part I of Chapter V”) (1) (in the definition of “enforcement authority”), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
28. In section 80 (“Civil forfeiture orders”) (2), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
29. In section 81 (“Property freezing order under Part I of Chapter V”) (1) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
30. In section 82 (“Further provisions in relation to property freezing orders”) (1)(a) and (b) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
31. In section 83 (“Property seizure order under Part I of Chapter V”) (1), (4) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
32. In section 84 (“Application for and granting of civil forfeiture order”) (1), (2) and (2)(a) and (c), and (7), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
33. In section 90 (“Compensation and protection of trustee, etc.”) (2) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
34. In section 91 (“Obtaining information from foreign authorities”), by the deletion of “attorney-general” and substitution of “Prosecutor-General”.
35. In section 92 (“Production order for property tracking documents”) (2) and (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
36. In section 93 (“Further provisions relating to production orders for property tracking documents”) (5), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.

37. In section 94 (“Search warrants for property tracking documents”) (1), by the deletion of “Attorney-General” and substitution of “Prosecutor-General”.
38. In section 99 (“Financial year, accounts and audit of Recovered Assets Fund”)(3), by the deletion of “Comptroller and Auditor-General and the substitution of “Auditor-General” wherever it appears.

## **Part XXII – Censorship and Entertainments Control Act [Chapter 10:04]**

1. In section 13 (“Prohibition of importation, production and dissemination of undesirable publications, pictures, statues and records”) (6), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 26 (“Prohibition of possession of prohibited articles”) (2) by the deletion of “Attorney-general” and the substitution of “Prosecutor-General”.

## **Part XXIII – Firearms Act [Chapter 10:09]**

In section 4 (“Penalty for purchasing firearms or ammunition without firearm certificate”) (6) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part XXIV – Access to Information and Protection of Privacy Act [Chapter 10:27]**

1. In section 17 (“Protection of information whose disclosure will be harmful to law enforcement process and national security”) (2) (c) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In Section 51 (“Restrictions on disclosure of information by commission and staff”) (4), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In the Fourth Schedule (“Provisions applicable to commission”), in paragraph 4 (“Dismissal or suspension of members of Commission”) (1) (a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part XXV – Administrative Justice Act [Chapter 10:28]**

In section 9 (“Intervention by Attorney-General”)—

- (a) by the deletion of the heading thereto and the substitution of “Intervention by Prosecutor-General”;
- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.

## **Part XXVI – Geneva Conventions Act [Chapter 11:06]**

In section 3 (“Grave breaches of scheduled Conventions”), in subsection (6) and the proviso thereto, by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

## **Part XXVII – Official Secrets Act [Chapter 11:09]**

In section 11 (“Authority of Attorney-General required for institution of criminal proceedings”)—

- (a) in the heading thereto by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”;
- (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”:

### **Part XXVIII – Police Act [Chapter 11:10]**

3. By the repeal of section 12 and the substitution of—

“12 compliance with directions of Prosecutor General

Where the Prosecutor-General has, in terms of section 259(11) of the Constitution, directed the Commissioner-General of Police to investigate and report to him or her on anything which, in the Prosecutor-General’s opinion, relates to an offence or alleged or suspected offence, and the Commissioner-General of Police must comply with that direction.”.

*[Please note: numbering as in original.]*

2. In section 13 (“Reports by Commissioner-General”) (1) by the repeal of paragraph (c) and the substitution of—

“(c) any cases which the Prosecutor-General has, in the previous year, required him or her to investigate in terms of section 259(11) of the Constitution, and the results of his or her investigations into the cases.”.

3. In section 34 (“Trial before court consisting of one officer”) (4) and (5), by the deletion of “Attorney-General” the substitution of “Prosecutor-General”.

### **Part XXIX – Unlawful Organisations Act [Chapter 11:13]**

In section 16 (“Authority required for prosecutions”) by the deletion of “he Attorney-General or the Director of Public Prosecutions” and the substitution of “Prosecutor-General or the National Director of Public Prosecutions”.

### **Part XXX – Interception of Communications Act [Chapter 11:20] (No. 6 of 2007)**

1. In section 7 (“Scope of warrant and renewal thereof”) (1)(a)(ii) and (2)(a), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 19 (“Review of exercise of Minister’s powers under this act”) (1), (2) and (3), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XXXI – Suppression of Foreign and International Terrorism Act [Chapter 11:21] (No.5 of 2007)**

In section in 15 (“Application of certain provisions of Part V of Cap, 9:23 and Part VI of Cap. 11:17”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XXXII – Postal and Telecommunications Act [Chapter 12:05]**

1. In section 57 (“Detention and examination of postal articles”) (1)(c)(i) and (ii), by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”.
2. In section in 93 (“Authority required for institution of certain criminal proceedings”) and proviso thereto, by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”.
3. In section in 98 (“Interception of communications”) by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”.



**Part XXXIII – Broadcasting Services Act [Chapter 12:06]**

In section 4A (“Dismissal or suspension of members of Board”) (1)(a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”

**Part XXXIV – Factories and Works Act [Chapter 14:08]**

In section 15 (“Inquiries by inspectors”) (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XXXV – Medicines and Allied Substances Control Act [Chapter 15:03]**

In section 69 (“Special jurisdiction of magistrates courts”) by the deletion of “Attorney-General”, wherever it appears, and the substitution of “Prosecutor-General”.

**Part XXXVI – Termination of Pregnancy Act [Chapter 15:10]**

In section 9 (“Report by Secretary”) (a) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XXXVII – Mental Health Act [Chapter 15:12]**

1. In section 2 (“Interpretation”) by the repeal of the definition of “Attorney-General” and the substitution of the following—

“Prosecutor-General”, in relation to any function, includes any person to whom the Prosecutor-General has delegated or assigned that function in terms of any law;”.
2. In section 10 (“Detention under reception order of patient in single care”) (7) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In section 16 (“Attorney-General *ex officio curator ad litem* of patients”)—
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General *ex officio curator ad litem* of patients”;
  - (b) in subsections (1), (2) and (3) and the proviso thereto, by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
4. In section 17 (“Orders and reports to be submitted to Attorney-General and registrar of High Court”)—
  - (a) by the deletion of the heading thereto and the substitution of “Orders and reports to be submitted to Prosecutor-General and Registrar of High Court”;
  - (b) in subsections (1), (2), (3), (5) and (6), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
5. In section 18 (“Powers of judge on consideration of reception order and documents”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
6. In section 19 (“Secretary may order patient’s removal to institution or other place”) (1) and (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
7. In section 27 (“Procedure where person found mentally disordered or intellectually handicapped while under detention”) (1) by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”.



8. In section 29 (“Procedure where person charged is found mentally disordered or intellectually handicapped at time of committing offence”) (4) and (5) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
9. In section 31 (“Attorney-General to be informed before discharge of certain patients”)
  - (a) by the deletion of the heading thereto and the substitution of “Prosecutor-General to be informed before discharge of certain patients”;
  - (b) in subsection (1) by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”;
  - (c) in subsection (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
10. In section 32 (“Power of Attorney-General to withdraw charges”)—
  - (a) by the deletion of the heading thereto and the substitution of “Power of Prosecutor-General to withdraw charges”;
  - (b) in subsections (1) and (2) by the deletion of “Attorney-General” wherever it appears and the substitution of “Prosecutor-General”.
11. In section 36 (“Appeal to mental health review tribunal in certain cases”) (1) and (3) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
12. In section 37 (“Admission to special institutions of mentally disordered or intellectually handicapped patients who are dangerous”) (2) and (4), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
13. In section 38 (“Powers of Court in criminal cases in relation to mentally disordered or intellectually handicapped persons who are dangerous”) (4) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
14. In section 82 (“Appeals to supreme court against decisions of mental health review tribunal”) (2)(c) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
15. In section 84 (“Magistrate to inquire into and report on patient’s property or estate”) (1) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
16. In section 86 (“Appointment of curator for care and administration of patient’s estate”) (1) and (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
17. In section 97 (“Admission of patients from designated countries”) (2) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
18. In section 109 (“Saving of power of High Court to declare persons mentally ill and to appoint curators”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

### **Part XXXVIII – Public Service Act [Chapter 16:04]**

In section 2 (“Interpretation”) by the insertion in the definition of “approved service”, after paragraph (c), of the following paragraph—

“or

(d) the National Prosecuting Authority;”.

### **Part XXXIX – Tobacco Industry and Marketing Act [Chapter 18:20]**

In section 77 (“Certain returns to be confidential”) (2) by the deletion from subsection (2) of “Attorney-General” and the substitution of “Prosecutor-General” wherever it appears.

**Part XL – Protection of Wild Life (Indemnity) Act [Chapter 20:15]**

In section 4 (“Restriction on arrests and institution of criminal proceedings”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLI – Gold Trade Act [Chapter 21:03]**

In section 10 (“Transmission of gold by post”) (5) by the deletion of “Attorney-General” and substitution of “Prosecutor-General” wherever it appears.

**Part XLII – Precious Stones Trade Act [Chapter 21:06]**

1. In section 3 (“Unlawful dealing in or possession of precious stones prohibited”) (3)(a) and (b), by the deletion from subsection (3) paragraph (a) of “Attorney-General” and substitution of “Prosecutor-General”.
2. In section 11 (“Transmission of precious stones by post”) (4), by the deletion of “Attorney-General” and substitution of “Prosecutor-General” wherever it appears.

**Part XLIII – Exchange Control Act [Chapter 22:05]**

In section 6 (“Special jurisdiction of Magistrates”) (a1), (a) and (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLIV – Audit Office Act [Chapter 22:18] (No. 12 of 2009)**

In section 7 (“Comptroller and Auditor-General to satisfy himself or herself that public moneys and State Property are safeguarded”) (2)(g), by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLV – Public Finance Management Act [Chapter 22:19] (No. 1 of 2009)**

In section 81 (“External auditors”) (3)(g) by the deletion of “Attorney-General” and the substitution “Prosecutor-General”.

**Part XLVI – Customs and Excise Act [Chapter 23:02]**

1. In section 200 (“Imposition of fine by Commissioner”) (1) by the deletion from the proviso of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 208 (“Special jurisdiction of Magistrates”) (a1) and (b) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLVII – Value Added Tax Act [Chapter 23:12]**

In section 65 (“Imposition of fine by Commissioner”) (1) (proviso) by the deletion from the proviso of subsection (1) of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLVIII – Building Societies Act [Chapter 24:02]**

In section 53 (“Proceedings on inspector’s report”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part XLIX – Companies Act [Chapter 24:03]**

1. In section 162 (“Proceedings on inspector’s report”) by the deletion from subsection (1) of “Attorney-General” and the substitution of “Prosecutor-General”.
2. In section 319 (“Prosecution of delinquent directors and others”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.
3. In section 339 (“Production and inspection of books where offence suspected”) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part L – Legal Practitioners Act [Chapter 27:07]**

In section 82 (“Right of State and certain parastatal employees to appear in court”) (2)(c) by the deletion of “Attorney-General” and the substitution of “Prosecutor-General”.

**Part LI – Rural District Councils Act [Chapter 29:13]**

In section 48 (“Disability from voting on account of interest in contracts, etc.”) (6) by the deletion from subsection (6) of “Attorney-General” and the substitution of “Prosecutor-General”.