

H.B. 3, 2021.]

COPPER CONTROL AMENDMENT BILL, 2021

MEMORANDUM

The purpose of this Bill is to amend the Copper Control Act [*Chapter 14:06*]. The vandalism of utilities through theft of copper cables has been exacerbated by the non-provision of specific offences in relation to these acts and non-deterrent penalties in the Copper Control Act. In order to address the foregoing the Copper Control Act, should be amended to make it mandatory for all copper dealers to have certificates of origins for all the copper in their possession and impose minimum mandatory penalties for offenders.

Clause 1

This clause sets out the short title of the Bill.

Clause 2

This clause amends section 2 by insertion of new definition of “putative dealer”.

Clause 3

This clause amends section 4(3) of the principal Act by awarding administrative powers of setting licence fees to the Minister in consultation with technical expertise in his Ministry.

Clause 4

This clause inserts a new section that makes it mandatory for all copper dealers to have a certificate of origin for all copper in their possession. This certificate of origin will include the names and addresses of both the seller and the purchaser, the description of copper, quantity, reasons for disposal. This section will further set a minimum mandatory sentence of ten (10) years without the option of a fine for failure to produce a certificate of origin. For security reasons the certificate must be endorsed by the police in the prescribed form and manner to be provided by the police.

Clause 5

This clause amends section 9 of the Principle Act by deleting the penalty of a fine not exceeding level 8 or to imprisonment for a period not exceeding two years and make necessary substitution in order to bring the Act in line with the minimum mandatory of 10 years.

Clause 6

This clause amends section 10 of the Principle Act by deleting the penalty of a fine not exceeding level 8 or to imprisonment for a period not exceeding two years and make necessary substitution in order to bring the Act in line with the minimum mandatory of 10 years.

Clause 7

This clause inserts a new section to provide for the crime of vandalism of any item or essential infrastructure through the theft of copper cables. The new section will also set a mandatory sentence for this crime at a minimum of ten (10) years imprisonment without the option of a fine.

Clause 8

This clause amends section 13 by the insertion of a new subsection with the existing section being subsection (1) giving powers to the court, to order that any vehicle or any other device used in transporting the illegal copper be forfeited to the State upon convicting a person for an offence under this Act.

BILL

To amend the the Copper Control Act [*Chapter 14:06*] and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament and the President of Zimbabwe.

5 **1 Short title**

This Act may be cited as the Copper Control Amendment Act, 2021.

2 Amendment of section 2 of Cap. 14:06

Section 2 (“Interpretation”) of the Copper Control Act [*Chapter 14:06*] (hereinafter called the “principal Act”) is amended by the insertion of the following definitions—

10 ““police district” means an area so designated by the Commissioner-General of Police;

 “putative dealer” means a person who is presumed (in the absence of evidence to the contrary) to be in possession of copper for the purpose of dealing in it;

15 “utilities” means any of the services referred to in item 12 of the Fifth Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*];”.

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3 Amendment of section 4 of Cap. 14:06

Section 4 (“Dealer’s licence”) of the Copper Control Act [*Chapter 14:06*] (hereinafter called the principal Act) is amended by the deletion in subsection (3) of “Parliament” and substitution of “Minister in consultation with the minister responsible for finance”.

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4 Insertion of new section to Cap.14:06

The principal Act is amended by the insertion of the following section after section 4—

“4A Certificate of origin

(1) No person shall, either as a principal or agent, deal in or possess copper as a dealer or putative dealer, unless he or she is a holder of a prescribed certificate of origin.

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(2) The certificate of origin shall include the following—

- (a) the name and address of both the seller and purchaser of the copper; and
- (b) the description of the copper; and
- (c) the quantity of the copper; and
- (d) the reasons for disposal; and
- (e) a written endorsement by or on behalf of the police officer in command of a police district that the copper is lawfully sold and purchased.

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(3) Any person who contravenes subsection (1) shall be guilty of an offence, and if there are no special circumstances peculiar to the case, be liable to imprisonment for a period not less than ten years without the option of a fine”.

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5 Amendment of section 9 of Cap. 14:06

Section 9 (“dealer to account for stolen copper”) of the principal Act is amended by the deletion of “liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment” and substitution of “if there are no special circumstances peculiar to the case, be liable to imprisonment for a period not less than ten years without the option of a fine”.

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6 Amendment of section 10 of Cap. 14:06

Section 10 (“failure to give satisfactory account of possession of copper”) of the principal Act is amended by the deletion of “liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment” and substitution of “if there are no special circumstances peculiar to the case, be liable to imprisonment for a period not less than ten years without the option of a fine”.

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7 Insertion of new sections to Cap.14:06

The principal Act is amended by the insertion of the following sections after section 10—

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“10A Vandalism of any item or essential infrastructure through theft of copper cables

(1) Any person who unlawfully, knowingly and intentionally—

- (a) tampers with, damages or destroys utilities through theft of copper cables; or

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(b) colludes with or assists another person in the commission, performance or carrying out of any activity referred to in paragraph (a), and who knows or ought reasonably to have known or suspected that copper cables were stolen;

5 shall be guilty of an offence, and if there are no special circumstances peculiar to the case, be liable to imprisonment for a period not less than ten years without the option of a fine.

(2) If special circumstance peculiar to the case are found in relation to a person convicted for an offence under subsection (1), he or she shall be liable to a fine not exceeding level 14 or imprisonment for a period not exceeding ten years, or both.

10B Dealing in stolen copper

(1) Any person who deals in, or has in his or her possession, stolen copper shall be guilty of dealing in or possession of stolen copper, as the case may be, and if there are no special circumstances peculiar to the case liable to imprisonment for a period not less than ten years without the option of a fine.

(2) If special circumstance peculiar to the case are found in relation to a person convicted for an offence under subsection (1), he or she shall be liable to a fine not exceeding level 14 or imprisonment for a period not exceeding ten years, or both.”.

8 Amendment of section 13 of Cap. 14:06

Section 13 (“Penalty and confiscation”) of the principal Act is amended by the insertion of the following new subsection with the existing section being subsection (1)—

“ (2) The court, in convicting a person for an offence under this Act, the court shall order that any vehicle or any other device used in transporting the illegal copper be forfeited to the State.”.

