ZIMBABWE

ACT

To make further provision for the revenues and public funds of Zimbabwe and to provide for matters connected therewith or incidental thereto.

ENACTED by Parliament and the President of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Finance Act, 2014.

PART II

INCOME TAX

Amendments to Chapter I of Finance Act [Chapter 23:04]

2 Amendment of section 14 of Cap. 23:04

With effect from the 1st January, 2014, section 14 ("Income tax for periods of assessment after 1.1.2014") (2)(a) of the Finance Act [Chapter 23:04] is amended by the repeal of subparagraph (vi) and the substitution of the following subparagraphs—

"(vi) so much as exceeds one hundred and twenty thousand United States dollars but does not exceed two hundred and forty thousand United States dollars;

(vii) so much as exceeds two hundred and forty thousand United States dollars;".
3 Amendment of Schedule to Chapter I of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2014, the Schedule (“Credits and Rates of Income Tax”) to Chapter I of the Finance Act [Chapter 23:04] is amended in Part II by the deletion of the following item—

“14(2)(a)(vii) US $120 001 and more 45”.

and the substitution of the following items—

“14(2)(a)(vii) US $120 001 to $240 000 45
14(2)(a)(viii) US $240 001 and more 50”.

Amendments to Income Tax Act [Chapter 23:06]

4 Amendment of section 2 of Cap. 23:06

Section 2 (“Interpretation”) of the Income Tax Act [Chapter 23:06] is amended by the insertion of the following definition—

“associate” has the meaning in section 2A;

5 New sections inserted after section 2 of Cap. 23:06

With effect from the 1st January, 2014, the Income Tax Act [Chapter 23:06] is amended by the insertion of the following sections after section 2—

“2A When persons deemed to be associates

(1) Where a person, other than an employee, acts in accordance with the directions, requests, suggestions or wishes of another person, whether or not the persons are in a business relationship and whether or not those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons shall be treated as associates of each other for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the following shall be treated as a person’s associate—

(a) a near relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other;

(b) a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other;

(c) a partnership in which the person is a partner, if the person, either alone or together with one or more associates, controls fifty per centum or more of the rights to the partnership’s income or capital;

(d) the trustee of a trust under which the person, or an associate of the person, benefits or may benefit;

(e) a company which is controlled by the person, either alone or together with one or more associates;

(f) where the person is in a partnership, a partner in the partnership who, either alone or together with one or more associates, controls fifty per centum or more of the rights to the partnership’s income or capital;
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(g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust;

(h) where the person is a company—
   (i) a person who, either alone or together with one or more associates, controls the company; or
   (ii) another company which is controlled by a person referred to in subparagraph (i), either alone or together with one or more associates.

2B When person deemed to control company

For the purposes of this Act, a person shall be deemed to control a company if the person, either alone or together with one or more associates or nominees—

(a) controls the majority of the voting rights attaching to all classes of shares in the company, whether directly or through one or more interposed companies, partnerships or trusts; or

(b) has any direct or indirect influence that, if exercised, results in him or her or his or her associates or nominees factually controlling the company.”.

6 Amendment of section 8 of Cap. 23:06.

Section 8 (“Interpretation of terms relating to income tax”) (1) of the Income Tax Act [Chapter 23:06] is amended in the definition of “gross income” with effect from the year of assessment beginning on the 1st January, 2014, and any subsequent year of assessment in paragraph (f) II, by the repeal of proviso (xi) and the substitution of—

“(xi) in the case of a motor vehicle, in respect of the year of assessment beginning on the 1st January, 2014, and any subsequent year of assessment, the cost to the employer shall be deemed to be the following—

(a) three thousand six hundred United States dollars, in the case of a motor vehicle whose engine capacity does not exceed one thousand five hundred cubic centimetres;

(b) four thousand eight hundred United States dollars, in the case of a motor vehicle whose capacity exceeds one thousand five hundred cubic centimetres but does not exceed two thousand cubic centimetres;

(c) seven thousand two hundred United States dollars, in the case of a motor vehicle whose capacity exceeds two thousand cubic centimetres but does not exceed three thousand cubic centimetres;

(d) nine thousand six hundred United States dollars, in the case of a motor vehicle whose capacity exceeds three thousand cubic centimetres;

and such deemed cost shall be reduced proportionally where the period of use of the motor vehicle is less than the year of assessment.”.

7 Amendment of section 15 of Cap. 23:06

Section 15 (“Deductions allowed in determination of taxable income”) of the Income Tax Act [Chapter 23:06] is amended in subsection (2)—
(a) with effect from the year of assessment beginning on the 1st January, 2014, in paragraph (f), by the repeal of subparagraph (iii);

(b) with effect from the year of assessment beginning on the 1st January, 2013, by the insertion of the following paragraph after paragraph (kk)—

"(ll) the amount—

(i) of any contribution or donation paid by a taxpayer in the year of assessment to a community share ownership trust or scheme established by the taxpayer in compliance with the Indigenisation and Economic Empowerment Act [Chapter 14:33] (No. 14 of 2007);

(ii) equivalent to the value of the shares of a corporate taxpayer that are lent in the year of assessment to an indigenisation partner of the taxpayer pursuant to a corporate vendor-financed loan (this deduction to be allowed in equal annual instalments over the period of the loan);

(iii) interest payable by an indigenisation partner in the year of assessment on any loan advanced to him or her to purchase shares in the company of which he or she is an indigenous partner;

For the purposes of this paragraph—

“community share ownership trust or scheme” means such a scheme approved in terms of the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010;

“corporate vendor-financed loan” means a loan of shares in a corporate taxpayer to an aspirant shareholder of that taxpayer which are purchased by the aspirant shareholder by means of dividends forgone on those shares in favour of the taxpayer;

“indigenisation partner” means an indigenous person who benefits (whether as an employee or in any other capacity) under an indigenisation implementation plan approved in terms of the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010.”.

8 Amendment of section 80 of Cap. 23:06

Section 80 (“Withholding of amounts payable under contracts with State or statutory corporations”) (1) of the Income Tax Act [Chapter 23:06] is amended by the insertion of the following definition—

“‘payment’ means payment by cash, barter, setoff, crediting a director’s loan accounts, intercompany debits and credits or by other settlement of obligations whatsoever and in any form;”.

9 New section inserted after section 80 of Cap. 23:06

The Income Tax Act [Chapter 23:06] is amended by the insertion of the following section after section 80A—

“80B Payments to non-resident artists or entertainers

(1) In this section—
“contractor” means a contractor of the services of any payee who is a non-resident artist or entertainer contracted to perform in Zimbabwe;

“payment” means payment by cash, barter, setoff, crediting a director’s loan accounts, intercompany debits and credits or by other settlement of obligations whatsoever and in any form;

“registered taxpayer” means a person who is registered—
(a) as an employer in terms of the Thirteenth Schedule; or
(b) as a taxpayer in the records of the Zimbabwe Revenue Authority, otherwise than as an employer; or
(c) as a registered operator in terms of the Value Added Tax Act [Chapter 23:13];

“withholding agent” means a contractor or person who is employed by a contractor and who is responsible for paying a payee any amount due in terms of a contract.

(2) Subject to this section, a withholding agent who is the contractor of the services of any payee who is a non-resident artist or entertainer contracted to perform in Zimbabwe, shall withhold fifteen per centum of each amount payable to the payee under the contract concerned, and shall pay each amount so withheld to the Commissioner on or before the tenth day of the month following that in which the payment was made or within such further time as the Commissioner may allow.

(3) The Commissioner shall retain any amount remitted under subsection (2) until the income tax payable by the payee for the year of assessment concerned has been assessed, whereupon—
(a) the amount shall be allowed as a tax credit against the income tax payable by the payee; or
(b) where the amount exceeds the income tax payable by the payee, the Commissioner shall forthwith refund the excess to the payee.

(4) No action shall lie against a contractor or withholding agent in respect of the withholding of any amount in terms of this section, nor shall the withholding of the amount constitute a breach of the contract concerned.

(5) A person who concludes a contract on behalf of the contractor shall take all reasonable steps to ensure that the person with whom the contract is concluded is made aware of the provisions of this section:

Provided that a failure to comply with this subsection shall not—
(a) constitute a ground for cancelling the contract; or
(b) relieve a paying officer of his or her obligations under this section.”.

10 New sections inserted after section 98 of Cap. 23:06

With effect from the 1st January, 2014, the Income Tax Act [Chapter 23:06] is amended by the insertion of the following sections after section 98—
"98A Income splitting

(1) Where an individual attempts to split income with an associate, the Commissioner may adjust the taxable income of the taxpayer and the associate to prevent any reduction in tax payable as a result of the splitting.

(2) A taxpayer shall be treated as having attempted to split income where—

(a) the taxpayer transfers income, directly or indirectly, to an associate; or

(b) the taxpayer transfers property, directly or indirectly, to an associate with the result that the associate receives or enjoys the income from that property;

and the sole or main reason for the transfer is to lower the tax payable upon the incomes of the taxpayer and the associate.

(3) In determining whether a taxpayer is seeking to split income, the Commissioner shall consider the value, if any, given by the associate for the transfer of the income or property concerned.

98B Transactions between associates, employers and employees

(1) In any transaction between associates or between persons who are in an employer-employee relationship, the Commissioner may distribute, apportion or allocate income, deductions or tax credits between the associates or persons as he or she considers necessary to reflect the taxable income that would have accrued to them in an arm’s length transaction.

(2) The Commissioner may adjust the income accruing from any transfer or licence of intangible property between associates or persons in an employer-employee relationship so that it is commensurate with the income attributable to the property.

(3) In making any adjustment under subsections (1) and (2), the Commissioner may re-characterise the source of income and the nature of any payment or loss as revenue, capital or otherwise.

(4) Section 98A ("Income splitting") applies to a taxpayer other than an individual which attempts to split income with an associate.

11 Amendment of Third Schedule to Cap. 23:06

The Third Schedule ("Exemptions from Income Tax") to the Income Tax Act [Chapter 23:06] is amended—

(a) in paragraph 2—

(i) with effect from the 1st January, 2013, by the repeal of subparagraph (c) and the substitution of—

"(c) building societies, and financial institutions providing mortgage finance, but only to the extent that the receipts or accruals of such financial institutions are attributable to the provision of mortgage finance by them.

In this subparagraph "mortgage finance" means the provision of loans for the acquisition of immovable property.
for residential purposes, which loans are secured by the collateral of that immovable property.”;

(ii) by the insertion of the following subparagraphs after subparagraph (m)—

“(n) with effect from the 1st January, 2013, the Investor Protection Fund established (in terms of the Securities Regulations, 2010, published in Statutory Instrument 100 of 2010) to protect investors in publicly-quoted securities;

(o) with effect from the 1st January, 2014, the Insurance and Pensions Housing Company established to secure financing for home seekers that is guaranteed by the State, of which the shareholders are the Ministry of Finance, the Insurance and Pensions Commission and associations representing pension funds and life and funeral insurers.”;

(b) with effect from the 1st January, 2013, in paragraph 4(p)—

(i) by the deletion of “five thousand United States dollars” and the substitution of “ten thousand United States dollars”;

(ii) in the proviso by the deletion of “forty-five thousand United States dollars” and the substitution of “sixty thousand United States dollars”;

(c) with effect from the 1st January, 2014, in paragraph 10 by the insertion of the following subparagraph after subparagraph (p)—

“(q) any loan made to a small-scale gold miner for carrying on mining operations or undertaking prospecting or exploratory works for the purpose of acquiring rights to mine gold as is used by the small-scale gold miner in carrying on or undertaking such operations or works in Zimbabwe.

For the purposes of this paragraph—

“small-scale gold miner” means a miner who, whether working on his or her own or with the assistance of one or more employees, is classifiable as a “micro-enterprise” in the mining and quarrying sector of the economy by reference to the Fourth and Fifth Schedules to the Small and Medium Enterprises Act [Chapter 24:12].”.

12 Amendment of Thirtieth Schedule to Cap. 23:06

With effect from the 1st January, 2014, the Thirtieth Schedule (“Intermediated Money Transfer Tax”) to the Income Tax Act [Chapter 23:06] is amended in paragraph 1 (“Interpretation”) (1)—

(a) in the definition of “financial institution” by the insertion of the following paragraph after paragraph (g)—

“(h) any mobile banking service;”;

(b) by the insertion of the following definition—

“mobile banking service” means a service that allows customers of a financial institution or cellular telecommunication or telecommunication service operator licensed or required to be licensed under the Postal and Telecommunications Act [Chapter 21:05] or other intermediary to conduct any number of financial transactions involving the transfer of money through a mobile device such as a mobile telephone or personal digital assistant, and for which the financial institution,
operator or intermediary involved receives a fee, commission, premium, interest or other reward;.”.

PART III
VALUE ADDED TAX

13 Amendment of section 2 of Cap. 23:12

Section 2 (“Interpretation”) (1) of the Value Added Tax Act [Chapter 23:12] is amended by the insertion of the following definition—

""fiscalised electronic register” means an electronic sales register having such features as may be prescribed;”.

14 New sections inserted after section 12B of Cap. 23:12

(1) Subject to subsection (2), the Value Added Tax Act [Chapter 23:12] is amended by the insertion of the following sections after section 12B—

"12C Collection of tax on exportation of unbeneﬁciated hides, determination of value thereof

(1) In this section, “unbeneﬁciated hide” means any—

(a) raw or untanned animal hide; or

(b) unbeneﬁciated leather.

(2) Notwithstanding section 10(1), tax at the rate of seventy-ﬁve cents per kilogram of unbeneﬁciated hides shall be levied on a supplier of such raw hides for export from Zimbabwe.

(3) For the purposes of this Act unbeneﬁciated hides shall be deemed to be exported from Zimbabwe on the date on which the unbeneﬁciated hides are, in terms of section 60 of the Customs Act [Chapter 23:02], deemed to be exported.

(4) For the purposes of this Act the value to be placed on the exportation of unbeneﬁciated hides from Zimbabwe shall be deemed to be—

(a) the highest price which the hides in question fetched in the country to which they are to be exported for beneﬁciation in the period of six months before the date of exportation, as notiﬁed from time to time by the Authority by notiﬁce in the Gazette:

Provided that if no such notiﬁce was published within the period of six months before the date of exportation, reference may be made to the last such published notiﬁce; or

(b) the value as reﬂected on the bill of entry or other document required in terms of section 54 of the Customs and Excise Act [Chapter 23:02] to be delivered to an ofﬁcer under that Act, whichever is the higher value.

(5) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of
any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.

12D Collection of tax on exportation of unbeneﬁciated platinum, determination of value thereof

(1) In this section, "unbeneﬁciated platinum" means platinum ore which has not been subjected to the following processes—
   (a) crushing, milling and washing to remove waste material; and
   (b) the smelting of the resulting platinum concentrate into pellet or ingot form.

(2) Notwithstanding section 10(1), tax at the rate of ﬁfteen per centum on the value of unbeneﬁciated platinum shall be levied on a supplier of such platinum for export from Zimbabwe.

(3) For the purposes of this Act unbeneﬁciated platinum shall be deemed to be exported from Zimbabwe on the date on which the unbeneﬁciated platinum is, in terms of section 60 of the Customs Act [Chapter 23:02], deemed to be exported.

(4) For the purposes of this Act the value to be placed on the exportation of unbeneﬁciated platinum from Zimbabwe shall be deemed to be—
   (a) the market value thereof on the date of exportation as determined by reference to a reputable metals exchange; or
   (b) the value as reﬂected on the bill of entry or other document required in terms of section 54 of the Customs and Excise Act [Chapter 23:02] to be delivered to an ofﬁcer under that Act; whichever is the higher value.

(5) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.

12E Collection of tax on exportation of rough diamonds, determination of value thereof

(1) In this section, "rough diamond" means any diamond after it has been extracted by a diamond producer but before it is cut or polished.

(2) Notwithstanding section 10(1), tax at the rate of ﬁfteen per centum on the value of rough diamonds shall be levied on a supplier of such rough diamonds for export from Zimbabwe.

(3) For the purposes of this Act rough diamonds shall be deemed to be exported from Zimbabwe on the date on which the rough diamonds are, in terms of section 60 of the Customs Act [Chapter 23:02], deemed to be exported.

(4) For the purposes of this Act the value to be placed on the exportation of rough diamonds from Zimbabwe shall be deemed to be—
(a) the market value thereof on the date of exportation as determined by reference to a reputable diamond exchange;
or
(b) the value as reflected on the bill of entry or other document required in terms of section 54 of the Customs and Excise Act [Chapter 23:02] to be delivered to an officer under that Act; whichever is the higher value.

(5) Subject to section 6(1)(b), and this section, any provision of the Customs Act relating to the exportation, transit and clearance of any goods and the payment and recovery of duty shall apply, with such changes as may be necessary, as if enacted in terms of this Act, whether or not the said provisions apply for the purposes of any duty levied in terms of the Customs Act.”.

(2) Section 12C of the Value Added Tax Act has effect from the year of assessment beginning on the 1st January, 2014, and sections 12D and 12E have effect from the year of assessment beginning on the 1st January, 2015.

15 Amendment of section 15 of Cap. 23:12
Section 15 (“Calculation of tax payable”) of the Value Added Tax Act [Chapter 23:12] is amended—
(a) in subsection (2)(d) by the repeal of the proviso thereto and the substitution of—
“Provided that—
(i) no bill of entry or other document prescribed in terms of the Customs Act may be used for the purposes of this paragraph by a registered operator after a period of twelve months from the date on which it was delivered to the registered operator or his or her agent;
(ii) where a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with this Act, or a bill of entry or other document has been delivered in accordance with the Customs Act, as the case may be, the Commissioner may determine that no deduction for input tax in relation to that supply or importation shall be made unless that tax invoice or debit note or credit note or that bill of entry or other document is retained in accordance with section 57(3);”;
(b) in subsection (3) by the repeal of paragraph (k) and the substitution of—
“(k) an amount equivalent to fifty per centum of the cost of the acquisition of fiscalised electronic registers by a registered operator.”.

16 Amendment of section 16 of Cap. 23:12
The Value Added Tax Act [Chapter 23:12] is amended in section 16 (“Permissible deductions in respect of input tax”) (2) by the insertion of the following paragraph after paragraph (d)—
“(d1) in respect of any amount of tax on the exportation of unbeneﬁciated chrome, unbeneﬁciated hides, unbeneﬁciated platinum or raw diamonds paid by the registered operator in terms of section 12B, 12C, 12D or 12E.”.
17 Amendment of section 32 of Cap. 23:12

Section 32 ("Objections to certain decisions or assessments") (1) of the Value Added Tax Act [Chapter 23:12] is amended by the insertion of the following paragraph after paragraph (c)—

“(d) any decision of the Commissioner implementing or interpreting regulations made under section 78 in connection with fiscalised electronic registers, and any assessments of amounts of tax due arising from the operation of such registers;”.

18 Amendment of section 62 of Cap. 23:12

Section 62 ("Offences") of the Value Added Tax Act [Chapter 23:12] is amended—

(a) in subsection (1) by the repeal of paragraph (g) and the substitution of—

“(g) without reasonable cause, the proof whereof shall be on him or her—

(i) contravenes the proviso to section 20(1)(a), or section 20(4), or subparagraph A of the proviso to section 21(3); or

(ii) fails to comply with section 21(3);”;

(b) by the repeal of subsection (2) and the substitution of—

“(2) Any person who, being under a duty to do so, fails without reasonable cause (the proof whereof shall be on him or her) to apply for registration as required by section 23, or fails to comply with section 25, 28 or 30, shall—

(a) be liable for a civil penalty of thirty United States dollars for each day the person remains in default, not exceeding a period of one hundred and eighty-one days:

Provided that the Commissioner shall have power to waive the payment or refund the whole or part of any penalty prescribed under this paragraph if he or she is satisfied that the contravention was not wilful, or not due to the want of reasonable care;

and

(b) if the person continues to be in default after the period specified in paragraph (a), be guilty of an offence and liable on conviction to a fine not exceeding level seven or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.

PART IV
CAPITAL GAINS TAX

19 Amendment of section 2 of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2014, section 2 ("Interpretation") of the Capital Gains Tax Act [Chapter 23:01] is amended by the insertion after subsection (3) of the following subsection—

“(4) Any expression defined for the purposes of Part IIIA shall bear the same meaning when used elsewhere in this Act.”.
20 Amendment of section 8 of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2014, section 8 ("Interpretation of terms relating to capital gains tax") of the Capital Gains Tax Act [Chapter 23:01] is amended by the insertion after paragraph (f) of the following paragraphs—

"(g) where a person transfers to another person his or her rights in a residential, commercial or industrial stand, whether or not the stand is serviced and whether or not his or her title to the stand is registered under the Deeds Registries Act [Chapter 20:05], he or she shall be deemed to have sold a specified asset to that other person for an amount equal to the whole amount received by or accruing to him or her as a result of the transfer;

(h) where a person relinquishes a membership interest in a condominium in favour of another person, he or she shall be deemed to have sold a specified asset to that other person for an amount equal to the whole amount received by or accruing to him or her as a result of the relinquishment."

21 Amendment of section 10 of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2013, section 10 ("Exemptions from capital gains tax") of the Capital Gains Tax Act [Chapter 23:01] is amended by the insertion after paragraph (n) of the following paragraph—

"(o) the amount by which the fair market price of shares sold to an indigenisation partner or community share ownership trust or scheme exceeds the actual price at which those shares were sold.

For the purposes of this paragraph—

"community share ownership trust or scheme" means such a scheme approved in terms of the Indigenisation and Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010;

"indigenisation partner" means an indigenous person who benefits (whether as an employee or in any other capacity) under an indigenisation implementation plan approved in terms of the Indigenisation an Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 21 of 2010.".

22 Amendment of section 22A of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2014, section 22A ("Interpretation in Part IIIA") of the Capital Gains Tax Act [Chapter 23:01] is amended—

(a) by the insertion of the following definitions—

"business of a land developer" means the business of doing any one or more of the following things for profit—

(a) the acquisition of land for subdivision into more than three stands for residential, commercial or industrial purposes; or

(b) the acquisition of stands for servicing for residential, commercial or industrial purposes; or
(c) the selling of stands serviced by the land developer; or

(d) the servicing of stands acquired by another person for residential, commercial, or industrial purposes;

"cession of a stand", in relation to a stand that is part of a land development scheme, means the transfer to another person ("the cessionary") for money or other valuable consideration of all rights in respect of the stand (including rights of possession, occupation and, ultimately, of registration of title over the stand in the name of the cedent upon fulfilment of the agreed conditions) acquired by the cedent under the agreement by which he or she took possession of the stand from the local authority or the land developer (whether or not the cedent is an original beneficiary under a land development scheme or is himself or herself a cessionary of a previous cession of the stand);

"condominium" means any company, partnership or other association of persons—

(a) that owns any immovable property consisting of one or more flats, apartments or other units of residential accommodation; and

(b) the members of which have the right, by virtue of their membership—

(i) to occupy particular flats, apartments or units of residential accommodation comprising the immovable property; or

(ii) to a time-sharing interest in particular flats, apartments or units of residential accommodation pursuant to a property time-sharing scheme;

"land developer" means a person who carries on the business of a land developer;

"land development scheme" means any scheme whereunder—

(a) land is subdivided into stands for servicing by a local authority or a land developer; and

(b) beneficiaries of the scheme receive rights of possession, occupation and, ultimately, of registration of title over the stands in their names upon fulfilment of agreed conditions;

"local authority" means—

(a) a city or municipal council, town council, local board or rural district council; or

(b) any body declared by the President to be a local authority for the purposes of the Interpretation Act [Chapter 1:01] which is not a body or authority referred to in paragraph (a);

"membership interest in a condominium" means an interest or share in a condominium that confers on the holder thereof any of the rights referred to in paragraph (b) of the definition of "condominium", however such membership, interest or share is evidenced, whether by the holding or transfer of shares in a condominium that is a company, or in the form of a partnership interest, or by registration
of sectional title in terms of section 27 of the Deeds Registries Act [Chapter 20:05];

“service”, in relation to a stand, means to clear the land constituting the stand and to drain, dredge, pave, excavate, grade, landscape, construct buildings upon or otherwise develop such stand in every way that will render it suitable for residential, commercial or industrial purposes, and “unserviced” shall be construed accordingly;

“stand” means any unserviced or partly unserviced piece of land whether or not registered as a stand in terms of the Deeds Registries Act [Chapter 20:05];

(b) in the definition of “depositary” by the insertion of the following paragraphs—

“(e) in relation to a cession of a stand—
   (i) the cedent, whether or not he or she is liable to pay the whole or any part of the amount he or she holds to the land developer; or
   (ii) the local authority which, or land developer who, on behalf of a cedent or cessionary, holds the whole or any part of the price paid or payable in respect of the cession; or
   (iii) any person referred to in paragraph (a), (b), (c) or (d) who mediates a cession of a stand; or

(f) in relation to the acquisition or relinquishment of a membership interest in a condominium—
   (i) the owner of the condominium; or
   (ii) the custodian of the register of membership interests in the condominium; or
   (iii) any person referred to in paragraph (a), (b), (c) or (d) who mediates such acquisition or relinquishment;”.

23 Amendment of section 30A of Cap. 23:01

With effect from the year of assessment beginning on the 1st January, 2014, section 30A (“Capital gains tax not withheld in terms of Part IIIA to be paid before transfer of specified asset”) of the Capital Gains Tax Act [Chapter 23:01] is amended by the insertion of the following subsection, the existing section becoming subsection (1)—

“(2) No registration of the acquisition of—
   (a) a stand that originated from a land development scheme and was subsequently ceded by the original beneficiary of the scheme to a cessionary (or, where further or more cessions of the stand occurred after that, by the cessionary seeking the registration of the stand); or
   (b) a membership interest in a condominium that is evidenced by the registration of sectional title in terms of section 27 of the Deeds Registries Act [Chapter 20:05];

shall be executed, attested or registered by the Registrar of Deeds in terms of the Deeds Registries Act [Chapter 20:05] unless the cessionary or acquirer of the membership interest in the condominium submits to the Registrar of Deeds a certificate issued by the Zimbabwe Revenue Authority stating that any capital gains tax payable on the cession of the stand or acquisition of the membership interest has been paid.”.
PART V
CUSTOMS AND EXCISE

24 New section inserted after section 216 in Cap. 23:02

The Customs and Excise Act [Chapter 23:02] is amended by the insertion of the following section after section 216A—

“216B Registration of authorised economic operators

(1) In this section—

“authorised economic operator” means a party involved in the international movement of goods in whatever function that has been approved by the Commissioner as complying with the prescribed supply chain security standards, including any one or any combination of the following—

(a) clearing agents;
(b) manufacturers;
(c) importers, exporters, or carriers,
(d) port or airport terminal operators;
(e) operators of warehouses;
(f) distributors;
(g) airline consolidators.

(2) The Commissioner may, subject to this section, register and license any person as an authorised economic operator under prescribed conditions and safeguards.

(3) No person other than a company incorporated or registered in Zimbabwe or partnership shall be registered or licensed as an authorised economic operator.

(4) An application for registration or licensing as an authorised economic operator must be made in the prescribed form, together with such fee and such information as may be prescribed.

(5) The grounds upon which an application for registration or licensing as an authorised economic operator may be granted shall be as prescribed.

(6) If the Commissioner approves the application he or she shall call upon the applicant to pay a prescribed licence fee and issue the prescribed licence or registration certificate.

(7) A licence or registration certificate issued to an authorised economic operator shall remain valid for as long as the annual renewal fee thereon is paid, unless it is earlier suspended or revoked for the prescribed reasons.

(8) The grounds upon which a licence or registration certificate issued to an authorised economic operator may be suspended or revoked shall be as prescribed.

(9) A licence or registration certificate issued to an authorised economic operator shall not be transferable.
(10) From the date on which the requirements for licensing or registration as an authorised economic operator are prescribed, no person may hold himself or herself out as an authorised economic operator unless he or she is licensed or registered as such.

(11) No person whose licence or registration as an authorised economic operator is suspended or revoked may continue to operate as such.

(12) Any person who contravenes subsection (10) or (11) 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 imprisonment.

25 New section inserted after section 223 in Cap. 23:02

The Customs and Excise Act [Chapter 23:02] is amended by the insertion of the following section after section 223—

"223A Post-clearance audit

(1) A declaration made for the purposes of making entry in terms of section 38 which contains any omission, inconsistency, error or misrepresentation shall be invalid whether or not such declaration has been accepted by an officer.

Provided that such invalidity shall not affect the use of such declaration as evidence of the commission of any offence under this Act.

(2) An invalid declaration shall be validated by the person making such declaration in such manner and within such period as may be prescribed.

(3) Any goods not properly declared shall be deemed to be uncustomed goods.

(4) The Commissioner, after releasing the goods subject to entry and in order to satisfy himself or herself as to the accuracy of the particulars contained in the declaration, may undertake a post-clearance audit in relation to those goods, that is to say he or she any officer or person authorised by him or her in writing may—

(a) carry out inspections at the premises of the owner of the goods, or at the place to which the goods are destined, or at the premises where any documentation or data relating to the goods in question is located or may reasonably be expected to be found; and

(b) question any person at any premises or place referred to in paragraph (a), or any person having possession or custody of the documentation or data there referred to;

(c) at any premises or place referred to in paragraph (a), inspect or examine the goods, and any books, written records, computer records, and other data or documentation relating to the import, export or subsequent disposal of the goods in question;

(d) take possession of and remove or make extracts from or make copies of the records, data or documentation referred to in paragraph (c).
(5) Where a post-clearance audit is conducted by any person or officer other than the Commissioner, such person or officer shall, on demand by a person subjected to such audit, produce the Commissioner’s written authority to conduct the audit before exercising any of the powers referred to in subsection (4).

(6) Any records, data or documentation referred to in subsection (4)(d) may be retained by the Commissioner for as long as they may be reasonably required for any assessment or for any criminal or other proceedings under this Act:

Provided that the Commissioner shall give a full receipt for the records, data or documentation so taken and removed to the owner or custodian thereof.

(7) Where circumstances require the amendment of a declaration after the goods have been released the Commissioner shall inform the owner of the goods to amend the declaration in terms of this section.”.

PART VI

REVENUE AUTHORITY

26 Amendment of section 33C of Cap. 23:11

Section 33C ("When expedited procedure competent, jurisdiction of magistrates courts and period within which expedited procedure allowed") of the Revenue Authority Act [Chapter 23:11] (No. 17 of 1999) is amended by the insertion of the following paragraph after paragraph (d)—

"or

c) the Customs and Excise Act [Chapter 23:02];”.

27 Amendment of Fifth Schedule to Cap. 23:11

The Fifth Schedule ("Provisions Applicable to Revenue Board") of the Revenue Authority Act [Chapter 23:11] (No. 17 of 1999) is amended in paragraph 8 ("Meetings and procedure of Board") by the repeal of subparagraph (6) and the substitution of—

"(6) Six members shall form a quorum at any meeting of the Board.”.

PART VII

RESERVE BANK OF ZIMBABWE

28 Amendment of section 28 of Cap. 22:15

Section 28 ("Procedure at meetings of Board") of the Reserve Bank of Zimbabwe Act [Chapter 22:15] (No. 5 of 1999) is amended by the repeal of subsection (4) and the substitution of—

"(4) The Board shall meet not less frequently than once in every three calendar months.”.

PART VIII

MINES AND MINERALS

Amendments to Chapter VII of Finance Act [Chapter 23:04]

29 Amendment of section 36 of Cap. 23:04

With effect from the year of assessment beginning on the 1st January, 2014, section 36 ("Interpretation in Chapter VII") (1) of the Finance Act [Chapter 23:04] is amended by the insertion of the following paragraph after paragraph (c)—
“(d) “small-scale gold miner” means a miner who, whether working on his or her own or with the assistance of one or more employees, is classifiable as a “micro-enterprise” in the mining and quarrying sector of the economy by reference to the Fourth and Fifth Schedules to the Small and Medium Enterprises Act [Chapter 24:12].”.

30 Amendment of Schedule to Chapter VII of Cap. 23:04

With effect from the 1st January, 2014, the Schedule to Chapter VII of the Finance Act [Chapter 23:04] is amended by the repeal in paragraph 1 (which fixes the rates of royalties for the purposes of section 245 of the Mines and Minerals Act [Chapter 21:05]) of the item on gold and the substitution of the following items—

“Gold produced by small-scale gold miners .................. 3
Gold produced by other miners .............................. 7”.

Amendments to other Acts relating to Mines and Minerals

31 New sections substituted for section 33 of Cap. 21:04

The Minerals Marketing Corporation Act [Chapter 21:04] is amended by the repeal of section 33 and the substitution of the following sections—

“33 Dividends and special dividends
(1) In this section and section 33A—

“Accountant-General” means the person appointed as such in terms of section 9 of the Public Finance Management Act [Chapter 22:19] (No. 11 of 2009);

“depletion fee” has the meaning given to it in section 33A;

“diamond” means a natural mineral consisting of pure crystallised carbon in isometric system, with a hardness on the Mohs (scratch) scale of 10, a specific gravity of approximately 3.25 and a refractive index of 2.24;

“gross value of the proceeds of the sale of diamonds” means the full value of such proceeds before any deduction by the Corporation, including any deduction that the Corporation would have been entitled, but for subsection (3), to make in terms of section 48, and any deduction of depletion or other fees;

“Reserve Bank” means the Reserve Bank of Zimbabwe referred to in section 4 of the Reserve Bank of Zimbabwe Act [Chapter 22:15] (No. 5 of 1999);

“special dividend” means the special dividend on the sales of diamonds by or on behalf of the Corporation that is payable in terms of subsection (3).

(2) Where in a financial year the revenues of the Corporation are more than sufficient—

(a) to meet the expenditure of the Corporation properly chargeable to revenue in that year; and

(b) to enable the Corporation to make provision for any taxes, duties or rates for which it is liable; and
(c) to permit the redemption on due date of the Corporation's debentures and other loan capital; and

(d) to enable the Corporation to make such appropriations to its general reserve in terms of section 36 as are necessary or desirable;

the Corporation shall pay out of the surplus such dividends to its shareholders as the Board may determine in relation to that year.

(3) Notwithstanding subsection (2), whenever the Corporation sells diamonds, whether on its own account or on behalf of any person with which or with whom the Corporation, or the State (in its own right or through the Zimbabwe Mining Development Corporation or through any other arm of the State) is in a joint venture or other association or arrangement for the exploration, extraction, exploitation, beneficiation or sale of diamonds, the Corporation shall pay to the Consolidated Revenue Fund a special dividend of fifteen per centum of the gross value of the proceeds of the sale of the diamonds.

(4) Subject to any Treasury instruction or interim directive referred to in subsection (5) or (11), the special dividend shall be payable no later than twenty-four hours after the acquittance by the Corporation of the export documentation relating to the sale of any batch of diamonds.

(5) The Accountant-General may, on behalf of the Treasury, issue instructions under section 78 (“Treasury instructions or directions”) of the Public Finance Management Act [Chapter 22:19] (No. 11 of 2009), to the following persons and on the following matters—

(a) to the Corporation on the manner of accounting for the proceeds of sales of diamonds;

(b) to the Corporation on the manner of payment of the special dividend;

(c) to the Reserve Bank on the opening or operation of any special account into which special dividends must be deposited and the disbursements therefrom made;

(d) to the Corporation and the Reserve Bank prescribing the maximum period—

(i) between the conclusion of any agreement for the sale of any batch of diamonds and the payment for them;

(ii) between the payment for any batch of diamonds and the acquittance by the Corporation of the export documentation relating to such payment;

(iii) between the acquittance by the Corporation of the export documentation relating to the sale of diamonds and the payment to the Consolidated Revenue Fund of the special dividend related to the sale.

(6) The Governor of the Reserve Bank shall issue directives in terms of the Exchange Control Act [Chapter 22:05] to the Corporation or any other person or class of persons who, in terms of regulations made under this Act, are exempted from compliance with all or any of the provisions of Part VI, on the following matters—
(a) the requirement of prior exchange control authority before
the export of diamonds, including the related requirements
that applications for such authority must be accompanied
by—

(i) a diamond valuation certificate issued by the Corporation
    relating to the sale of the diamonds in question;

(ii) a pro forma invoice relating to the sale of the diamonds
    in question;

(iii) a statement of the weight of the diamonds in question;

(iv) a statement of the gross and net value of the diamonds
    in question;

(b) the obligations on the part of the Reserve Bank to expedite
the processing of exchange control authority for the export
of any batch of diamonds in a timeous and expeditious
manner.

(7) Notwithstanding anything to the contrary in this Act, it shall
be the duty of the general manager of the Corporation to comply with
any Treasury instruction or Exchange Control directive issued to the
Corporation in terms of subsection (5) or (6), and in that case the general
manager of the Corporation must comply with the Treasury instruction or
Exchange Control directive within the period specified in that instruction or
directive, unless the general manager, in writing to the Accountant-General
or the Governor of the Reserve Bank (as the case may be), satisfies the
Accountant-General or the Governor that a longer time for compliance
in a particular case is justified or may be required.

(8) If the general manager of the Corporation to which a Treasury
instruction is issued in terms of subsection (5) fails to comply with it or
to comply with it timeously, he or she 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.

(9) If the general manager of the Corporation to whom an Exchange
Control directive is issued in terms of subsection (6) fails to comply with
it timeously, he or she shall be subject to the penalties provided under
Exchange Control Act [Chapter 22:05] for the breach of any directive
issued by the Governor of the Reserve Bank under that Act.

(10) Treasury instructions referred to in subsection (5) require the
prior approval of the Minister responsible for Finance in accordance with
section 78(3) of the Public Finance Management Act [Chapter 22:19]
(No. 11 of 2009), in order to be effective; however, despite that section,
they do not require to be published beforehand as a statutory instrument
or general notice in the Gazette, as long as they are so published within
thirty days of being issued.

(11) Until such time as Treasury instructions referred to in subsec­tion
(5) are issued, the Corporation and the general managers shall comply
with such written interim directives as the Governor of the Reserve Bank
may issue to them under the authority of this subsection on the matters
for which Treasury instructions may be issued under subsection (5).

(12) Interim directives referred to in subsection (11)—
in order to be effective—

(i) require the prior approval of the Minister responsible for Finance; and

(ii) must be published beforehand as a statutory instrument or general notice in the Gazette, or within thirty days of being issued;

(b) shall be treated for the purposes of subsections (7) and (8) as if they were Treasury instructions, that is to say, any breach thereof on the part of the general manager of the Corporation shall be a contravention of subsection (8).

(13) The Minister responsible for Mines may, by notice in a statutory instrument, extend the provisions of subsections (3) to (12) to any other precious stone or precious metal specified in the notice.

33A Depletion fees

(1) In this section—

“depletion fee”, in relation to a mineral marketed by the Corporation, means the fee ordinarily payable to the Corporation in consideration for the depletion of the mineral in respect of which it is paid;

“gross value of the proceeds of the sale of minerals” means the full value of such proceeds before any deduction by the Corporation, including any deduction that the Corporation would have been entitled to make in terms of section 48.

(2) Any depletion fee which, before the 1st January, 2014, was payable to the Corporation on the sale of any mineral shall, with effect from that date, be payable to the Consolidated Revenue Fund.

(3) If no depletion fee was charged by the Corporation on any mineral before the 1st January, 2014, such fee shall, with effect from such date, be payable to the Consolidated Revenue Fund at the rate fixed by the Corporation on the gross value of the proceeds of the sale of the mineral in question:

Provided that the Corporation shall not fix any depletion fee at a rate lower than two comma five per centum or higher than five per centum of the gross value of the proceeds of the sale of the mineral in question.

(4) The Accountant-General may issue to the general manager any written instructions as seem to the Accountant-General necessary to secure the timely collection and payment of depletion fees in terms of this section, and the general manager shall promptly comply with any such instructions.”.

32 Amendment of Cap. 21:05

The Mines and Minerals Act [Chapter 21:05] is amended—

(a) in section 199 (“Subsequent inspection certificates, etc.”)—

(i) by the insertion after subsection (1) of the following subsections—

“(1a) An application for an inspection certificate under subsection (1) shall be made in writing and shall—
(a) contain the prescribed information or declaration concerning work that has been done and will be done in connection with the block or mining lease concerned; and

(b) be accompanied by the prescribed fee.

(1b) Without derogation from subsection (1a), regulations in terms of section 403 may require an application under subsection (1) to contain updated information on—

(a) the extent of any quittance work or other work that will be required in terms of section 269 upon the cessation of mining operations in the block or mining lease concerned; and

(b) any provision which the applicant has made for meeting the cost of the work referred to in paragraph (a), and for meeting the cost of any other work required to protect or restore the environment; and

(c) other matters concerning the present or future environmental impact of the applicant’s mining operations.

(ii) by the repeal of subsections (6), (7) and (8);

(b) in Part XI (“Preservation of Mining Rights”) by the insertion after section 221 of the following sections—

“221A Notification if lessee of mining lease fails to obtain inspection certificate

If the lessee of a mining lease fails to obtain an inspection certificate within the period specified in this Part for the obtaining of the certificate, the mining commissioner shall without delay—

(a) serve a notice on the lessee calling on him or her to rectify the failure and informing him or her that if he or she does not do so the lease may be declared forfeited in terms of section 263; and

(b) send the Board a copy of the notice referred to in paragraph (a).

221B Retention licences

(1) Subject to section 199(3), if the holder of a registered block or mining lease fails, or has reason to believe that he or she is likely to fail, to develop or work, or adequately to develop or work, such block or mining lease by the time that an inspection certificate falls due, he or she may nevertheless, on payment of the prescribed fee, be given such certificate if he or she obtains a retention licence in accordance with this section.

(2) A holder of a block or the lessee of a mining lease may, at any time before an inspection certificate falls due, apply to the Board, through the mining commissioner, for a retention licence under subsection (1), and if the Board is satisfied that—

(a) the failure to develop or work, or adequately to develop or work such block or mining lease, is due to circumstances beyond the control of the holder and that he or she has made every effort to overcome them; or

(b) it is the holder’s declared intention to start or continue developing or working the block or mining lease within a
period of six months on a scale satisfactory to the Board; or

(c) general market conditions prevailing in respect of or any other circumstances relating to any mineral are such as to discourage the production of such mineral, and such market conditions or circumstances, as the case may be, have prevailed for a period of at least two years immediately preceding the date of the application; or

(d) there is reasonable cause for the delay in developing or working the block or mining lease or for not adequately developing or working such block or mining lease; or

(e) the block forms part of a series of not more than ten blocks contiguous to a main block being worked by the holder and is essential to the proper working of such main block;

the Board may recommend to the Minister, in writing, that he or she should issue a retention licence to the holder or lessee, and may recommend the period for which the licence should be issued and any terms and conditions that should attach to it.

(3) Upon receipt of a recommendation from the Board under subsection (2), the Minister may in his or her discretion issue a retention licence to the holder or lessee concerned for the period and subject to the conditions recommended by the Board:

Provided that, if the Minister refuses to issue a licence, or issues one for a different period or subject to different terms and conditions from those recommended by the Board, he or she shall inform the Board, in writing, of his or her reasons for doing so and the Board shall inform the holder or lessee accordingly.

(4) A retention licence issued under this section shall specify the period for which and the terms and conditions subject to which it is issued.

(5) The effect of a retention licence is that the holder of the licence—

(a) is granted protection against forfeiture of the block or lease to which the licence relates during the period of validity of the licence; and

(b) must be issued with an inspection certificate at any time it falls due during the period of validity of the licence.

(6) The holder of a retention licence may apply in accordance with this section for the issuance of a new retention licence no later than thirty days before the expiry of the current one, but no more than three consecutive retention licences may be issued.

(7) The Minister shall ensure that copies of every retention licence issued under this section are sent to the Board and the mining commissioner, and those copies shall be open to inspection by members of the public, free of charge, at all reasonable times during normal business hours.

221C Appeals under Part XI

(1) Any person who is aggrieved by a mining commissioner's—
(a) refusal to issue an inspection certificate or an extra work certificate; or
(b) assessment of work done for the purposes of this Part;
may appeal to the Board against the refusal or assessment, and the Board, after making such investigation into the matter as it considers necessary, may confirm, vary or set aside the mining commissioner's decision.

(2) Any person who is aggrieved by the Board's decision on an appeal in terms of subsection (1) may appeal to the Administrative Court against the decision.

(3) Any person who is aggrieved by the Board's—
(a) decision under section 199(5) to order the forfeiture of a block or mining lease; or
(b) refusal to recommend to the Minister the issue of a retention licence under section 221B;
may, within thirty days after being notified of the decision or refusal, appeal against it to the Minister.

(4) On an appeal in terms of subsection (3), the Minister may confirm, vary or set aside the Board's decision.

(5) A person who is aggrieved by the Minister's—
(a) decision on an appeal in terms of subsection (4); or
(b) refusal to issue a retention licence under section 221B or by any term or condition of such a licence;
may appeal against the decision or refusal to the Administrative Court.

(6) The noting of an appeal under subsection (3) or (5) shall suspend the forfeiture of the block or mining lease until the decision of the Minister or the Administrative Court, as the case may be, has been given.”.

33 New section substituted for section 33 of Cap. 21:08

The Zimbabwe Mining Development Corporation Act [Chapter 21:08] is amended by the repeal of section 33 and the substitution of—

“33 Dividends, special dividends and repayment of capital

(1) In this section—

“Accountant-General” means the person appointed as such in terms of section 9 of the Public Finance Management Act [Chapter 22:19] (No. 11 of 2009);

“depletion fee”, in relation to a mineral marketed by the Minerals Marketing Corporation, means a fee ordinarily payable to the Minerals Marketing Corporation in consideration for the depletion of the mineral in respect of which it is paid;

“diamond” means a natural mineral consisting of pure crystallised carbon in isometric system, with a hardness on the Mohs (scratch) scale of 10, a specific gravity of approximately 3.25 and a refractive index of 2.24;

“Minerals Marketing Corporation” means the Minerals Marketing Corporation of Zimbabwe established by section
3 of the Minerals Marketing Corporation Act [Chapter 21:04];
“gross value of the proceeds of the sale of diamonds” means the full value of such proceeds before any deduction by the Corporation and the Minerals Marketing Corporation, including any deduction that the Minerals Marketing Corporation would have been entitled, but for subsection (3), to make in terms of section 48 (“Commission and expenses of Corporation”) of the Minerals Marketing Corporation Act [Chapter 21:04], and any deduction of depletion or other fees;
“Reserve Bank” means the Reserve Bank of Zimbabwe referred to in section 4 of the Reserve Bank of Zimbabwe Act [Chapter 22:15] (No. 5 of 1999);
“special dividend” means the special dividend on the sales of diamonds by or on behalf of the Corporation that is payable in terms of subsection (3).

(2) Where in a financial year the revenues of the Corporation are more than sufficient—
(a) to meet the expenditure of the Corporation properly chargeable to revenue in that year; and
(b) to enable the Corporation to make provision for any taxes, duties or rates for which it is liable; and
(c) to permit the redemption on due date of the Corporation’s debentures and other loan capital; and
(d) to enable the Corporation to make such appropriations to its general reserve in terms of section 30 as are necessary or desirable;
the Corporation shall pay out of the surplus such dividends to its shareholders as the Board may determine in relation to that year.

(3) Notwithstanding subsection (2), whenever the Corporation sells diamonds, whether on its own account or on behalf of any person with which or with whom it is in a joint venture or other association or arrangement for the exploration, extraction, exploitation, beneficiation or sale of diamonds, the Minerals Marketing Corporation shall, on behalf of the Corporation, pay to the Consolidated Revenue Fund a special dividend of fifteen per centum of the gross value of the proceeds of the sale of the diamonds.

(4) Subject to any Treasury instruction or interim directive referred to in subsection (5) or (11), the special dividend shall be payable no later than twenty-four hours after the acquittance by the Minerals Marketing Corporation of the export documentation relating to the sale of any batch of diamonds.
(5) The Accountant-General may, on behalf of the Treasury, issue instructions under section 78 (“Treasury instructions or directions”) of the Public Finance Management Act [Chapter 22:19] (No. 11 of 2009), to the following persons and on the following matters—

(a) to the Corporation and the Minerals Marketing Corporation on the manner of accounting for the proceeds of sales of diamonds;

(b) to the Corporation and the Minerals Marketing Corporation on the manner of payment of the special dividend;

(c) to the Reserve Bank on the opening or operation of any special account into which special dividends must be deposited and the disbursements therefrom made;

(d) to the Corporation, the Minerals Marketing Corporation and the Reserve Bank prescribing the maximum period—

(i) between the conclusion of any agreement for the sale of any batch of diamonds and the payment for them;

(ii) between the payment for any batch of diamonds and the acquittance by the Minerals Marketing Corporation of the export documentation relating to such payment;

(iii) between the acquittance by the Minerals Marketing Corporation of the export documentation relating to the sale of diamonds and the payment to the Consolidated Revenue Fund of the special dividend related to the sale.

(6) The Governor of the Reserve Bank shall issue directives in terms of the Exchange Control Act [Chapter 22:05] to the Corporation, the Minerals Marketing Corporation or any other person or class of persons who, in terms of regulations made under Minerals Marketing Corporation Act [Chapter 21:04], are exempted from compliance with all or any of the provisions of Part VI of that Act, on the following matters—

(a) the requirement of prior exchange control authority before the export of diamonds, including the related requirements that applications for such authority must be accompanied by—

(i) a diamond valuation certificate issued by the Minerals Marketing Corporation of Zimbabwe relating to the sale of the diamonds in question;

(ii) a pro forma invoice relating to the sale of the diamonds in question;

(iii) a statement of the weight of the diamonds in question;

(iv) a statement of the gross and net value of the diamonds in question;

(b) the obligations on the part of the Reserve Bank to expedite the processing of exchange control authority for the export of any batch of diamonds in a timeous and expeditious manner.

(7) Notwithstanding anything to the contrary in this Act or the Minerals Marketing Corporation Act, it shall be the duty of—
(a) the general manager of the Corporation to comply with any Treasury instruction or Exchange Control directive issued to the Corporation in terms of subsection (5) or (6);

(b) the general manager of the Minerals Marketing Corporation to comply with any Treasury instruction or Exchange Control directive issued to the Minerals Marketing Corporation in terms of subsection (5) or (6),

and in each case the general manager of the Corporation or of the Minerals Marketing Corporation must comply with the Treasury instruction or Exchange Control directive within the period specified in that instruction or directive, unless the general manager concerned, in writing to the Accountant-General or the Governor of the Reserve Bank (as the case may be), satisfies the Accountant-General or the Governor that a longer time for compliance in a particular case is justified or may be required.

(8) If the general manager of the Corporation or of the Minerals Marketing Corporation to which a Treasury instruction is issued in terms of subsection (5) fails to comply with it or to comply with it timeously, he or she 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.

(9) If the general manager of the Corporation or of the Minerals Marketing Corporation to whom an Exchange Control directive is issued in terms of subsection (6) fails to comply with it timeously, he or she shall be subject to the penalties provided under Exchange Control Act [Chapter 22:05] for the breach of any directive issued by the Governor of the Reserve Bank under that Act.

(10) Treasury instructions referred to in subsection (5) require the prior approval of the Minister responsible for Finance in accordance with section 78(3) of the Public Finance Management Act [Chapter 22:19] (No. 11 of 2009), in order to be effective; however, despite that section, they do not require to be published beforehand as a statutory instrument or general notice in the Gazette, as long as they are so published within thirty days of being issued.

(11) Until such time as Treasury instructions referred to in subsection (5) are issued, the Corporation and the Minerals Marketing Corporation and their general managers shall comply with such written interim directives as the Governor of the Reserve Bank may issue to them under the authority of this subsection on the matters for which Treasury instructions may be issued under subsection (5).

(12) Interim directives referred to in subsection (11)—

(a) in order to be effective—

(i) require the prior approval of the Minister responsible for Finance; and

(ii) must be published beforehand as a statutory instrument or general notice in the Gazette, or within thirty days of being issued;

(b) shall be treated for the purposes of subsections (7) and (8) as if they were Treasury instructions, that is to say, any
breach thereof on the part of the general manager of the Corporation or Minerals Marketing Corporation shall be a contravention of subsection (8).

(13) The Minister responsible for Mines may, by notice in a statutory instrument, extend the provisions of subsections (3) to (12) to any other precious stone or precious metal specified in the notice.”.