

Zambia

## Tobacco Act, 2022

Act 10 of 2022

Legislation as at 11 August 2022

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# Zambia

## Tobacco Act, 2022

### Act 10 of 2022

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Assented to on 9 August 2022

Commenced on 11 August 2022

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**An Act to provide for the promotion, regulation and monitoring of the production, marketing and packing of tobacco in the Republic; provide for the regulation of the import of tobacco to the Republic; continue the existence of the Tobacco Board of Zambia and re-define its functions; re-constitute the composition of the Board and revise the Board functions; provide for the imposition and collection of a levy on tobacco grown in the Republic; repeal and replace the Tobacco Act, 1967 and the Tobacco Levy Act, 1967; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia.

### Part I – Preliminary provisions

#### 1. Short title

This Act may be cited as the Tobacco Act, 2022.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**associate**" has the meaning assigned to the word in the Anti Corruption Act, 2012;

*[Act No. 3 of 2012]*

"**Board**" means the Board of the Tobacco Board of Zambia constituted under [section 5](#);

"**buyer**" means a person who is licensed to buy tobacco from a grower at the licensed sales floor;

"**certificate of registration**" means a certificate of registration issued under [section 11](#);

"**Chairperson**" means the person appointed as Chairperson of the Board under [section 5](#);

"**emoluments**" has the meaning assigned to the word in the Constitution;

*[Cap. 1]*

"**Emoluments Commission**" means the Emoluments Commission established by the Constitution;

*[Cap. 1]*

"**Executive Director**" means the person appointed as Executive Director of the Tobacco Board of Zambia under [section 8](#);

"**export on consignment**" means the consignment of tobacco to an agent, factor or commission agent for purposes of sale outside the Republic;

"**external market**" means the demand for tobacco in any country outside the Republic;

"**Fund**" means the Tobacco Levy Fund established under [section 50](#);

"**grader**" means any person who grades tobacco as a business or trade and "grading" shall be construed accordingly;

"**grower**" means a person who is registered to grow tobacco for purposes of sale on a licensed sales floor;

"**inspector**" means a person appointed as an inspector under [section 41](#);

"**internal market**" means the demand for tobacco for the purposes of manufacture in the Republic;

"**legally disqualified**" means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019;

[Act No. 6 of 2019]

"**licence**" means a licence issued under [section 19](#);

"**licensed sales floor**" means a sales floor licensed by the Tobacco Board of Zambia under Part IV for the purpose of buying and selling tobacco;

"**licensed grader**" means a person licensed by the Tobacco Board of Zambia to grade tobacco under Part IV;

"**leviable tobacco**" means tobacco prescribed as leviable tobacco under [section 46](#);

"**levy**" means a levy imposed under this Act;

"**manufacture**" in relation to tobacco, means to subject tobacco to a process or treatment other than butting, thrashing, stripping or re-drying, and cognate expressions shall be construed accordingly;

"**member**" means a member of the Board;

"**pool**" means a centre established under [section 54](#) where, on the instruction of the Tobacco Board of Zambia, surplus tobacco is delivered by a grower and stored for disposal by the Tobacco Board of Zambia;

"**register**" means the register referred to under [section 17](#);

"**relative**" has the meaning assigned to the word in the Anti-Corruption Act, 2012;

[Act No. 3 of 2012]

"**sales floor**" means the premises used for the sale of saleable tobacco;

"**saleable tobacco**" means any class of tobacco which is prescribed by the Minister under [section 39](#);

"**sales supervisor**" means a person appointed as sales supervision under [section 36](#);

"**Secretary**" means the person appointed as Secretary under [section 8](#);

"**selling season**" means the period in each year fixed by the Tobacco Board of Zambia during which saleable tobacco may be sold;

"**surplus tobacco**" means saleable tobacco in excess of registered production quota;

"**tobacco**" means unmanufactured tobacco including tobacco stems of a class prescribed by the Minister under [section 39](#);

"**Tobacco Board of Zambia**" means the Tobacco Board of Zambia continued in existence under [section 3](#);

"**unsold tobacco**" means tobacco that remains on the licensed sale floor after the last day of the selling season;

"**Vice-Chairperson**" means the person elected as Vice-Chairperson of the Board under [section 5](#); and

"**Zambia Bureau of Standards**" means the Zambia Bureau of Standards established under the Standards Act, 2017.

[Act No. 4 of 2017]

## Part II – Tobacco Board of Zambia

### 3. Continuation of Tobacco Board of Zambia

- (1) The Tobacco Board of Zambia established under the repealed Act is continued in existence under this Act as a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do acts and things that a body corporate may, by law, do or perform.
- (2) The First Schedule applies to the Tobacco Board of Zambia.

### 4. Functions of Tobacco Board of Zambia

The functions of the Tobacco Board of Zambia are to—

- (a) promote, protect and maintain the production, sale, preparation for subsequent use and export of tobacco grown in the Republic;
- (b) regulate and monitor the production, marketing, import and export of tobacco;
- (c) carry out tobacco research and ensure quality standards of tobacco as approved by the Zambia Bureau of Standards;
- (d) collect information relating to the production, marketing, manufacture and consumption of tobacco within and outside the Republic;
- (e) provide and operate services and other facilities that may be necessary for the tobacco industry;
- (f) facilitate the production of tobacco or tobacco seed as and when the Tobacco Board of Zambia is of the opinion that it is in the best interests of the tobacco industry of the Republic to do so;
- (g) buy tobacco, in consultation with the Minister, if it is in the best interests of the tobacco industry to buy that tobacco;
- (h) promote, protect and maintain the sale of tobacco grown in the Republic, having regard to buyers and trade interests and the stability of the market; and
- (i) advise the Minister on matters relating to tobacco.

### 5. Establishment of Board

- (1) There is constituted a Board of the Tobacco Board of Zambia which consists of the following part-time members appointed by the Minister:
  - (a) a representative each of the ministry responsible for—
    - (i) agriculture;
    - (ii) commerce; and
    - (iii) finance;
  - (b) a representative of the Attorney-General;
  - (c) a representative of the Zambia Chamber of Commerce and Industry;
  - (d) a representative of the Zambia Environmental Management Agency;
  - (e) a representative each of an association representing
    - (i) small scale tobacco growers; and
    - (ii) large scale tobacco growers; and

- (f) a person with proven knowledge and experience in matters relevant to this Act.
- (2) The ministries, institutions, or organisations under subsection (1)(a), (b), (c), (d) and (e) shall nominate their representatives for appointment by the Minister.
- (3) The Minister shall appoint the Chairperson of the Board from among the members of the Board.
- (4) The members shall elect the Vice-Chairperson from among themselves.
- (5) A person shall not be appointed as a member of the Board if that person is—
  - (a) not a citizen;
  - (b) an employee of the Tobacco Board of Zambia;
  - (c) convicted of an offence under any written law and is sentenced to imprisonment for a term exceeding six months without the option of a fine;
  - (d) legally disqualified; or
  - (e) an undischarged bankrupt.
- (6) The First Schedule applies to the Board.

## 6. Functions of Board

- (1) Subject to the other provisions of this Act, the Board shall provide strategic policy direction to the Tobacco Board of Zambia.
- (2) Despite the generality of subsection (1), the functions of the Board are to—
  - (a) approve the annual budget estimates and financial statements of the Tobacco Board of Zambia;
  - (b) approve the annual work plan and activity reports of the Tobacco Board of Zambia;
  - (c) promote effective corporate governance of the Tobacco Board of Zambia; and
  - (d) formulate the policies, programmes and strategies of the Tobacco Board of Zambia.

## 7. Delegation of functions

- (1) The Board may, on conditions that the Board considers necessary, delegate any of the Board's functions to the Executive Director.
- (2) A delegation made under subsection (1) shall not prevent the Board from performing the delegated function.
- (3) The Minister may give to the Board general or specific directions, which are consistent with the provisions of this Act, relating to the performance of its functions and the Board shall give effect to those directions.

## 8. Executive Director, Secretary and other staff

- (1) The Board shall appoint an Executive Director who shall be—
  - (a) the chief executive officer of the Tobacco Board of Zambia; and
  - (b) responsible for the day-to-day administration of the Tobacco Board of Zambia.
- (2) The Executive Director shall be an *ex-officio* member of the Board.

- (3) The Board shall appoint a Secretary who shall perform corporate secretarial duties for the Board and other functions as the Tobacco Board of Zambia may determine, under the direction of the Board and the Executive Officer.
- (4) The Board shall appoint inspectors and other staff of the Tobacco Board of Zambia that the Tobacco Board of Zambia considers necessary for the performance of the Board's functions.
- (5) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Executive Director, Secretary, inspectors and other staff of the Tobacco Board of Zambia.
- (6) The Board shall determine the terms and conditions of service, other than emoluments, of the Executive Director, Secretary, inspectors and other staff of the Tobacco Board of Zambia.

### **Part III – Registration of growers**

#### **9. Prohibition of growing tobacco without certificate**

- (1) A person shall not grow tobacco for purposes of sale on a licensed sales floor without a certificate of registration issued under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

#### **10. Registration of growers**

- (1) Subject to the provisions of this section, a person who intends to grow tobacco for purposes of sale on a licensed sales floor shall apply to the Tobacco Board of Zambia for registration as a grower in the prescribed manner and form and on payment of a prescribed fee.
- (2) An application under subsection (1) shall be made to the Executive Director.
- (3) The Tobacco Board of Zambia shall, within thirty days of receipt of an application under subsection (1), grant or reject the application and inform the applicant of the decision of the Tobacco Board of Zambia.

#### **11. Certificate of registration**

- (1) The Tobacco Board of Zambia shall, where the Tobacco Board of Zambia grants an application under [section 10](#), issue the applicant with a certificate of registration in a prescribed form.
- (2) The Minister may, in consultation with the Tobacco Board of Zambia, by statutory instrument, prescribe—
  - (a) classes of tobacco for purposes of an application under this Part;
  - (b) the registration period in respect of classes of tobacco specified within which growers or intended growers of any specified classes of tobacco shall register under this Act; and
  - (c) the duration of registration.

#### **12. Allotment of registered number to grower**

- (1) The Executive Director shall allot a registered number to each grower for each class of tobacco to be grown by that grower in each season.
- (2) A registered number allotted under subsection (1) is not transferable without the written consent of the grower to whom the number is allotted and the Executive Director.

- (3) The Executive Director may, on an application by a grower and with the approval of the Board, cancel any registered number allotted to a registered grower.

### 13. Prohibition against disclosure of allotment number

- (1) A person shall not disclose to another person the number allotted to the grower under [section 12](#).
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- (3) Subsection (1) does not apply to a disclosure—
  - (a) made by an official of the Tobacco Board of Zambia in the course of duties;
  - (b) necessary for the proper conduct of the sale of any tobacco;
  - (c) made by the owner of a bale of tobacco on which the allotment number appears;
  - (d) made with the permission of the owner of the allotment number; or
  - (e) made with the authority of the Minister or Board.

### 14. Suspension or revocation of registration

- (1) Subject to this Act or any other written law, the Tobacco Board of Zambia may suspend or revoke a certificate of registration if the holder of the certificate of registration—
  - (a) obtained the certificate through fraud, misrepresentation or concealment of a material fact;
  - (b) fails to comply with a term or condition of the certificate; or
  - (c) contravenes a provision of this Act.
- (2) In addition to subsection (1), the Tobacco Board of Zambia may, in the public interest, suspend or revoke a certificate of registration.
- (3) The Tobacco Board of Zambia shall, before suspending or revoking a certificate of registration in accordance with subsection (1), notify the holder of the certificate of registration of its intention to suspend or revoke the certificate and shall—
  - (a) give reasons for the intended suspension or revocation; and
  - (b) require the holder of the certificate of registration to show cause, within a period of not more than thirty days, why the certificate of registration should not be suspended or revoked.
- (4) The Tobacco Board of Zambia shall not suspend or revoke a certificate of registration under this section if the holder of the certificate of registration takes remedial measures to the satisfaction of the Tobacco Board of Zambia within the period specified under subsection (3).
- (5) The Tobacco Board of Zambia shall, in making its final determination on the suspension or revocation of a certificate of registration, consider the submissions made by the holder of the certificate of registration under subsection (3).
- (6) The Tobacco Board of Zambia may suspend or revoke a certificate of registration if the holder of the certificate after being notified under subsection (3) fails to show cause or does not take any remedial measures, to the satisfaction of the Tobacco Board of Zambia, within the time specified in that subsection.
- (7) A holder of the certificate of registration shall, where a certificate of registration is revoked in accordance with this section, surrender that certificate to the Tobacco Board of Zambia, subject to the conditions that the Tobacco Board of Zambia may impose.

### **15. Duration of certificate of registration**

A certificate of registration granted under this Part shall be valid for three years and may be renewed on the terms and conditions as prescribed.

### **16. Returns by grower**

- (1) A grower shall submit to the Executive Director a return relating to the grower's tobacco in a prescribed manner and form.
- (2) A return referred to under subsection (1) shall include—
  - (a) the grower's undertakings on issues of—
    - (i) child labour;
    - (ii) afforestation;
    - (iii) tobacco nesting;
    - (iv) alternative crop production;
    - (v) good crop husbandry practices; and
    - (vi) safe working environment for the employees; and
  - (b) other information that the Tobacco Board of Zambia may require.

### **17. Register of growers**

- (1) The Tobacco Board of Zambia shall cause to be kept a register of growers in the prescribed form.
- (2) The register shall be kept by the Secretary at the offices of the Tobacco Board of Zambia, and shall be open for inspection by members of the public during office hours on payment of a fee that the Tobacco Board of Zambia may determine.
- (3) The Executive Director may, on an application by a person, issue to the person a certified extract from the register on payment of a fee that the Tobacco Board of Zambia may determine.

## **Part IV – Licensing graders, buyers and sales floors**

### **18. Prohibition to grade, buy or use premises to sell tobacco without licence**

- (1) A person shall not carry on business as a grader, buyer, or use any premises as a sales floor for the sale of tobacco, without a licence issued under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

### **19. Application to operate as grader, buyer or use premises to sell tobacco**

- (1) A person who intends to carry on business as a grader, buyer, or use any premises as a sales floor for the sale of tobacco, shall apply to the Tobacco Board of Zambia for a licence in the prescribed manner and form on payment of the prescribed fee.
- (2) An application made under subsection (1) shall be made to the Executive Director.
- (3) The Tobacco Board of Zambia shall, within thirty days of receipt of an application under subsection (2), grant or reject the application and inform the applicant of the decision of the Tobacco Board of Zambia.

- (4) Where the Tobacco Board of Zambia fails to inform the applicant of its decision on an application for a licence, within the period specified in subsection (3), the application shall be deemed to have been granted.
- (5) The Tobacco Board of Zambia shall, where the Tobacco Board of Zambia grants an application under subsection (3), issue the applicant with a licence in a prescribed form authorizing the applicant to carry on the business of a grader, buyer, or use any premises as a sales floor for the sale of tobacco, on conditions that the Tobacco Board of Zambia may determine.
- (6) Despite subsection (5), the Minister may, in consultation with the Tobacco Board of Zambia, prescribe, by statutory instrument, the licensed sales floor where a buyer may buy tobacco.

## 20. Suspension or revocation of licence

- (1) Subject to this Act or any other written law, the Tobacco Board of Zambia may suspend or revoke a licence issued under this Part if the holder of the licence—
  - (a) obtained the licence through fraud, misrepresentation or concealment of a material fact;
  - (c) fails to comply with a term or condition of the licence; or  
*[Please note: numbering as in original.]*
  - (d) contravenes a provision of this Act.
- (2) In addition to subsection (1), the Tobacco Board of Zambia may, in the public interest, suspend or revoke a licence.
- (3) The Tobacco Board of Zambia shall, before suspending or revoking a licence in accordance with subsection (1), notify the holder of the licence of its intention to suspend or revoke the licence and shall—
  - (a) give reasons for the intended suspension or revocation; and
  - (b) require the holder of the licence to show cause, within a period of not more than thirty days, why the licence should not be suspended or revoked.
- (4) The Tobacco Board of Zambia shall not suspend or revoke a licence under this section if the holder of the licence takes remedial measures to the satisfaction of the Tobacco Board of Zambia within the period specified under subsection (3).
- (5) The Tobacco Board of Zambia shall, in making its final determination on the suspension or revocation of a licence, consider the submissions made by the holder of the licence under subsection (3).
- (6) The Tobacco Board of Zambia may suspend or revoke a licence if the holder of the licence after being notified under subsection (3) fails to show cause or does not take any remedial measures, to the satisfaction of the Tobacco Board of Zambia, within the time specified in that subsection.
- (7) Where a licence is revoked in accordance with this section, the holder of the licence shall surrender that licence to the Tobacco Board of Zambia, subject to the conditions that the Tobacco Board of Zambia may impose.

## 21. Period of validity of licence

A licence issued by the Tobacco Board of Zambia under this Part shall be valid for three years.

## 22. Renewal of licence

- (1) A holder of a licence issued under this Part may, three months before the expiry of a licence, apply to the Tobacco Board of Zambia for the renewal of the licence in the prescribed manner and form on payment of the prescribed fee.

- (2) The Tobacco Board of Zambia shall, within thirty days of receipt of the application under subsection (1) approve or reject the application.
- (3) The Tobacco Board of Zambia shall, where it rejects an application for renewal under subsection (2) inform the applicant, giving reasons for the rejection.

### **23. Exemption to use sales floor without licence**

- (1) The Tobacco Board of Zambia may use any premises as a sales floor for the sale of tobacco without a licence.
- (2) The provisions of this Part relating to an application and other requirement of licences shall not apply for the purposes of subsection (1).

## **Part V – Sale of tobacco**

### **24. Prohibition of buying or selling at unlicensed sales floor**

- (1) A person shall not sell or buy saleable tobacco on an unlicensed sales floor.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) Subsection (1) does not apply to—
  - (a) a further sale or purchase of saleable tobacco after it has been sold on a licensed sales floor;
  - (b) the surplus or unsold tobacco which is designated for disposal under [section 35](#); or
  - (c) a trade sample or a sample for use in research not exceeding two kilogrammes and three hundred grammes in weight, respectively.

### **25. Marking of bales of saleable tobacco**

- (1) A grower of saleable tobacco shall mark that grower's bales of saleable tobacco as prescribed.
- (2) A grower shall not deliver for sale to a licensed sales floor a bale of saleable tobacco which—
  - (a) was grown by that grower and is marked with a number other than the number allotted to that grower; or
  - (b) was not grown by that grower and is marked with the allotted number of that grower.
- (3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

### **26. Holder of sales floor licence to sell tobacco of grower**

- (1) A holder of a sales floor licence shall not sell or permit the sale of saleable tobacco which is grown in the Republic on the sales floor unless the tobacco is grown and is delivered by, or on behalf of, a grower.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

## 27. Delivery in excess of marketing quota

- (1) A grower commits an offence if that grower delivers or causes to be delivered saleable tobacco to a licensed sales floor in excess of the marketing quota.
- (2) A person who contravenes subsection (1) shall not, for a period that the Tobacco Board of Zambia determines, deliver or cause to be delivered saleable tobacco to a licensed sales floor for sale or export of saleable tobacco.

## 28. Import of saleable tobacco for sale in Republic

- (1) A person shall not import saleable tobacco not grown in the Republic for sale in the Republic.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) Despite subsection (1), the Minister may, in consultation with the Tobacco Board of Zambia, by statutory instrument, prescribe a class of saleable tobacco not grown in the Republic to be imported for purposes of sale on a licensed sales floor.
- (4) The Tobacco Board of Zambia may issue to holder of a licensed sales floor a permit to accept for sale, sell or authorize the sale of saleable tobacco imported into the Republic under any regulation made in accordance with subsection (3).
- (5) A person shall not accept for sale, sell or authorize the sale of imported saleable tobacco not grown in the Republic without a permit issued by the Tobacco Board of Zambia under subsection (4).
- (6) A person who contravenes subsection (5) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

## 29. Duties of holder of licence of sales floor on sale of imported saleable tobacco

- (1) A holder of a sales floor licence or an agent of a holder of a sales floor licence shall, before the saleable tobacco which is not grown in the Republic is sold on a licensed sales floor, publicly announce on that licensed sales floor the name of the country from which the tobacco was grown.
- (2) A holder of the sales floor licence or an agent of a holder of a sales floor licence shall, for the purposes of tobacco referred to under subsection (1)—
  - (a) be auctioned in lots separate and apart from saleable tobacco which is grown within the Republic; and
  - (b) not be purchased for the internal market without the authority, in writing, of the Minister.
- (3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

## 30. Sale of saleable tobacco grown in earlier season

- (1) A grower who holds a permit issued under [section 28](#) by the Tobacco Board of Zambia to sell saleable tobacco from any selling season may deliver that tobacco to a licensed sales floor for sale in any later selling season if an inspector appointed under the Plant Pests and Diseases Act issues a certificate to that grower to the effect that the—
  - (a) tobacco has been fumigated in the manner prescribed; and
  - (b) tobacco or a representative sample thereof has been inspected as prescribed and no evidence of the presence of any living pest of tobacco has been found in the tobacco.

- (2) An inspector, shall issue a certificate referred to under subsection (1) in a prescribed manner and form not more than thirty days before the tobacco is delivered to the licensed sales floor.
- (3) A sales supervisor shall, before the saleable tobacco is sold on a sales floor under subsection (1), publicly announce the year in which the tobacco was grown and that the certificate required under this section has been issued in respect of the tobacco.

*[Cap. 233]*

### **31. Saleable tobacco to be sold on sales days in the selling season**

- (1) A person shall not sell, or permit the sale of, saleable tobacco on any licensed sales floor—
  - (a) on a day or at an hour of a day in any selling season which is not fixed by the Tobacco Board of Zambia for the sale of saleable tobacco of that class; or
  - (b) at any time in any selling season during which the Tobacco Board of Zambia or a sales supervisor has prohibited sales on the sales floor as prescribed.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

### **32. Weighing, selling and commission charges of holder of sales floor licence**

- (1) The Tobacco Board of Zambia may, with the approval of the Minister, on the application of a holder of a sales floor licence authorize that holder of a sales floor licence to deduct charges referred to under subsection (2) from the purchase price of the tobacco.
- (2) A holder of a sales floor licence—
  - (a) may fix—
    - (i) weighing charges in respect of saleable tobacco which is accepted by that holder for sale on that holder's sales floor; and
    - (ii) selling commission and re-handling charges in respect of saleable tobacco which is sold on that holder's sales floor;
  - (b) shall not fix—
    - (i) weighing, selling, commission or re-handling charges greater than the appropriate charges authorized under subsection (1); or
    - (ii) charges other than the weighing, selling, commission or re-handling charges under paragraph (a).
- (3) A holder of a sales floor licence may, after the completion of sales on that holder's sales floor in any selling season fixed by the Tobacco Board of Zambia, grant to a grower a rebate of the charges referred to under subsection (2)(a) as the holder may determine.

### **33. Deductions from purchase price of saleable tobacco**

- (1) A buyer of saleable tobacco on a licensed sales floor shall pay the purchase price of the tobacco to the holder of the sales floor licence on whose sales floor the tobacco is sold.
- (2) A holder of a sales floor licence shall, after deducting from the purchase price the charges and deductions that the sales floor licence holder is authorized to deduct under this Act or any other written law, pay the balance of the purchase price to the seller or the seller's agent.

#### **34. Notice to remove tobacco from licensed sales floor**

- (1) The Tobacco Board of Zambia may give notice, in writing, to a grower of the saleable tobacco to remove the tobacco which remains unsold on a licensed sales floor after the last day of the selling season within a period that the Tobacco Board of Zambia may determine.
- (2) A grower of saleable tobacco who fails to remove the tobacco within a period specified by the Tobacco Board of Zambia in the notice referred to under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) The Tobacco Board of Zambia shall, where a grower of saleable tobacco fails to remove the tobacco within the period specified in the notice under subsection (1), confiscate the tobacco and dispose of, or destroy, the tobacco.

#### **35. Tobacco Board of Zambia to dispose of surplus or unsold tobacco**

- (1) The Tobacco Board of Zambia shall, where a grower has surplus or unsold tobacco at the end of a selling season dispose of, destroy, cause to be destroyed, order the disposal or destruction of the surplus or unsold tobacco.
- (2) Despite subsection (1), the Tobacco Board of Zambia may issue a permit, in a prescribed manner and form, to a grower to retain, until the next selling season, any surplus or unsold tobacco belonging to that grower at the end of a selling season.
- (3) Subsection (2) does not limit or restrict any power vested in a person under any written law at any time to destroy or order the destruction of tobacco which is infested with any living tobacco pest, fungus or disease of tobacco.

#### **36. Appointment and functions of sales supervisors**

- (1) The Board shall appoint, for the purposes of this Part, sales supervisors for the supervision of sales of tobacco on licensed sales floors.
- (2) A sales supervisor shall—
  - (a) attend sales of saleable tobacco held on the licensed sales floor to which that sales supervisor is assigned by the Tobacco Board of Zambia;
  - (b) regulate sales of saleable tobacco on the licensed sales floor to which that sales supervisor is assigned, in accordance with instructions specified to the sales supervisor by the Tobacco Board of Zambia; and
  - (c) if the sales supervisor has justifiable reasons to believe that the provisions of this Act relating to the sale of saleable tobacco are not complied with, suspend or prohibit the sale of the tobacco for forty-eight hours and give directions to the holder of the sales floor licence that the sales supervisor considers appropriate.
- (3) The Tobacco Board of Zambia shall furnish a—
  - (a) sales supervisor with instructions, in writing, relating to the sales supervisor's powers to regulate, suspend or prohibit the sales of saleable tobacco on licensed sales floors; and
  - (b) holder of a sales floor licence, buyer and grower, and inspector with copies of instructions referred to under paragraph (a) and of any alterations made to the instructions by the Tobacco Board of Zambia.

#### **37. Saleable tobacco by auction**

The Minister shall, by statutory instrument, prescribe the manner of sale of saleable tobacco by auction.

### 38. Prohibition against manufacture or keeping of saleable tobacco not sold on licensed sales floor

- (1) A person shall not, without the authority, in writing, of the Minister—
  - (a) manufacture saleable tobacco whether for sale as manufactured tobacco or otherwise; or
  - (b) keep saleable tobacco in that person's possession or control for the purposes of manufacture and sale whether as manufactured tobacco or in other form of tobacco.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

## Part VI – Prescribed varieties of tobacco

### 39. Variety of tobacco to be grown or sold

- (1) Subject to the Plant Variety and Seeds Act, the Minister may, in consultation with the Tobacco Board of Zambia, prescribe any specific variety of tobacco which may be grown or sold in the Republic for the purposes of this Act.

*[Cap. 236]*

- (2) Despite subsection (1), the Minister may, in consultation with the Tobacco Board of Zambia, authorize the growing, sale or delivery of a variety of tobacco which is not prescribed under subsection (1), subject to conditions that the Minister may determine.

### 40. Prohibition against growing or selling tobacco not of prescribed variety

- (1) A person commits an offence if that person grows or sells—
  - (a) tobacco which is not prescribed or authorized under [section 39](#); or
  - (b) a prescribed varietal sport of tobacco, unless that varietal sport has been prescribed or authorized under [section 39](#).
- (2) A person convicted of an offence under subsection (1) is liable, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) A court may in addition to the penalty imposed under subsection (2), at the request of the prosecution, order that the tobacco be forfeited in accordance with the Forfeiture of Proceeds of Crime Act, 2010 or destroyed, without compensation.

*[Act No. 19 of 2010]*

- (4) In this subsection, "varietal sport" means any plant which varies singularly and spontaneously from the normal type of plant of the variety in which it appears.

## Part VII – Inspectorate

### 41. Inspectors

- (1) The Tobacco Board of Zambia may, appoint a suitably qualified person to be an inspector for the purposes of ensuring compliance with this Act.
- (2) The Tobacco Board of Zambia shall issue an inspector with an identification card and a certificate of appointment in the prescribed form which shall be *prima facie* evidence of the inspector's appointment.

## 42. Powers of Inspectors

- (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time and without notice—
  - (a) enter and inspect a land, building, premises or vehicle that the inspector has reasonable cause to believe is being used in the production, storage, grading, processing or sale of tobacco in contravention of this Act;
  - (b) enter and inspect a land, building, premises or vehicle of a grower, buyer, licensed grader, or any licensed sales floor and, in the prescribed manner, take samples of any tobacco growing thereon or of any harvested tobacco found therein if in the inspector's opinion any of the growing or harvested tobacco is not of a prescribed variety and is being, or has been, grown on that land or is being held on that land, building, premises or vehicle in contravention of this Act;
  - (c) inspect equipment and supplies in or about the land, building, premises or vehicle of a grower, licensed grader, buyer or any licensed sales floor;
  - (d) remove a document, book, record or other document from a land, building, premises or vehicle of a grower, buyer, licensed grader, or any licensed sales floor which an inspector believes may afford evidence of an offence under this Act;
  - (e) require from a person whose in control of a land, building, premises or vehicle of a grower, buyer, licensed grader or any licensed sales floor an explanation of any record or entry in the document, book, record or other document;
  - (f) make copies of, extracts from, a document, book, record or other document relating a grower, buyer, licensed grader or any licensed sales floor that has a bearing on an investigation; and
  - (g) remove from a registered grower, buyer, licensed grader or any licensed sales floor any equipment, commodity or product used in contravention of this Act.
- (2) An inspector may perform an inspection for the purposes of ensuring a licensee's compliance with that licensee's obligations in relation to an activity.
- (3) A grower, buyer, licensed grader or any licensed sales floor shall afford an inspector access to any record or document for purposes of an inspection and produce to the inspector, a record or document that the inspector may require.
- (4) An inspector shall exercise the power under subsection (1)(a) in relation to a private dwelling house or any land or building occupied as a private dwelling, during the day with a warrant.
- (5) An inspector who removes an article, document, record, book or any other thing from any premises under subsection (1), shall—
  - (a) issue a receipt for the article, document, record, book or any other thing to the owner or person in control of the premises; and
  - (b) return the article, document, record, book or any other document as soon as practicable after achieving the purpose for which it was removed.

## 43. Arrest without warrant

- (1) A law enforcement officer may arrest a person, without a warrant, where the inspector has reasonable grounds to believe that the person—
  - (a) has committed an offence under this Act;
  - (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence; or

- (c) is willfully obstructing an inspector in the execution of the inspector's duties.
- (2) A law enforcement officer who makes an arrest under subsection (1) shall, without undue delay, have the person arrested brought to a police station.

#### 44. Seizure of property

A law enforcement officer may seize and detain property which the inspector has reason to believe was used to commit an offence under this Act until an order of the court is made regarding the disposal thereof.

#### 45. Restoration of property

- (1) A law enforcement officer shall, where a person from whom an article or other property has been seized under [section 44](#) is found not guilty or the proceedings against that person are withdrawn—
  - (a) without unnecessary delay, restore the article or property to that person; or
  - (b) where the enforcement authority is satisfied that the person cannot be found or is unwilling to receive back the article or property, apply to the court for an order of forfeiture of the article or property in accordance with the Forfeiture of Proceeds of Crime Act, 2010.

*[Act No. 19 of 2010]*

- (2) A court shall make an order of forfeiture under subsection (1) if—
  - (a) the law enforcement officer has given notice, by publication in the *Gazette* and in a daily newspaper of general circulation in the Republic, to the effect that the article or property which has been seized under this Act shall vest in the State if it is not claimed within three months from the date of publication of the notice; and
  - (b) three months after the giving of the notice under paragraph (a), the article or property remains unclaimed.
- (3) Where a claim is made, in writing, by any person that is lawfully entitled to the article or property seized under this Act that the article or property is not liable to forfeiture under this Act, the law enforcement officer may order the release of the article or property to the claimant if satisfied that there is no dispute concerning the ownership of the article or property and that it is not liable to forfeiture.
- (4) A law enforcement officer shall refer a claim to the court where a claim of ownership is made in relation to the article or property seized under this Act and the law enforcement officer finds that—
  - (a) there is a dispute regarding the ownership of the article or property;
  - (b) there is insufficient evidence to determine the ownership of the article or property; or
  - (c) a law enforcement officer is unable to ascertain whether the article or property is liable to forfeiture or not.

### Part VIII – Tobacco levy

#### 46. Leviable tobacco

The Minister may, in consultation with the Tobacco Board of Zambia, prescribe any class of tobacco as leviable tobacco for the purposes of this Act.

#### 47. Imposition of levy

Subject to the provisions of this Act, a levy shall be imposed on all leviable tobacco grown and sold in the Republic, at the rate prescribed by the Minister, by statutory instrument.

#### 48. Payment of levy

- (1) Subject to subsection (3), a grower shall pay to the Tobacco Board of Zambia the levy imposed under this Act on leviable tobacco sold by that grower or on the grower's behalf.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (3) The levy imposed under this Act shall not be payable on leviable tobacco on which the levy has already been paid on a previous sale.

#### 49. Collection and remittance of levy

- (1) The Minister may prescribe the—
  - (a) persons who shall be responsible for the provision of data, information and returns on sales of leviable tobacco and collection and remittance of the levy;
  - (b) date on which the levy is due and payable; and
  - (c) method and time of calculation, payment, collection and remittance of the levy.
- (2) Subject to the Public Finance Management Act, 2018, the levy collected shall be remitted to the Tobacco Board of Zambia.  
*[Act No. 1 of 2018]*
- (3) A person who fails to remit the levy that has been collected commits an offence and is liable, on conviction, to a penalty prevailing at the interbank lending rate applicable on the unremitted amount for each day the amount remains unremitted.

### Part IX – Tobacco Levy Fund

#### 50. Establishment of Fund

- (1) There is established the Tobacco Levy Fund for the purposes of—
  - (a) receiving credits from the proceeds of the tobacco levy;
  - (b) promoting the development of the tobacco industry; and
  - (c) paying administrative and management expenses not exceeding five percent of the Fund.
- (2) The Fund consists of monies that may—
  - (a) be appropriated to the Tobacco Board of Zambia by Parliament for the purpose of the Fund;
  - (b) vest or accrue to the Fund;
  - (c) subject to the approval of the Minister responsible for finance, be paid to the Tobacco Board of Zambia from any levy which may be imposed and collected for the purposes of the tobacco levy.
- (3) Subject to the approval of the Minister, the Tobacco Board of Zambia may—
  - (a) accept monies by way of grants or donations from a source within or outside Zambia;

- (b) raise by way of loans or otherwise, the monies that it may require for the discharge of its functions; and
- (c) charge and collect fees for services provided by the Tobacco Board of Zambia.

### **51. Administration of Fund and accounts**

- (1) The Minister may, by statutory instrument, on the recommendation of the Tobacco Board of Zambia, make Regulations to provide for—
  - (a) the administration and management of the Fund;
  - (b) the activities that the Fund shall finance and the manner of financing the activities; and
  - (c) any other matter necessary for the efficient operation, administration and management of the Fund.
- (2) The Minister shall ensure that prudent controls are established for the Fund relating to—
  - (a) fiscal controls and accounting procedures governing the Fund;
  - (b) reporting procedures for matters relating to the Fund; and
  - (c) investment of the monies of the Fund.
- (3) The Board shall cause to be kept proper books of accounts and other records relating to the accounts of the Fund.
- (4) The Fund shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (5) The Board may order any other audit in addition to the annual audit specified under subsection (4).
- (6) The Auditor's fees shall be paid by the Tobacco Board of Zambia.

### **52. Annual report**

- (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Tobacco Board of Zambia shall submit to the Minister a report concerning the activities relating to the Fund during the financial year.
- (2) The report referred to under subsection (1) shall include information on the financial affairs relating to the Fund and there shall be appended to the report—
  - (a) an audited statement of financial position;
  - (b) an audited statement of comprehensive income and expenditure; and
  - (c) any other information that the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to under subsection (2), lay the report before the National Assembly.

## **Part X – General provisions**

### **53. Appeals**

- (1) A person who is aggrieved with a decision of the Tobacco Board of Zambia may appeal, in writing, to the Minister within thirty days of its decision.
- (2) A person aggrieved with a decision of the Minister may appeal to the High Court.

#### 54. Establishment of pool

- (1) The Tobacco Board of Zambia may, where the Tobacco Board of Zambia considers it necessary, establish a pool within the Republic with the approval of the Minister.
- (2) The Minister may, by statutory instrument, prescribe the operation, maintenance and administration of a pool established under subsection (1) and the manner of sale or other medium of disposal of any tobacco accumulated in any such pool.
- (3) Despite subsection (1), the Tobacco Board of Zambia may at any time accept surplus tobacco from a grower through other medium for sale in a manner and on terms as the Tobacco Board of Zambia may consider necessary.
- (4) The Tobacco Board of Zambia shall, where any surplus tobacco is received under subsection (1), offer in the first instance, for sale to a buyer.

#### 55. General offences

A person commits an offence if that person—

- (a) who, without lawful authority, alters, defaces or removes—
  - (i) any register, index or other such official record maintained in pursuance of this Act or of any order, requirement, regulation or rule made thereunder;
  - (ii) any entry appearing in any register, index or other such official record;
- (b) who, without lawful authority, alters or defaces a certificate, licence, permit, return, record or other document prescribed, issued, furnished or kept pursuant to this Act;
- (c) obstructs or impedes a sales supervisor or a duly appointed person, in the exercise of any of the powers conferred on that sales supervisor or duly appointed person by, or under, this Act;
- (d) refuses to furnish to a sales supervisor, on request, any particulars or information to which the sales supervisor is entitled to by, or under, this Act;
- (e) wilfully or recklessly gives to a sales supervisor false or misleading information with respect to any fact or particular to which the sales supervisor is entitled to by, or under, this Act; or
- (f) who, being a person required under this Act to furnish any return or information to the Minister or to the Tobacco Board of Zambia—
  - (i) fails to furnish the return or information within the time required; or
  - (ii) with intent to mislead, furnishes a return or information which is false in any material particular.

#### 56. General penalty

A person who commits an offence under this Act for which a penalty is not provided is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

#### 57. Regulations

- (1) The Minister may, by statutory instrument, make Regulations that are necessary for the better carrying out of the provisions of this Act.

- (2) Without prejudice to the generality of subsection (1), the Regulations made under that subsection may make provision for—
- (a) returns to be furnished to the Minister by growers, buyers, licensed graders, holders of sales floor licences, and persons who handle, prepare or process tobacco for the purposes of sale or for export after its sale;
  - (b) forms of registers to be kept by the Tobacco Board of Zambia;
  - (c) forms of records of certificates, licences and permits issued this Act;
  - (d) periods of validity of permits issued under this Act;
  - (e) the manner, form and conditions for applications under this Act and the fees payable;
  - (f) the hearing and determination of appeals by the Minister, and the fees payable on any such appeal;
  - (g) standards of suitability and fitness of buildings used by licensed graders for the purposes of grading tobacco;
  - (h) methods of grading to be used by licensed graders in grading tobacco;
  - (i) declaring certain organic or inorganic substances to be noxious and unfit for use in the treatment of tobacco;
  - (j) prohibiting the sale or other disposal of tobacco which has been treated with any prescribed noxious substance, or which has been reaped from tobacco plants treated with any prescribed noxious substance;
  - (k) requiring buyers or persons who process or prepare tobacco for sale or export to disclose information as the Minister may require with regard to the ownership, sale or export of any tobacco in the possession of those buyers or other persons;
  - (l) the duties of licensed graders in connection with the—
    - (i) methods of handling and storing tobacco from the time tobacco is received for grading to the time tobacco is dispatched after grading;
    - (ii) grading of tobacco;
    - (iii) processes to be employed in conditioning or treating tobacco;
    - (iv) supervision to be exercised over the handling, grading, storing or dispatch of tobacco; and
    - (v) manner in which tobacco is to be dispatched after it has been graded;
  - (m) hygienic and other conditions of maintenance of buildings, plant and equipment to be used by growers or licensed graders, for or in connection with the handling, storing, grading or dispatch of tobacco;
  - (n) prohibition for any period in a selling season fixed by the Tobacco Board of Zambia the sale of tobacco;
  - (o) grade classification of tobacco for purposes of sale and the marking of that classification;
  - (p) grading, packing, marking or identification of tobacco for purposes of sale;
  - (q) a minimum rate of selling at which saleable tobacco shall be sold on licensed sales floors;
  - (r) duties of holders of sales floor licences relating to the receipt, storage and sale of saleable tobacco and the disposal of unsold saleable tobacco;
  - (s) the keeping of records and the furnishing of returns, accounts and other documents;

- (t) duties of growers of saleable tobacco relating to the removal of tobacco from licensed sales floors and disposal of bale wrappings;
- (u) terms and conditions of sale of saleable tobacco when sold on a licensed sales floor; and
- (v) liabilities of holders of sales floor licences in connection with losses, whether caused by errors in weighing or otherwise, and the making good of those losses.

#### **58. Repeal of [Cap. 237](#) and [Cap. 238](#)**

- (1) The Tobacco Act, 1967 and the Tobacco Levy Act, 1967 are repealed.
- (2) Despite subsection (1), the Second Schedule applies to the savings and transitional arrangements.
- (3) Despite subsection (1), a person who immediately before the commencement of this Act, held office as a member of the Tobacco Board of Zambia shall hold office as a member of the Tobacco Board of Zambia for a period of three months after which the Minister shall appoint the members of the Board in accordance with the provisions of this Act.

### **First Schedule (Sections 3(2) and 5(6))**

#### **Administration of Board**

#### **Part I – The Board of the Tobacco Board of Zambia**

##### **1. Seal of Board**

- (1) The seal of the Tobacco Board of Zambia shall be a device that may be determined by the Board and shall be kept by the Secretary.
- (2) The affixing of the seal shall be authenticated by the Chairperson or Vice-Chairperson and the Secretary or any other person authorized in that behalf by a resolution of the Board.
- (3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Tobacco Board of Zambia by the Executive Director or any other person generally or specifically authorized by the Board in that behalf.
- (4) A document purporting to be a document under the seal of the Tobacco Board of Zambia or issued on behalf of the Tobacco Board of Zambia shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

##### **2. Tenure of office and vacancy of member**

- (1) A member of the Board shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be re appointed for a further and final term of three years.
- (2) On the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.
- (3) The office of a member becomes vacant if the member—
  - (a) dies;
  - (b) is adjudged bankrupt;
  - (c) is absent from three consecutive meetings of the Board, of which the member has had notice, without the prior approval of the Tobacco Board of Zambia;
  - (d) resigns by giving one month's notice, in writing, to the Minister;

- (e) is legally disqualified from performing the functions of a member;
  - (f) is convicted of an offence under this Act; or
  - (g) is convicted of an offence under any written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.
- (4) Where there is a vacancy in the membership of the Board before the expiry of the term of office, the Minister shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

### 3. **Proceedings of Board**

- (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.
- (2) The Board shall meet for the transaction of its business at least once in every three months at such places and times as the Board may determine.
- (3) On giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairperson and shall be called if not less than one third of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of any notice, a special meeting may be called on giving a shorter notice.
- (4) Five members of the Board shall constitute a quorum.
- (5) There shall preside at a meeting of the Board—
  - (a) the Chairperson;
  - (b) in the absence of the Chairperson, the Vice-Chairperson; or
  - (c) in the absence of the Chairperson and the Vice-Chairperson, such member of the Board as the members present may elect from among themselves for the purpose of that meeting.
- (6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.
- (7) The Board may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Board, but that person shall have no vote.
- (8) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board.

### 4. **Allowances**

A member of the Board or any committee of the Board thereof shall be paid allowances that may be determined by the Emoluments Commission on recommendation by the Minister.

### 5. **Disclosure of interest**

- (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter, is subject of consideration and in which that person or any member of the person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.
- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

### 6. **Immunity**

An action or other proceedings shall not lie or be instituted against a member of the Board, a committee of the Board or a member of staff of the Tobacco Board of Zambia, for or in respect of any act or thing done or

omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act.

#### 7. **Committees of Board**

- (1) The Board may, for the purposes of performing its functions, establish committees that it considers necessary and delegate to any of those committees any of its functions or the functions of the Tobacco Board of Zambia.
- (2) The Board may appoint as members of a committee persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.
- (3) A person serving as a member of a committee shall hold office for a period that the Board may determine.
- (4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

#### 8. **Prohibition of disclosure of information to unauthorised persons**

- (1) A person shall not, without the consent in writing given by, or on behalf of, the Tobacco Board of Zambia, publish or disclose to any person otherwise than in the course of duties, the contents of any documents, communication, or information, which relates to, and which has come to that person's knowledge in the course of duties under this Act.
- (2) Any person who knowingly contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

## **Part II – Finance provisions**

#### 9. **Funds of Tobacco Board of Zambia**

- (1) The Funds of the Tobacco Board of Zambia shall consist of such monies as may—
  - (a) be appropriated by Parliament;
  - (b) be paid to the Tobacco Board of Zambia by way of grants or donations;
  - (c) be derived from interest on investment made under subparagraph (4); and
  - (d) vest in or accrue to the Tobacco Board of Zambia.
- (2) The Tobacco Board of Zambia may—
  - (a) accept monies by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
  - (b) subject to the Public Finance Management Act, 2018, raise by way of loans or otherwise, moneys that the Tobacco Board of Zambia may require for the discharge of the Tobacco Board of Zambia's functions; or  
*[Act No. 1 of 2018]*
  - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Tobacco Board of Zambia.
- (3) There shall be paid from the funds of the Tobacco Board of Zambia—
  - (a) the salaries, allowances and loans of members of staff of the Tobacco Board of Zambia;
  - (b) reasonable travelling, transport and subsistence allowances for members of the Board or members of any committee of the Board when engaged in the business of Tobacco Board

of Zambia, at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and

- (c) any other expenses incurred by the Tobacco Board of Zambia in the performance of the Tobacco Board of Zambia's functions.
- (4) Subject to the Public Finance Management Act, 2018, the Tobacco Board of Zambia may invest, in a manner that the Board considers appropriate, funds of the Tobacco Board of Zambia that it does not immediately require for the performance of the Tobacco Board of Zambia's functions.

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#### 10. Financial year

The financial year of the Tobacco Board of Zambia shall be the period of twelve months ending on 31st December in each year.

#### 11. Accounts

- (1) The Tobacco Board of Zambia shall cause to be kept proper books of accounts and other records relating to the Tobacco Board of Zambia's accounts.
- (2) The accounts of the Tobacco Board of Zambia shall be audited by the Auditor-General or by auditors appointed by the Auditor-General.
- (3) The auditor's fees shall be paid by the Tobacco Board of Zambia.

#### 12. Annual report

- (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Tobacco Board of Zambia shall submit to the Minister a report concerning its activities during the financial year.
- (2) The report referred to in subparagraph (1), shall include information on the financial affairs of the Tobacco Board of Zambia and there shall be appended to the report—
  - (a) an audited statement of financial position;
  - (b) an audited statement of comprehensive income and expenditure; and
  - (c) other information as the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

## Second Schedule (Section 58(2))

### Savings and transitional provisions

#### 1. Interpretation

In this Schedule "former Tobacco Board of Zambia" means the Tobacco Board of Zambia established under the repealed Act.

#### 2. Staff of former Tobacco Board of Zambia

- (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Tobacco Board of Zambia, shall continue to be an officer or employee of the Tobacco Board of Zambia as if appointed or employed under this Act.
- (2) The service of the persons referred to in subparagraph (1) shall be treated as continuous service.
- (3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Tobacco Board of Zambia before this Act comes into force.

### 3. **Transfer of assets and liabilities**

- (1) On or after this Act comes into force, there shall be transferred to, vest in and subsist against the Tobacco Board of Zambia by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Tobacco Board of Zambia.
- (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Tobacco Board of Zambia was party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—
  - (a) the Tobacco Board of Zambia had been party to it;
  - (b) for any reference to the former Tobacco Board of Zambia there was substituted, with respect to anything falling to be done on or after this Act comes into force, a reference to the Tobacco Board of Zambia; or
  - (c) for any reference to any officer of the former Tobacco Board of Zambia, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to such officer of the Tobacco Board of Zambia as the Tobacco Board of Zambia shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former Tobacco Board of Zambia are deemed to be transferred to the Tobacco Board of Zambia in respect of which transfer a written law provides for registration, the Tobacco Board of Zambia shall make an application in writing to the appropriate registration authority for registration of the transfer.
- (4) The registration authority referred to in subparagraph (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.
- (5) A certificate, licence, permit or authorisation granted in accordance with the repealed Act, whether to a company or an individual, shall be deemed, until expiry, revocation or cancellation of that certificate, licence, permit or authorisation, as provided in the repealed Act, to be a certificate, licence, permit or authorisation granted in accordance with this Act, but subject to any rights or benefits accruing, or any liabilities suffered, under the repealed Act, but without the right of renewal.

### 4. **Legal proceedings**

- (1) Any legal proceedings or applications of the former Tobacco Board of Zambia pending immediately before this Act comes into force by or against the former Tobacco Board of Zambia may be continued by or against the Tobacco Board of Zambia.
- (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Tobacco Board of Zambia, may be instituted by or against the Tobacco Board of Zambia.