

To delete Section 10A of the Bill.

Amendment put and agreed to.

Clause 7, as amended, put and agreed to.

Clauses 8 to 13 put and agreed to.

On Clause 14, The Minister of Finance and Economic Development, moved,

A new statement to be added to section 20 of the Act, which reads as follows:

(7) The Chairperson of the Board of Directors of a deposit taking microfinance Institution must be a non-executive and independent.

Amendment put and agreed to.

Clause 14, as amended, put and agreed to.

Clauses 15 to 23 put and agreed to.

Clause 24, The Minister of Finance and Economic Development, moved:

Add new section to Section 34 of the Act to read as follows:

(7) Shareholders of the microfinance institution are to be fit and proper persons.

Amendment put and agreed to.

Clause 24, as amended, put and agreed to.

Clauses 25 to 27 put and agreed to.

On Clause 28, The Minister of Finance and Economic Development, moved:

Amend Section 41 of the Act by adding subsection (3) as follows:

(3) The Registrar may recover the expenses of the investigation from monetary penalties imposed on Microfinance institutions in terms of section 37 of the Act.

Amendment put and agreed to.

Clause 28, as amended, put and agreed to.

New Clauses 29 to 33 and schedule put and agreed to.

Bill to be reported with amendments

*(House resumed)*

Bill reported with amendments – Referred to the Parliamentary Legal Committee.

The Minister of Justice, Legal and Parliamentary Affairs, moved: That the House reverts to Order of the Day No. 2.

Motion put and agreed to.

5. COMMITTEE: *Consumer Protection Bill*, (H.B. 10, 2018) – ***The Minister of Industry and Commerce.***

*(House in Committee)*

On the long title, the Minister of Justice, Legal and Parliamentary Affairs (for the Minister of Industry and Commerce) moved:

On page 5 of the Bill, in line 4, delete the word “Agency” and substitute with “Commission”.

Amendment put and Agreed to.

Long title as amended put and agreed to.

On Clause 1, The Minister of Justice, Legal and Parliamentary Affairs (for the Minister of Industry and Commerce) moved:

On page 5 of the Bill, in line 13, delete the word “Zimbabwe”.

Amendment put and agreed to.

Clause 1, as amended, put and agreed to.

On Clause 2, The Minister of Justice, Legal and Parliamentary Affairs for Minister of Industry and Commerce, moved:

On page 5 of the Bill, in lines 17 and 20 delete the word “Authority” and substitute with “Commission”.

On page 6 of the Bill, in line 1, delete the word “Agency” wherever it appears and substitute with “Commission”.

On page 6 of the Bill, in line 7, delete the word “Authority” and substitute with “Commission”.

Amendments put and agreed to.

Clause 2, as amended, put and agreed to.

Clause 3 put and agreed to.

On Clause 4, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 10 of the Bill, in line 29, delete the word “Agency” and substitute with “Commission”.

On pages 10 and 11 of the Bill, delete Clause 4 and substitute with the following—

**“4 Establishment of Consumer Protection Commission**

There is hereby established a Commission, to be known as the Consumer Protection Commission, which shall be a body corporate capable of suing and being sued in its corporate name and performing all acts that body corporates may by law perform.”.

Amendment put and agreed to.

Clause 4, as amended, put and agree to.

On Clause 5, The Minister of Justice, Legal and Parliamentary Affairs for (Minister of Industry and Commerce) moved:

On pages 11 and 12 of the Bill, in lines 6-13, delete Clause 5 and substitute with the following—

## **“5 Composition of Commission**

(1) The Commission shall consist of the Chief Executive Officer who shall be an *ex officio* member and not less than seven and not more than twelve members appointed by the Minister after consultation with the President and of whom at least—

- (a) one member shall be qualified or experienced in environmental matters; and
- (b) one member shall be qualified or experienced in agriculture matters; and
- (c) one member shall be nominated from the Ministry responsible for Industry and Commerce; and
- (d) one member shall be qualified or experienced in competition and trade matters; and
- (e) one member shall be qualified or experienced in standards and quality matters; and
- (f) a legal practitioner registered as such in terms of the Legal Practitioners Act [*Chapter 27:07*]; and
- (g) one member shall be qualified or experienced in energy matters; and
- (h) five members from accredited consumer protection advocacy groups shall be qualified or experienced in consumer protection matters.

(2) In appointing members of the Commission, the Minister shall—

- (a) designate one member as Chairperson and another as Vice-chairperson of the Commission:  
Provided that if the Chairperson is male, the Vice-chairperson shall be female or vice versa; and
- (b) endeavour to ensure that at least half the appointed members are women; and
- (c) ensure fair regional representation; and
- (d) take specific measures to ensure the inclusion and representation of persons with disabilities.

(3) A member of the Commission, other than an *ex officio* member, shall hold office for a period of not more than five years and may be eligible for re-appointment for one more term, upon satisfactory performance, unless his or her appointment is terminated in terms of the First Schedule.

(4) The conditions of the Commission members shall be as specified in the First Schedule.

(5) For the Commission to better discharge its functions in terms of section 6, it shall have the powers specified in the Second Schedule.

(6) The Secretary of the Commission shall be the Chief Executive Officer and as such shall be—

- (a) responsible to the Commission for the administration and management of its affairs; and
- (b) in charge of all administrative, executive and other staff of the Commission; and
- (c) responsible for causing a proper records of minutes to be kept; and
- (d) in all such matters and at all times, be subject to the direction and control of the Commission.

(7) The Secretary of the Commission shall exercise such powers and perform such duties as the Commission may delegate to him or her in writing from time to time.

(8) Any delegation of functions in terms of subsection (7)—

- (a) may be made generally or specifically and subject to such conditions, restrictions, reservations and exceptions as the Commission may determine;
- (b) may be revoked by the Commission at any time;
- (c) shall not preclude the Commission itself from exercising such delegated functions.

(9) With the approval of the Minister and in consultation with the Chief Executive Officer, the Commission may employ such other members of staff as it considers necessary to further its functions.”.

Amendment put and agreed to.

Clause 5, as amended, put and agreed to.

On Clause 6, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 12 of the Bill, in lines 14 -44, delete Clause 6 and substitute with the following—

## **“6 Functions of Commission**

The functions of the Commission shall be to—

- (a) protect consumers from unconscionable, unreasonable, unjust or otherwise improper trade practices; as well as deceptive, misleading, unfair or fraudulent conduct;
- (b) conduct conciliation and arbitration between parties;
- (c) promote fair business practices;
- (d) co-ordinate and network consumer activities and liaise with consumer organisations and the competent authorities and agencies locally and outside Zimbabwe to protect consumer interests;
- (e) promote consumer confidence, awareness, empowerment, and the development of a culture of consumer responsibility, through individual and group education, vigilance, advocacy and activism;
- (f) provide for a consistent, accessible and efficient system of consensual resolution of disputes and redress arising from consumer transactions;
- (g) refer matters to and appearing before any court of law, as permitted or required by this Act;
- (h) negotiate and conclude undertakings and consent orders;
- (i) issue and enforce compliance notices in terms of section 69 of this Act;
- (j) receive complaints concerning alleged prohibited conduct or offences, and dealing with those complaints;
- (k) investigate and evaluate alleged prohibited conduct and offences;
- (l) maintain a record of and publish annual reports on consumer complaints and the outcomes of any hearings;
- (m) encourage and assist governmental and official organisational support to further the interests of consumers and consumer organisations;
- (n) refer to the Competition Commission or any other relevant Authority any concerns regarding market share, anti-competitive behaviour or conduct that may be prohibited in terms of the Competition Act [*Chapter 14:28*] or other relevant Acts;
- (o) cooperate with other consumer protection authorities to obtain redress across borders for consumers affected by fraudulent and deceptive commercial practices;

(p) promote international co-operation in the comparative testing of consumer goods and services and to facilitate exchange of test methods, plans and results;

(q) recommend the effective implementation of this Act and any other laws affecting consumers;

(r) monitor—

(i) the consumer market to ensure that prohibited conduct and offences are prevented, detected and prosecuted; and

(ii) the effectiveness of accredited consumer groups, industry codes of conduct and alternative dispute resolution schemes, service delivery to consumers by organs of state, and any regulatory authority exercising jurisdiction over consumer matters within a particular industry or sector;

(s) regulate the accreditation of consumer protection advocacy bodies and industry associations; and

(t) exercise any other function that may be conferred or imposed on the Commission by or in terms of this Act or any other enactment.”.

Amendment put and agreed to.

Clause 6, as amended, put and agreed to.

On Clause 7, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 13 of the Bill, in lines 1-33, delete Clause 7 and renumber the subsequent clauses accordingly.

Amendment put and agreed to.

Clause 7, as deleted, put and agreed to.

On Clause 8, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On pages 13-15 of the Bill, in Clause 8, delete the word “Agency” wherever it appears and substitute with “Commission”.

On pages 14 of the Bill, in line 25, delete the word “Authority” and substitute with “Commission”.

Amendment put and agreed to.

Clause 8, as amended, put and agreed to.

On Clause 9, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 15 of the Bill, in lines 6, 9 and 14, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 9, put and agreed to

Clauses 10 to 15 put and agreed to.

On Clause 16, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 18 of the Bill, in line 17, delete the word “Authority” substitute with “Commission”.

On page 18 of the Bill, in lines 37, 40 and 42, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 16, as amended, put and agreed to.

Clauses 17 to 30 put and agreed to.

On Clause 31, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 29 of the Bill, in line 28, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 31, as amended, put and agreed to.

Clause 32 to 48 put and agreed to.

On Clause 49, The Minister of Justice, Legal and Parliamentary Affairs for Minister of Industry and Commerce, moved:

On page 43 of the Bill, in lines 13, 18, 22 and 26, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 49, as amended, put and agreed to.

Clauses 50 to 65 put and agreed to.

On Clause 66, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 51 of the Bill, in lines 5 and 19, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 66, as amended, put and agreed to.

On New Clause 67, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 51 of the Bill, after line 21, insert the following clause—

## **“67 Enforcement of rights by Commission**

(1) Any person who has failed to have their dispute resolved through alternative dispute resolution may approach the Commission, in the prescribed manner and form, concerning the dispute.

(2) Upon initiating or receiving a case in terms of subsection (1), the Commission may—

- (a) refer the case to another regulatory authority with jurisdiction over the matter for investigation; or
- (b) direct an inspector to inspect or investigate the case within fourteen days; or
- (c) conciliate or mediate the case.

(3) At any time during an investigation, the Commission may designate one or more persons with relevant expertise to assist the inspector conducting the investigation.

(4) The Commission may—

- (a) initiate the proceedings where it considers necessary; or
- (b) when directed to do so by the Minister or on the request of—
  - (i) an accredited consumer advocacy Group; or
  - (ii) a regulatory authority; or
  - (iii) any person acting in the public interest or on behalf of a group or class of affected persons;

refer a case to the court concerning any alleged prohibited conduct.

(5) The Commission may issue a notice of non-referral to the complainant in the prescribed form where the—

- (a) case appears to be frivolous and vexatious; or
- (b) facts alleged in the case do not constitute grounds for a remedy in terms of this Act; or
- (c) case has prescribed in terms of the Prescription Act [*Chapter 8.11*].”.

Amendment put and agreed to.

New Clause 67 put and agreed to.

Clause 68 put and agreed to.

On Clause 69, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 52 of the Bill, in lines 2, 27, 30, 33, 35, 39, 41 and 43, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 69, as amended, put and agreed to.

Clause 70 put and agreed to.

On Clause 71, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 53 of the Bill, in lines 11, 15, and 23, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 71, as amended, put and agreed to.

On Clause 72, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 53 of the Bill, in lines 29, 31, 34, and 35, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 72, as amended, put and agreed to.

On Clause 73, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 54 of the Bill, in lines 2 and 8, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 73 as amended, put and agreed to.

On Clause 74, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 54 of the Bill, in lines 13- 28, delete the word “Agency” wherever it appears and substitute with “Commission”.

Amendment put and agreed to.

Clause 74, as amended, put and agreed to.

Clauses 75 and 76 put and agreed to.

On Clause 77, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 56 of the Bill, in lines 7 and 8, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 77, as amended, put and agreed to.

On Clause 78, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 56 of the Bill, in lines 11, 15, 17, 21, 31 and 37, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 78, as amended, put and agreed to.

On Clause 79, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 57 of the Bill, in line 13, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 79, as amended, put and agreed to.

On Clause 80, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 57 of the Bill, in lines 17, 19, 20, 22, 27, and 28, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 80, as amended, put and agreed to.

On Clause 81, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 58 of the Bill, in line 12, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 81, as amended, put and agreed to.

Clause 82 put and agreed to.

On New Part VIII, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 58 of the Bill, after line 22, insert the following part—

## “PART VIII

### FINANCIAL PROVISIONS

#### **83 Funds of Commission**

(1) The Minister in consultation with the Commission shall, subject to the constitution drawn up for the regulation of the fund in terms of section 18 of the Public Finance Management Act [*Chapter 22:18*], establish the Consumer Protection Fund.

(2) The Consumer Protection Fund shall be applied for the purpose of enabling the Commission to fulfil its functions in terms of section 6 and to capacitate consumer organisations.

(3) The Consumer Protection Fund shall consist of—

- (a) monies appropriated by Parliament for the achievement of the objectives of the Commission;
- (b) monies received by the Commission by virtue of the regulations made in terms of this Act;
- (c) monies obtained by means of loans raised by the Commission with the approval of the Minister, in consultation with the Minister responsible for Finance;
- (d) interest on investments;
- (e) donations, bequests, grants, contributions or royalties received by the Commission with the approval of the Minister;
- (f) fees, levies and other income accruing to the Commission from registration, accreditation or any services provided by the Commission;

(g) such other monies as may vest in or accrue to the Commission, whether in the course of its operations or otherwise.

(4) The Commission shall employ its funds to defray expenses in connection with the performance of its functions.

(5) The Commission shall in each financial year at such time and in such forms as the Minister may determine, submit a statement of its estimated income and expenditure for the ensuing financial year to the Minister for approval.

(6) The monies referred to in subsection (3) shall be employed by the Commission in accordance with the approved statement of income and expenditure referred to in subsection (5) above and any unexpected balance shall be carried forward as a credit to the following year.

(7) Subject to the provisions of subsection (6), the Commission may invest any portion of its funds in such manner as the Minister with the concurrence of the Minister responsible for Finance may approve.

#### **84 Investment of monies not immediately required by the Commission**

Monies not immediately required by the Commission may be invested in such manner as the Commission after consultation with the Minister considers appropriate.

#### **85 Financial year of Commission**

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

#### **86 Accounts of Commission**

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

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

(3) Section 80 of the Public Finance Management Act [*Chapter 22.19*] (No. 11 of 2009), shall apply, with such changes as may be necessary, to the appointment of an internal auditor to the Commission in all respects as if the Commission were a Ministry or a department of a Ministry.

Amendment put and agreed to.

New Part VIII, put and agreed to.

On Clause 83, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 58 of the Bill, in lines 26- 35, delete the word "Agency" wherever it appears and substitute with "Commission".

Amendment put and agreed to.

Clause 83, as amended, put and agreed to

On Clause 84, The Minister of Justice, Legal and Parliamentary Affairs for Minister of Industry and Commerce, moved:

On page 58 of the Bill, in line 37, delete the word "Agency" and substitute with "Commission".

On page 59 of the Bill, in lines 12, 16, 19 and 20, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 84, as amended, put and agreed to.

On Clause 85, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 59 of the Bill, in lines 21, 22, 24, 27, 29 and 31, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 85, as amended, put and agreed to.

On Clause 86, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 59 of the Bill, in lines 34 and 37, delete the word “Agency” wherever it appears and substitute with “Commission”.

Amendment put and agreed to.

Clause 86, as amended, put and agreed to.

On Clause 87, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 60 of the Bill, in lines 3, 11 and 13, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 87, as amended, put and agreed to.

On Clause 88, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 60 of the Bill, in lines 25, 26 and 29, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 88, as amended, put and agreed to.

On Clause 89, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 60 of the Bill, in line 38, delete the word “Agency” and substitute with “Commission”.

Amendment put and agreed to.

Clause 89, as amended, put and agreed to.

On Insertion of schedules, The Minister of Justice, Legal and Parliamentary Affairs (for Minister of Industry and Commerce) moved:

On page 60 of the Bill, after line 45, insert the following Schedules—

“FIRST SCHEDULE (*Section 5 (3) & (4)*)  
PROVISIONS APPLICABLE TO COMMISSION

*Paragraphs*

1. Interpretation in Schedule
2. Terms of office and conditions of service of members.
3. Disqualifications for appointment as member.
4. Chairperson and vice-chairperson.
5. Vacation of office by member.
6. Dismissal or suspension of member.
7. Filling of vacancies on Commission.
8. Meetings and procedure of Commission.
9. Committees of Commission.
10. Remuneration and expenses of Commission and members of committees.
11. Validity of decisions of Commission.
12. Minutes of proceedings of Commission and committees.
13. Members of the Commission to disclose certain connection and interests.

*Interpretation in Schedule*

1. “member” means a member of the Commission.

*Terms of office and conditions of service of members*

2.(1) Subject to this Schedule, a member shall hold office for such period, not exceeding three years, as the Minister may fix on his or her appointment.

(2) A member shall continue in office after the expiry of his or her term until he or she has been re-appointed or his or her successor has been appointed.

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

(3) Subject to paragraph 1 a member shall hold office on such terms and conditions as the Minister may fix in relation to members generally.

(4) A retiring member is eligible for re-appointment as a member:

Provided that no member may be re-appointed for a third term in office.

(5) The terms and conditions of office of a member shall not, without the member’s consent, be altered to his or her detriment during his or her tenure of office.

*Disqualifications for appointment as member*

3.(1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as a member who—

- (a) is not a citizen of Zimbabwe; or
- (b) has, in terms of a law in force in any country—
  - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

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

(c) has, immediately preceding the date of his or her proposed appointment, been convicted—

(i) in Zimbabwe, of an offence involving dishonesty; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;

and sentenced to a term of imprisonment imposed without the option of a fine.

(2) A person who is—

(a) a member of Parliament; or

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

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

(3) For the purposes of subparagraph (2)(b), a person who is appointed to a council, board or other authority 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.

#### *Chairperson and vice-chairperson of Commission*

4. (1) The chairperson and vice-chairperson of the Commission may at any time, by written notice to the Minister resign their offices as such.

(2) Within three weeks after being notified of a vacancy in the office of chairperson or vice-chairperson of the Commission, the Minister shall appoint another member to fill the vacancy;

(3) The vice-chairperson of the Commission shall perform the functions of the chairperson whenever the chairperson is unable to perform them or the office of the chairperson is vacant.

#### *Vacation of office by member*

5. A member shall vacate his or her office and his or her office shall become vacant—

(a) three months after the date upon which he or she gives notice in writing to the Minister of his or her intention to resign, or on the expiry of such other period of notice as he or she and the Minister may agree; or

(b) on the date he or she begins to serve a sentence of imprisonment imposed without the option of a fine—

(i) in Zimbabwe, in respect of an offence involving dishonesty; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence; or

(c) if he or she becomes disqualified in terms of paragraph 2 (1) (a), (b) or (c) or in terms of subparagraph (2) of that paragraph, to hold office as a member; or

(d) if he or she is required in terms of paragraph 3 to vacate his or her office.

#### *Dismissal or suspension of members*

6. (1) The Minister may require a member to vacate his or her office if the member—

(a) has, subject to subparagraph (3), been found to have conducted himself or herself in a manner that renders him or her unsuitable as a member; or

(b) has failed to comply with any term or condition of his or her office fixed by the Minister; or

(c) is mentally or physically incapable of efficiently carrying out his or her functions as a member;

or

(d) has been absent without the permission of the Commission from two consecutive meetings of the Commission of which he or she was given at least seven days' notice, and there was no just cause for the member's absence.

(2) The Minister, may suspend a member—

(a) whom he or she suspects on reasonable grounds of having been guilty of conduct referred to in subparagraph (1)(a); or

(b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed;

and while that member is so suspended he or she shall not carry out any functions as a member.

(3) A member suspended in terms of subparagraph (2)(a) shall be given notice in writing of the grounds for the suspension and may, within fourteen days of being so notified, make written representations to the Minister showing cause why no finding of misconduct rendering him or her unsuitable to be member of the Commission should be made.

(4) The Minister, after consultation with the President, shall require a member suspended in terms of subparagraph (2) (a) to vacate his or her office if—

(a) no representations are made by the member in terms of subparagraph (3); or

(b) the Minister finds that, notwithstanding representations made in terms of subparagraph (3), the member is guilty of the misconduct alleged.

#### *Filling of vacancies on Commission*

7. On the death of, or vacation of office by, a member, the Minister may appoint a qualified person to fill the vacancy:

Provided that if as a result of the vacancy the number of members falls below the number specified in this Act, the Minister shall fill the vacancy within three weeks.

#### *Meetings and procedure of Commission*

8.(1) The Commission shall hold its first meeting on such date and at such place as the Minister may fix, being not more than three months after the fixed date, and thereafter the Commission shall meet for the dispatch of business as often as is necessary or expedient and, subject to this paragraph, may adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Commission shall meet not less than six times in each financial year of the Commission.

(2) The chairperson of the Commission —

(a) may at any time convene a special meeting of the Commission; and

(b) shall convene a special meeting of the Commission on the written request of not fewer than two members, not later than fourteen days after his or her receipt of such request.

(3) Written notice of any special meeting shall be sent to each member not later than seven days before the meeting and shall specify the business for which the meeting has been convened:

Provided that if, in the opinion of the chairperson, the urgency of the business for which the meeting is to be convened so requires, notice of not less than forty-eight hours may be given.

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

(a) such business as may be determined by the chairperson of the Commission, where he or she has convened the meeting in terms of subparagraph 2(a); or

(b) the business specified in the request for the meeting, where he or she has convened the meeting in terms of subparagraph 2(b).

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

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

(6) Five members shall form a quorum at any meeting of the Commission.

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

(8) Subject to this Act at all meetings of the Commission each member present shall have one vote on each question before the Commission and, in the event of an equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.

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

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

#### *Committees of Commission*

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

Provided that the vesting of any functions in a committee shall not divest the Commission of those functions in relation to any matter that has not been decided by the committee.

(2) Where it has established a committee, the Commission —

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

(b) subject to subparagraph (3), may appoint persons who are not members of the Commission to be members of the committee.

(3) The Commission shall not appoint a person to be a member of a committee if he or she is disqualified in terms of section 2 from appointment as a member of the Commission.

(4) The office of a member of a committee of the Commission shall terminate—

(a) in the case of a member who is a member of the Commission, upon his or her ceasing to be a member of the Commission;

(b) in the case of a member who is not a member of the Commission, if he or she would be required in terms of paragraph 1 to vacate office had that paragraph and section 3(1) (a), (b) and (c) applied to him or her.

(5) Subject to this paragraph, members of committees of the Commission shall hold office on such conditions as the Commission may fix for members of committees generally.

(6) The chairperson of the Commission convenes a meeting of a committee of the Commission at any time and place.

(7) The procedure to be followed at any meeting of a committee of the Commission shall be fixed by the Commission.

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

10. (1) Members and members of committees of the Commission shall be paid from the funds of the Commission —

(a) such remuneration, if any, as the Commission, with the approval of the Minister, may from time to time fix for such members generally; and

(b) such allowances as the Commission, with the approval of the Minister, may from time to time fix to meet any reasonable expenses incurred by such members in connection with the business of the Commission or of the committee concerned, as the case may be.

(2) The remuneration of a member or member of a committee of the Commission shall not, without the member's consent, be altered to his or her detriment during his or her tenure of office.

*Validity of decisions and acts of Commission*

11. No decision or act of the Commission or act done under the authority of the Commission shall be invalid on the ground that—

(a) the Commission consisted of fewer than the number of persons prescribed in paragraph 8(6); or

(b) a disqualified person acted as a member of the Commission at the time the decision was taken or act was done or authorised:

Provided that the Commission shall ratify any such decision or action within a month after it becomes aware that the decision or action was taken in the circumstances described in paragraph (a) or (b).

*Minutes of proceedings of Commission and committees*

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

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

*Members to disclose certain connections and interests*

13.(1) In this section—

“relative” in relation a member means the Member's spouse, child, parent, brother or sister;

(2) Subject to subsection (4)—

(a) if a member—

(i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission; or

(ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the members private interest coming or appearing to come into conflict with his functions as member; or

(iii) knows or has reason to believe that a relative of his—

A has acquired or holds direct or indirect interest in any matter that is under consideration by the Commission; or

B owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the members private interest coming or appearing to come into conflict with his functions as member;

or

(b) if for any reason the private interest of a member comes into conflict with his functions as a member;

the Member shall forthwith disclose the facts to the Commission.

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

(4) A member who contravenes subparagraph (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

## SECOND SCHEDULE (*Section 5(5)*)

### ANCILLARY POWERS OF COMMISSION

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and any interest therein and any rights, concessions, grants, powers and privileges in respect thereof.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets, or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of or turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.
5. To open bank accounts in the name of the Commission and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions, promissory notes, bills of exchange, securities and other negotiable or transferable instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. In consultation with the Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Commission considers appropriate or necessary for the proper exercise of its functions.
8. To pay such remuneration and allowances and grant such leave of absence and to make such gifts, bonuses and the like to staff of the Commission as it considers fit.
9. To provide pecuniary benefits for staff of the Commission on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, provident funds or make such other provision as may be necessary to secure for its staff and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.
10. To purchase, take on lease or in exchange or otherwise acquire land for residential purposes or dwellings-houses for use or occupation by staff of the Commission.
11. To construct dwellings, out buildings or improvements for use or occupation by members of the Commission.
12. To provide or guarantee loans made to members of the Commission for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling-houses and the improvement of dwelling houses or land which are the property of its members of the Commission, subject to any conditions that may be imposed by the Commission from time to time.
13. To provide security in respect of loans by the deposit of securities, in which the Commission may invest such money as it may consider necessary for the purpose.

14. Subject to any conditions that may be imposed by the Commission from time to time, to provide loans to—
  - (a) members of the Commission for the purpose of purchasing vehicles or other equipment to be used by the members of staff in carrying out their duties; or
  - (b) members of the staff for the procuring of vehicles which may be resold to such members after five years:

Provided that—

- (ii) the Commission may fix further terms and conditions for this vehicle scheme; or
  - (iii) such loan shall not exceed twelve months' salary or wages payable to the members concerned, for any purpose on such security as the Commission thinks adequate.
15. To register, in the Commission 's name, any property, whether movable or immovable, purchased for any member of Commission or member of staff through loan or loan guarantee until the loan or loan guarantee has been discharged.
16. To do anything for the purpose of improving the skill, knowledge or usefulness of members of the Commission, members of staff, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training:

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

17. To engage in any activity, either alone or in conjunction with civil society organisations and other organisations or international agencies, to promote better understanding of peace building strategies and conflict prevention, management, resolution and transformation.
18. To do anything which by this Act or any other enactment is required or permitted to be done by the Commission.
19. Generally, to do all such things that are conducive to the performance of the functions of the Commission in terms of this Act or any other enactment.”.

Amendment put and agreed to.

Schedules put and agreed to.

Bill to be reported with amendments.

*(House resumed)*

Bill reported with amendments. Referred to the Parliamentary Legal Committee.

On the motion of the Minister of Justice, Legal and Parliamentary Affairs: The House adjourned at twenty-three minutes to seven o'clock pm, until Tuesday, 11th June, 2019 at a quarter past two o'clock in the afternoon.

HON. ADVOCATE J.F. MUDENDA,