

Zimbabwe

## National AIDS Council of Zimbabwe Act

### Chapter 15:14

Legislation as at 31 December 2016

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PDF created on 18 December 2024 at 10:41.

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

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FRBR URI: /akn/zw/act/1999/16/eng@2016-12-31

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# National AIDS Council of Zimbabwe Act (Chapter 15:14)

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# Zimbabwe

## National AIDS Council of Zimbabwe Act Chapter 15:14

Commenced on 1 September 2000

*[This is the version of this document at 31 December 2016 and includes any amendments published up to 31 December 2017.]*

*[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.]*

AN ACT to provide for the establishment of the National AIDS Council of Zimbabwe and to provide for its structure, functions and powers; to provide for measures to combat the spread of the Human Immuno-Deficiency Virus and the Acquired Immune-Deficiency Syndrome and the promotion, co-ordination and implementation of programmes and measures to limit or prevent their spread; and to provide for matters connected with or incidental to the foregoing.

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the National AIDS Council of Zimbabwe Act [Chapter 15:14].

#### 2. Interpretation

In this Act—

“**AIDS**” means acquired immune-deficiency syndrome and includes the AIDS-related complex;

“**appointed member of the Board**” means a member of the Board referred to in paragraph (c), (d) or (e) of subsection (2) of section five;

“**Board**” means the Board referred to in subsection (1) of section five;

“**Council**” means the National AIDS Council of Zimbabwe established by section three;

“**Executive Committee**” means the Executive Committee of the Board referred to in subsection (1) of section thirteen;

“**Executive Director**” means the Executive Director of the Council appointed in terms of subsection (1) of section twenty-three;

“**HIV**” means human immuno-deficiency virus;

“**Minister**” means the Minister of Health and Child Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act.

### Part II – National AIDS Council of Zimbabwe and Board of Council

#### 3. Establishment of National AIDS Council of Zimbabwe

There is hereby established a council, to be known as the National AIDS Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of doing anything that bodies corporate may do by law.

#### 4. Functions and powers of Council

- (1) Subject to this Act, the functions of the Council shall be—
  - (a) to ensure the development of strategies—
    - (i) to combat HIV and AIDS; and
    - (ii) to control and ameliorate the effects of the HIV and AIDS epidemic;and to promote and co-ordinate the application of such strategies and policies; and
  - (b) to mobilise and manage resources, whether financial or otherwise, in support of a national response to HIV and AIDS; and
  - (c) to enhance the capacity of the various sectors of the community to respond to the HIV and AIDS epidemic and to co-ordinate their responses; and
  - (d) to encourage the provision of facilities to treat and care for persons infected with HIV and AIDS and their dependants; and
  - (e) to monitor and evaluate the effectiveness of the strategies and policies referred to in paragraph (a) and, generally, the national response to HIV and AIDS; and
  - (f) to promote and co-ordinate research into HIV and AIDS and to ensure the effective dissemination and application of the results of such research; and
  - (g) to disseminate, and to encourage the dissemination of, information on all aspects of HIV and AIDS; and
  - (h) to submit regular reports to the President, through the Minister, concerning the HIV and AIDS epidemic; and
  - (i) to exercise any other function that may be conferred on the Council by or in terms of this Act or any other enactment; and
  - (j) generally, to do all things which, in the Board's opinion, are necessary or appropriate to combat HIV and AIDS and to ameliorate the effects of those diseases.
- (2) For the better exercise of its functions, the Council shall have power, subject to this Act, to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule, either absolutely or conditionally and either solely or jointly with others.

#### 5. Board of Council

- (1) There shall be a board of the Council which, subject to this Act, shall be responsible for formulating the general policy of the Council and controlling its operations.
- (2) Subject to this section and section six, the Board shall consist of—
  - (a) the Secretary of the Ministry for which the Minister is responsible; and
  - (b) the Executive Director; and
  - (c) a person appointed by the President, subject to subsection (3), to represent the Traditional Medical Practitioners Council established by section 3 of the Traditional Medical Act [Chapter 27:14]; and
  - (d) a person appointed by the President, subject to subsection (3), to represent the Law Society of Zimbabwe referred to in section 51 of the Legal Practitioners Act [Chapter 27:07]; and
  - (e) not fewer than seven nor more than ten other members appointed by the President, subject to subsection (4), to represent the interests of health care providers, women, youths,

religious groups, organisations that protect the interests of persons infected with HIV and AIDS, industry, commerce, information media and trade unions.

- (3) Before the President makes an appointment under paragraph (c) or (d) of subsection (2), the Minister shall—
- (a) request the council or society concerned to nominate such number of persons as the Minister may specify who are suitable and available for appointment as members of the Board; and
  - (b) forward to the President the names of any persons nominated in response to a request in terms of paragraph (a), together with any recommendations the Minister may wish to make in the matter.
- (4) Before the President makes an appointment under paragraph (e) of subsection (2), the Minister shall—
- (a) request any council, association or body which, in his opinion, represents any of the interests referred to in that paragraph to nominate such number of persons as the Minister may specify who are suitable and available for appointment as members of the Board; and
  - (b) forward to the President the names of any persons nominated in response to a request in terms of paragraph (a), together with any recommendations the Minister may wish to make in the matter.
- (5) Notwithstanding subsections (3) and (4)–
- (a) the President may appoint a person to the Board who has not been nominated in terms of the subsection concerned and may decline to appoint any person so nominated;
  - (b) where the Minister has called for nominations in terms of the subsection concerned and no nominations have been made within such period as he may have specified when calling for them, the President may appoint any person to the Board whether or not, in his opinion, the person so appointed is able to represent the views of the council, society, association or body which was called upon to make the nominations.

## 6. Disqualifications for appointment to Board

- (1) A person shall not be appointed as a member of the Board, and no person shall be qualified to hold office as an appointed member of the Board, if—
- (a) he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
  - (b) in terms of a law in force in any country—
    - (i) he has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
    - (ii) he has made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;
- or
- (c) within the period of five years immediately preceding the date of his proposed appointment, he has been sentenced—
    - (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;
- to a term of imprisonment imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

- (d) he has been convicted—
    - (i) in Zimbabwe, of—
      - A. an offence under this Act; or
      - B. an offence involving dishonesty;
    - or
    - (ii) outside Zimbabwe, in respect of any conduct which, if committed in Zimbabwe, would have constituted an offence involving dishonesty;
- and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.
- (2) A person who is—
- (a) a member of Parliament; or
  - (b) a member of two or more other statutory bodies; or
- shall not be appointed as a member of the Board, nor shall he be qualified to hold office as an appointed member.
- (3) For the purposes of paragraph (b) of subsection (2)—
- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
  - (b) “statutory body” means—
    - (i) any commission established by the Constitution; or
    - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice President, a Minister or another statutory body or by a commission established by the Constitution.
- (4) Any person who, knowing that he is disqualified in terms of this section to hold office as a member of the Board—
- (a) attends any meeting of the Board as a member; or
  - (b) performs any other act as a member;
- shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

*[section as amended by section 4 of Act [22 of 2001](#)]*

## **7. Terms of office and conditions of service of members of Board**

- (1) Subject to this Part, an appointed member of the Board shall hold office for such period, not exceeding three years, as the President may fix on his appointment, and upon the expiry of his term of office he shall be eligible for re-appointment to the Board.
- (2) On the expiry of the period for which a member has been appointed to the Board, he shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that a member of the Board shall not continue to hold office under this subsection for a period exceeding six months.

- (3) A member of the Board referred to in paragraph (a) or (b) of subsection (2) of section five shall remain a member for so long as he holds the office referred to in the paragraph concerned.
- (4) Subject to this Part, appointed members of the Board shall hold office on such terms and conditions as the Minister may fix for such members generally.
- (5) Without derogation from subsection (4), appointed members of the Board may be paid from the funds of the Council—
  - (a) such remuneration as the Minister, with the approval of the Minister responsible for finance, may fix for such members generally; and
  - (b) such allowances as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the Council's business.

## **8. Vacation of office by appointed member of Board**

An appointed member of the Board shall vacate his office and his office shall become vacant—

- (a) thirty days after he gives notice in writing to the President, through the Minister, of his intention to resign, or after such other period of notice as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment imposed in any country; or
- (c) if he becomes disqualified in terms of subsection (1) or (2) of section six to hold office as a member of the Board; or
- (d) if he is required in terms of section nine to vacate his office.

## **9. President may require appointed member of Board to vacate office or may suspend him**

- (1) The President may require an appointed member of the Board to vacate his office if the member—
  - (a) has been guilty of improper conduct as a member of the Board or guilty of conduct that is prejudicial to the interests or reputation of the Council; or
  - (b) has failed to comply with any condition of his office fixed by the President in terms of subsection (4) of section seven; or
  - (c) is mentally or physically incapable of efficiently exercising his functions as a member of the Board.
- (2) The President, on the recommendation of the Board, may require an appointed member of the Board to vacate his office if the President is satisfied that the member has been absent without the permission of the Board from three consecutive meetings of the Board, of which the member was given not less than seven days' notice, and that there was no just cause for the member's absence.
- (3) The President may—
  - (a) suspend from office an appointed member of the Board against whom criminal proceedings have been instituted in respect of an offence for which a sentence of imprisonment without the option of a fine may be imposed; and
  - (b) shall suspend from office an appointed member of the Board who has been sentenced by a court to imprisonment without the option of a fine, whether or not any portion has been suspended, pending determination of the question whether the member is to vacate his office;

and while the member is so suspended he shall not exercise any functions or be entitled to any remuneration as a member.



## 10. Filling of vacancies on Board

On the death of, or the vacation of office by, an appointed member, the President may, subject to this Part, appoint a person to fill the vacancy:

Provided that, if—

- (a) the vacancy occurs in the office of a member referred to in paragraph (c) or (d) of subsection (2) of section five; or
- (b) as a result of the vacancy the number of appointed members is fewer than the minimum specified in paragraph (e) of subsection (2) of section five;

the President shall appoint a person to fill the vacancy within three months after being notified about it by the chairman of the Board.

## 11. Chairman and vice-chairman of Board

- (1) At its first meeting the Board shall elect one of its appointed members to be chairman and another to be vice-chairman of the Board.
- (2) The chairman or the vice-chairman may at any time, by written notice given to the President, through the Minister, resign his office as such.
- (3) Within three months after being notified of a vacancy in the office of the chairman or the vice-chairman of the Board, the Board shall elect another appointed members to fill the vacancy.
- (4) The vice-chairman shall exercise the functions of the chairman whenever the office of chairman is vacant or whenever the chairman is for any reason unable to exercise his functions.

## 12. Meetings and procedure of Board

- (1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter, subject to this section, shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least three times in each year.

- (2) The chairman of the Board—
  - (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 the Minister or not fewer than two members of the Board, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairman's receipt of the request.
- (3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member of the Board not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.
- (4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than —
  - (a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of paragraph (a) of subsection (2); or
  - (b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of paragraph (b) of subsection (2).
- (5) The chairman of the Board or, in his absence, the vice-chairman shall preside at all meetings of the Board:

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

- (6) Half the members of the Board shall form a quorum at any meeting of the Board.
- (7) Subject to subsection (11), anything authorised or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.
- (8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board at that meeting.
- (9) A person invited to attend a meeting of the Board in terms of subsection (8) may take part in the proceedings of the Board, in so far as those proceedings are concerned with the matter for which he was invited, but he shall not have a vote on any question before the Board.
- (10) Subject to subsection (11), at all meetings of the Board each member present shall have one vote on any question before the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.
- (11) The Executive Director shall not take part in the discussion of, and shall not vote on, any question before the Board which relates to his tenure of office or terms or conditions of service.
- (12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:

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

### 13. Executive Committee of Board

- (1) There shall be a principal committee of the Board, to be known as the Executive Committee, which shall exercise such of the Council's functions as the Board may delegate to it.
- (2) The Executive Committee shall consist of—
  - (a) the chairman and vice-chairman of the Board; and
  - (b) the Executive Director, who shall be the secretary; and
  - (c) not fewer than two other members of the Board.

### 14. Other committees of Board

- (1) For the better exercise of its functions, the Board may establish such other committees as it considers necessary and may vest in them such of its functions as it considers appropriate:

Provided that the vesting of any function in a committee 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.

- (2) On the establishment of a committee in terms of subsection (1), the Board—
  - (a) shall appoint to the committee at least one member of the Board, who shall be the chairman of the committee;
  - (b) may appoint as members of the committee, on such terms and conditions as the Board may determine, persons who are not members of the Board.
- (3) Subsection (5) of section seven shall apply, *mutatis mutandis*, to members of committees established in terms of subsection (1).

**15. Meetings and procedure of Executive Committee and other committees of Board**

- (1) Meetings of any committee of the Board may be convened at any time and at any place by the chairman of the Board or by the chairman of the committee concerned.
- (2) Subject to section sixteen, the procedure of the committees of the Board shall be determined by the Board.

**16. Minutes of proceedings of Board and committees**

- (1) The Board shall cause minutes of all proceedings of and decisions taken at all meetings of the Board and its committees to be entered in books kept for the purpose.
- (2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at that meeting.

**17. Validity of decisions and acts of Board and of committees**

No decision or act of the Board or of any committee of the Board or act done under the authority of the Board or a committee of the Board shall be invalid solely on the ground that there was a vacancy in the membership of the Board or the committee, as the case may be, or that a disqualified person purported to act as a member of the Board or the committee concerned at the time the decision was taken or the act was done or authorised.

**18. Execution of contracts and instruments by Council**

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

**19. Reports of Council**

- (1) In addition to any annual report which the Council may be required to submit to the Minister in terms of the Audit and Exchequer Act [Chapter 22:03], the Board—
  - (a) shall submit to the Minister such other reports as the Minister may require; and
  - (b) may submit to the Minister such other reports as the Board considers desirable;in regard to the operations, undertakings and activities of the Council.
- (2) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Council that the Minister may at any time require.

**20. Minister may give Board directions on matters of policy**

- (1) Subject to subsection (2), the Minister, with the approval of the President, may give the Board such directions of a general character relating to the policy which the Council is to observe in the exercise of its functions, as the President and the Minister consider to be requisite in the national interest.
- (2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the activities, funds and property of the Council.
- (3) After receipt of the views of the Board submitted in terms of subsection (2), the Minister, with the President's approval, may confirm, alter or withdraw any proposed direction to the Board.

- (4) The Board shall take all necessary steps to comply with any direction given to it in terms of subsection (1) or, as the case may be, any alteration made to such a direction in terms of subsection (3).
- (5) When any direction has been received by the Board in terms of this section, the Board shall set out in the Council's annual report the direction received by it, the views expressed by it in terms of subsection (2), and the final direction given to it in terms of subsection (3).

## **21. Exemption from liability of Council, members of Board and Executive Director**

No liability shall attach to the Council, the Board, the Executive Director or any member of the Board or a committee of the Board for any loss or damage sustained by any person as a result of the *bona fide* exercise of any function of the Council, Board, the Executive Director or the member, as the case may be, in terms of this Act or any other enactment:

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

## **Part III – Patron, Executive Director and staff of Council**

### **22. Patron of Council**

- (1) The President of Zimbabwe shall be the Patron of the Council and, in that capacity, shall have such functions as normally attach to the office of Patron of a welfare organisation.
- (2) The Patron may at any time attend and address any meeting of the Board or of the Executive Committee and may take part in the proceedings of any such meeting, but shall not have a vote on any question before the Board or the Executive Committee, as the case may be.

### **23. Executive Director of Council**

- (1) The Board, with the approval of the Minister, shall appoint an Executive Director of the Council from among persons with qualifications and experience relevant to the functions of the Council.

Provided that no person shall be appointed as Executive Director and no person shall be qualified to hold office as such if he would be disqualified for appointment to the Board in terms of section six or if he would be required to vacate office as a member of the Board in terms of paragraph (a), (b) or (c) of section eight had those sections applied to him.

- (2) The Executive Director shall hold office for such period and upon such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the Minister responsible for finance and the Public Service Commission.
- (3) Subject to the control of the Board, the Executive Director shall—
  - (a) exercise such of the Council's functions as the Board, with the approval of the Minister, may assign to him; and
  - (b) be responsible for the efficient management of the activities, funds and property of the Council;
  - (c) exercise general authority over the conduct and discipline of the Council's staff.

### **24. Other staff of Council**

- (1) Subject to this section, the Board may engage such members of staff as it considers necessary to carry out the Council's functions.

- (2) Members of staff engaged in terms of subsection (1) shall be employed upon such terms and conditions as may be determined by the Board and approved by the Minister after consultation with the Minister responsible for finance and the Public Service Commission.

## **Part IV – Financial provisions**

### **25. Funds of Council**

The funds of the Council shall consist of—

- (a) any moneys that may be payable to the Council from moneys appropriated for the purpose by Act of Parliament; and
- (b) fees and charges raised for services and facilities provided and other things done by the Council; and
- (c) donations, which may be accepted with the approval of the Minister; and
- (d) loans, which may be raised with the approval of the Minister and the Minister responsible for finance; and
- (e) any other moneys that may vest in or accrue to the Council, whether in the course of its operations or otherwise.

### **26. Investment of moneys not immediately required by Council**

Moneys not immediately required by the Council may be invested in such manner as the Minister, acting on the advice of the Minister responsible for finance, may approve.

### **27. Financial year of Council**

The financial year of the Council shall be the period of twelve months ending on the 31st December each year.

### **28. Accounts of Council**

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

### **29. Audit of Council's accounts**

- (1) Subject to the Audit and Exchequer Act [Chapter 22:03], the Council shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [Chapter 27:12].
- (2) The accounts kept by the Board in terms of subsection (1) of section twenty-eight shall be examined by the auditors appointed in terms of subsection (1).
- (3) The auditors appointed in terms of subsection (1) shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section twenty-eight, and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Council's financial affairs.

- (4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors appointed in terms of subsection (1) such other reports, statements or explanations in connection with the Council's activities, funds and property as the Minister considers expedient, and the Board shall forthwith comply with any such requirement.
- (5) If, in the opinion of the auditors appointed in terms of subsection (1)—
  - (a) they have not obtained any information or explanation they require; or
  - (b) any accounts or records relating to any accounts have not been properly kept by the Board; or
  - (c) the Council has not complied with any provision of this Part;the auditors shall include in their report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.
- (6) If in terms of the Audit and Exchequer Act [Chapter 22:03] the Council's accounts are required to be audited by the Comptroller and Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Comptroller and Auditor-General.

### 30. Powers of auditors

- (1) An auditor referred to in section twenty-nine shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Council or its agents and to require from any member of the Board or employee or agent of the Council such information and explanation as in the auditor's opinion are necessary for the purpose of his audit.
- (2) Any member of the Board or employee or agent of the Council who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

*[subsection as amended by section 4 of Act 22 of 2001]*

### 31. Internal auditor

Section 19 of the Audit and Exchequer Act [Chapter 22:03] shall apply, *mutatis mutandis*, to the appointment of an internal auditor to the Council in all respects as if the Council were a department of the Ministry for which the Minister is responsible.

## Part V – General provisions

### 32. Provincial branches and committees

- (1) The Board shall ensure that, so far as is practicable, a branch of the Council is established in each province of Zimbabwe.
- (2) For each provincial branch established in terms of subsection (1) there shall be a committee consisting of such number of persons, appointed by the Board, as the Board may determine in each case.
- (3) The members of a provincial branch committee referred to in subsection (2) shall hold office for such period and subject to such terms and conditions, including remuneration and allowances, as the Board may determine.
- (4) Subject to the direction and control of the Board, every provincial branch committee referred to in subsection (2) shall exercise within its province such of the Council's functions as the Board may delegate to it.

- (5) Section twelve shall apply, *mutatis mutandis*, to the procedure to be followed at meetings of provincial branch committees referred to in subsection (2) and, in respect of any matter that is not provided for in that section, shall be as determined by the Board.

### **33. Special responsibility of Executive Committee in relation to provincial branches and committees**

The Executive Committee shall, in the exercise of its powers of direction and supervision over provincial branch committees in terms of section thirty-two, have special responsibility—

- (a) to ensure that all provincial branches are established effectively and that every provincial branch committee is staffed adequately and equipped for the efficient performance of its functions;
- (b) to take or cause to be taken such measures as will facilitate the proper and effective co-ordination of the operations of the Council in all provincial branches and the integration of the activities of all provincial branch committees with those of the Executive Committee and of the Board.

### **34. Preservation of secrecy**

Any person who discloses, except—

- (a) to the Minister or to any other person, for the purpose of performing his functions under this Act; or
- (b) to a police officer, for the purpose of an investigation or inquiry relating to the enforcement of this Act; or
- (c) when required to do so by any court or under any enactment;

any information acquired by him in the performance of any function under this Act, in relation to the state of health or personal affairs of any other person, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

*[section as amended by section 4 of Act [22 of 2001](#)]*

### **35. Regulations**

The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to this Act.

## **Schedule (Section 4(2))**

### **Powers of Council**

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, rights, concessions, grants, powers and privileges in respect of such property.
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 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 the Board may determine.

5. To draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, 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 or rescind such suretyships or guarantees.
8. To enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of any of its functions and to obtain from such government or authority rights, privileges and concessions.
9. To establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the Council's functions.
10. To pay such remuneration and allowances and grant such leave of absence and, with the approval of the Minister, to make such gifts, bonuses and the like to its members of staff as the Board considers fit.
11. To provide pecuniary benefits for its members of staff on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its members of staff and their dependants any or all of the pecuniary benefits to which this paragraph relates.
12. To purchase, take on lease or in exchange or otherwise acquire land or dwelling-houses for use or occupation by its members of staff.
13. To construct dwellings, outbuildings or improvements for use or occupation by its members of staff on land purchased, taken on lease or in exchange or otherwise acquired by the Council.
14. To sell or lease dwelling-houses and land and rights therein for residential purposes to its members of staff.
15. To make loans or guarantee loans made to its members of staff or their spouses for the acquisition of dwelling-houses or land or rights therein for residential purposes, the construction of dwelling-houses and the improvement of dwelling-houses or land which are the property of its members of staff or their spouses.
16. To provide security in respect of loans such as are described in paragraph 15 by the deposit of securities, in which the Council may invest such moneys as the Board may consider necessary for the purpose.
17. To make loans to any member of the Council's staff for the purpose of purchasing vehicles, tools or other equipment to be used by him in carrying out his duties.
18. To do anything for the purpose of improving the skill, knowledge or usefulness of its members of staff, and in that connection to provide or assist other persons in providing facilities for training, education and research.
19. To provide such services and facilities as the Board considers may properly be provided by the Council and to charge for such services and facilities such fees as the Board may from time to time determine.
20. To provide financial assistance to any institution or person whose activities or part of whose activities are such as to be, in the Board's opinion, of benefit to the Council.
21. To grant such scholarships or bursaries as the Board considers to be in the interests of the Council, on such terms and conditions as the Board may fix in any particular case.
22. To engage in, establish, operate or manage schemes for—
  - (a) the training of persons engaged or to be engaged in any activity related to HIV or AIDS or any other sexually transmitted disease;
  - (b) research into systems and procedures which relate to HIV or AIDS or any other sexually transmitted diseases.



23. With the approval of the Minister and of the Minister responsible for finance-
  - (a) to provide financial assistance to any person or organisation whose activities are, in the opinion of the Board, of benefit to the Council and its functions;
  - (b) to grant such scholarships or bursaries as the Board considers to be in the interests of the Council, on such terms and conditions as the Board may fix in any particular case.
24. Generally to do anything that is calculated to facilitate or is incidental or conducive to the exercise of the Council's functions in terms of this Act or any other enactment.