

GOVERNMENT OF ZAMBIA

ACT

No. 43 of 1996

Date of Assent: 20th November, 1996

An Act to revise and consolidate the provisions of the Bank of Zambia Act; to revise the law relating to the composition, duties and powers of the Bank of Zambia and its Board; to revise and consolidate the law relating to the issuance of the currency of the Republic and the formulation and implementation of a monetary policy that will ensure the maintenance of price stability; and to provide for matters connected with or incidental to the foregoing.

[12th December, 1996

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Bank of Zambia Act, 1996, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“Bank” means the Bank of Zambia established under section *three*;

“bank” shall have the meaning assigned to it in the Banking and Financial Services Act;

Act No. 21 of 1994

“banking business” shall have the meaning assigned to it in the Banking and Financial Services Act;

Act No. 21 of 1994

“Board” means the Board of Directors of the Bank established under section *twelve*;

“Deputy Governor” means the Deputy Governor of the Bank appointed under section *eleven*;

“financial institution” shall have the meaning assigned to it in the Banking and Financial Services Act;

Act No. 21 of 1994

Act No. 21
of 1994

Act No. 13
of 1994

“financial service” shall have the meaning assigned to it in the Banking and Financial Services Act;

“fine units” shall have the meaning assigned to it in the Fees and Fines Act;

“Governor” means the Governor of the Bank appointed under section *ten*;

“Ordinary revenue of the Government” means revenue from taxes, levies, royalties, fees, duties, rents, profits and income from any investment or any undertaking by the Government, its institutions and agencies, statutory bodies and local authorities, but does not include any funds raised by way of borrowing, grants in cash or in kind, or any other form of economic assistance.

PART II

BANK OF ZAMBIA

Establishment of
Bank
Act No. 24
of 1985

3. (1) The Bank of Zambia established under section *three* of the Bank of Zambia Act, 1985, is hereby continued as if established under this Act and shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

(2) The headquarters of the Bank shall be in Lusaka.

(3) The Board may establish branches of the Bank within the Republic, and with the approval of the Minister, in any place outside the Republic.

(4) The Board may appoint in Zambia or elsewhere agents and correspondents of the Bank, on such terms and conditions, as it may determine:

Provided that no fees, remuneration, commission or allowances paid to any agent or correspondent shall be computed by reference to the profits of the Bank.

Functions of
Bank

4. (1) The Bank shall formulate and implement monetary and supervisory policies that will ensure the maintenance of price and financial systems stability so to promote balanced macro-economic development.

(2) Without prejudice to the generality of subsection (1) and subject to the other provisions of this Act the Bank shall—

- (a) licence, supervise and regulate the activities of banks and financial institutions so as to promote the safe, sound and efficient operations and development of the financial system;
- (b) promote efficient payment mechanisms;
- (c) issue notes and coins to be legal tender in the Republic and regulate all matters relating to the currency of the Republic;
- (d) act as banker and fiscal agent to the Republic;
- (e) support the efficient operation of the exchange system; and
- (f) act as adviser to the Government on matters relating to economic and monetary management.

5. The Minister may convey to the Governor such general or particular Government policies as may affect the conduct of the affairs of the Bank and the Bank shall implement or give effect to such policies.

Powers of
Minister

6. (1) The authorised capital of the Bank shall be ten billion kwacha.

Capital

(2) The Bank may, increase the authorised capital by such amounts and in such a manner as the Board may determine, and may in like manner with the consent of the Minister reduce the authorised capital:

Provided that no reduction shall be so effected as to reduce the amount of the authorised capital below ten billion kwacha.

(3) The Government shall be the sole subscriber to the paid-up capital of the Bank, and its holdings of the paid-up capital shall not be transferable in whole or in part or be subject to any encumbrance whatsoever.

(4) The amount of any increase in paid-up capital effected in accordance with subsection (2) shall be paid up in full by the Government.

(5) Whenever the Board certifies that the assets of the Bank are less than the sum of its capital and other liabilities, the Minister notwithstanding the provisions of any other written law, shall, on

behalf of the Government cause to be transferred to the ownership of the Bank negotiable and interest bearing securities issued by the Government for such amount as is necessary for the purposes of preserving the capital of the Bank from any impairment.

Profits and
loss

7. (1) The net profits of the Bank for each financial year shall be determined by the Bank after—

(a) allowing for the expenses of operations for that year;

(b) making provision;

(i) for bad and doubtful debts, depreciation of assets and contingencies;

(ii) for pensions, gratuities and other benefits for its officers and employees; and

(iii) for such other items which are consistent with the Bank's mandate.

(2) Where the Bank makes a profit any amount left over after making transfers in accordance with section *six* shall be paid to the Government within sixty days following the auditor's certification of the Bank's financial statements.

(3) Where in any year, the Bank makes a loss on its profit and loss statement as certified by the auditors, the Minister, notwithstanding the provisions of any other written law, shall on behalf of the Government cause to be transferred to the ownership of the Bank cash or negotiable securities bearing market interest rates, and such securities shall be delivered to the Bank within sixty days from the date of certification of the accounts by the auditors.

General
reserve fund
and other
funds
Cap. 699

8. (1) The general reserve fund of the Bank established under section *twenty-two* of the Bank of Zambia Act, 1964, shall continue to be maintained in accordance with the provisions of this Act, and to this fund shall be transferred, at the end of each financial year of the Bank—

(a) twenty-five per centum of the net profits of the Bank as calculated in accordance with section *seven*, when the balance in the general reserve fund is less than three times the Bank's authorised capital; or

(b) ten per centum of the net profit of the bank as calculated in accordance with section *seven*, when the balance in general reserve fund is three times the Bank's authorised capital, or more.

(2) The balance if any of the net profits remaining after transfers under subsection (1) shall be applied to the redemption on behalf of

the Government of any securities issued and outstanding being securities issued against losses incurred by the Bank.

(3) No transfers shall be made under subsections (1) and (2) if the Board certifies that the assets of the Bank are, or after such transfer, will be, less than the sum of its capital and other liabilities.

9. (1) The Bank shall, in consultation with the Minister, within six months after the commencement of this Act, and at every six months interval thereafter, publish in the Government *Gazette* a policy statement that shall contain:

Policy
statement

(a) a description and an explanation of the reasons for the monetary policies to be followed by the Bank during the following six months;

(b) a description of the principles that the Bank proposes to follow in the formulation and implementation of monetary policy during the next two years or such other period of time as the Minister may decide; and

(c) a review and assessment of implementation by the Bank, of monetary policy during the period to which the last preceding six months policy statement relates.

(2) The Minister shall within the first sitting of the National Assembly next after the receipt of the report referred to under this section lay it before the National Assembly.

PART III

ADMINISTRATION

10. (1) Subject to section *fifteen* the President may, appoint, for a period not exceeding five years, a person with recognised professional qualifications and experience in financial and economic matters to be Governor of the Bank and the President may re-appoint the Governor upon the expiry of the Governor's term of office.

Governor

(2) An appointment under subsection (1) shall be subject to ratification by the National Assembly.

(3) The Governor shall be the Chief Executive Officer of the Bank and shall be responsible to the Board for the execution of the policy and management of the Bank.

(4) The Governor may, with the approval of the Board, delegate any of his functions or powers to a Deputy Governor, or any other staff of the Bank.

(5) The terms and conditions of the Governor shall be determined by the Minister subject to the provisions of this Act, and shall not, during the Governor's term of office be altered to the Governor's disadvantage:

Provided that no salary, fee, wage, remuneration, commission or allowance to be paid to the Governor shall be computed by reference to the profits of the Bank.

(6) During the Governor's term of office the services of the Governor shall be at the disposal of the Bank and the Governor shall not, without the written approval of the President, receive any salary, allowance, contribution or supplementation from any source other than the Bank, or take up any other office or employment, whether remunerated or not, except as nominee of the Bank:

Provided that the Governor may serve on any board, committee or commission established by the Government or may become Governor, director or member of a board of any other body or of any international financial organisation of which Zambia is a member.

(7) The Governor may resign from office by giving three months notice to the President and may be removed by the President.

Deputy
Governor

11. (1) Subject to section *fifteen* the President, shall appoint up to two persons with recognised and appropriate professional qualifications and experience, to be Deputy Governors of the Bank for periods not exceeding five years.

(2) The provisions of subsections (4) and (5) of section *ten* shall apply *Mutatis Mutandis* to a Deputy Governor.

(3) A Deputy Governor may resign from office by giving three months written notice to the President and may be removed by the President.

Board of
Directors

12. (1) There shall be a Board of Directors of the Bank in which shall vest all the powers of the Bank and which shall be responsible for the formulation of policy of the Bank.

(2) The Board may delegate to the Governor such of its functions as it considers necessary for the better administration of the Bank.

Composition
of Board

13. (1) The Board shall consist of, the following directors—

(a) the Governor, who shall be the Chairman of the Board; and

(b) not more than six other persons appointed by the Minister from amongst individuals with professional or academic experience in business or financial matters and who are not officials or employees of the Bank.

(2) The Board shall choose one of its members to be the Vice-Chairman.

(3) The Secretary to the Treasury in the ministry responsible for finance, shall be an ex-officio director of the Board and shall be entitled to attend and participate in any meeting of the Board but such person shall have no vote and shall not count for the purpose of a quorum.

(4) The Secretary to the Treasury in the ministry responsible for finance, may in writing, appoint a senior official in that ministry to be an alternate director to the secretary to the Treasury and to attend any meeting of the Board which the Secretary to the Treasury is unable to attend, and when such alternate attends such meeting, the provisions of subsection (2) shall apply, *mutatis mutandis*, to such alternate.

(4) The directors referred to in paragraph (b) of subsection (1) shall be paid such fees and allowances as the Minister may determine.

14. (1) Subject to the other provisions of this section, a director referred to in paragraph (b) of subsection (1) of section *thirteen* shall hold office for a period not exceeding three years and shall be eligible for re-appointment, on the expiry of such term, for a further three years.

Tenure of office

(2) A director, other than the Governor and the secretary to the Treasury, may be removed by the Minister at any time by notice in writing and may resign from the Board at any time.

15. (1) No person shall be appointed, re-appointed or continue to hold office of Governor, deputy Governor or director if such person—

Disqualifications

(a) is or becomes a member of the National Assembly;

(b) is a director, officer, employee or owner of, or shareholder in, any financial institution or bank which is under the regulatory jurisdiction of the Bank or of the Government, other than as a nominee of the Bank;

(c) has been convicted of any offence involving dishonesty, or is an undischarged bankrupt, or has been convicted of a felony;

(d) is detained, or his freedom of movement is restricted, under any law in force in Zambia for a period in excess of six months; or

(e) is of unsound mind.

16. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Proceedings of Board

(2) The Board shall meet for the transaction of the business of the Bank at least once every three months at such places and at such times as the Governor may decide.

(3) Upon giving notice of not less than seven days, a special meeting of the Board may be called by the Governor at any time:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Four directors shall form a quorum at any meeting of the Board.

(5) Where the Chairman and the Vice-Chairman are absent from any meeting of the Board, there shall preside at that meeting such director as the directors present may elect for the purposes of that meeting.

(6) A decision of the Board on any question shall be by a majority of the directors present and voting at a meeting and, in the event of equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any director or by reason that any person not entitled to do so took part in the proceedings.

(9) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

Seal of Bank

17. (1) The seal of the Bank shall be such device as may be determined by the Board and shall be kept by the Governor or an officer designated by him.

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The seal of the Bank shall be affixed to an instrument only on the authority of a resolution of the Board and in the presence of at least two directors who shall sign every instrument to which the seal of the Bank is so affixed in their presence.

(4) Any 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 Bank by the Governor or any other director generally or specifically authorised by the Board.

(5) Any document purporting to be a document under the seal of the Bank or issued on behalf of the Bank 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.

18. (1) The Board may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it considers fit.

Committees
of Board

(2) The Board may appoint as members of a committee established under subsection (1), persons who are or are not directors of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board any committee established under subsection (1), may regulate its own procedure.

19. No action or other proceedings shall lie or be instituted against any director for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of such director's functions under this Act.

Immunity of
Directors

20. (1) No director shall act as representative of any commercial, financial, agricultural, industrial or other concern, or receive or accept directions therefrom in relation to such director's duties under this Act.

Conflict of
interest and
disclosure of
interest

(2) If any person is present at a meeting of the Board or any committee of the Board at which any matter, in which such person or his spouse is directly or indirectly interested in a private capacity, is the subject of consideration, such person shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(3) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand fine units or to imprisonment for a term not exceeding three years, or to both.

21. (1) The Board may appoint, on such terms and conditions as it may determine, such staff as it may consider necessary for the conduct or operations of the business of the Bank:

Staff of
Bank

Provided that no salary, fee, wage, remuneration, commission or allowance to be paid to any staff of the Bank shall be computed by reference to the profits of the Bank.

(2) The Board may establish pension schemes and permit the Bank to grant loans to its staff or guarantee such loans from any financial institution.

(3) The Board may establish training facilities for the staff of the Bank.

Oath or
declaration
of secrecy
Act No. 4 of
1990

22. (1) Every person appointed under this Act or employed by the Bank shall take and subscribe, before a Commissioner for Oaths, an oath of secrecy as set out in the Official Oaths Act, and the provisions relating to affirmation and duplication of oaths contained in that Act shall apply *mutatis mutandis*.

(2) Any person to whom this section applies who, having complied with the provisions of subsection (1), does or omits to do any act in contravention of the oath of secrecy shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand fine units or to imprisonment for a term not exceeding two years, or to both.

Prohibition
of publica-
tion of or
disclosure of
information
to
unauthorised
persons

23. (1) Except in compliance with an order of a court of competent jurisdiction or with the written consent given by or on behalf of the Board, no person appointed under this Act shall publish or disclose to any person, otherwise than in the course of that person's duties the contents of any document, communication or information, whatsoever, which relate to, and which have come to that person's knowledge in the course of, such person's duties under this Act.

(2) Any person who knowingly contravenes the provisions of subsection (1), shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand fine units or to imprisonment for a term not exceeding two years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, that person shall be guilty of an offence and shall be liable, upon conviction to a fine not exceeding forty-five thousand fine units, or to imprisonment for a term not exceeding three years, or to both.

Financial
year

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

Books of
account

25. (1) The Board shall cause to be kept proper books of account and other records relating to the bank's accounts in conformity with generally accepted accounting principles.

(2) Such books of account and other records shall, at all reasonable times, be open for inspection by the directors or any person authorised by the Minister.

Audit of
accounts

26. The accounts of the Bank shall be audited annually by an auditor appointed by the Board.

27. (1) As soon as is practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during such financial year.

Annual
report

(2) The report referred to in subsection (1), shall include information on the financial affairs of the Board and there shall be appended thereto—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister may at any time request the Board, in writing, to submit to him such other reports, returns or statements, duly certified by an auditor, as he may consider necessary and the Board shall comply with such request.

28. (1) The Bank shall deliver to the Minister a return of its monthly assets and liabilities whenever he so requires.

Reports on
monthly
assets and
liabilities

(2) Within a period of thirty days, after the last working day of each month the bank make up, and cause to be published in the *Gazette* a return of its assets and liabilities as at the close of business on that day, and shall deliver that return to the Minister.

PART IV

MONETARY UNITS, NOTES AND COINS

29. (1) The units of currency of the Republic is the Kwacha (abbreviated as K).

Currency of
the Republic

(2) The denominations of money in the currency of the Republic are the Kwacha and the ngwee (abbreviated as N or as n).

(3) One ngwee is the one-hundredth part of the kwacha.

30. (1) The right to issue notes and coins in Zambia shall vest exclusively in the Bank.

Right to
issue
currency

(2) Any person, other than the Bank, who issues in Zambia notes or coins (or other documents or token) which are payable to bearer on demand or purport to be the currency of the Republic or the currency of any other country shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one million fine units or to imprisonment for a term not exceeding ten years, or to both:

Provided that this subsection shall be complementary to and not in derogation of the provisions of the Penal Code relating to forgery, coining, counterfeiting and similar offences.

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- Denominations of notes and coins** **31.** (1) The notes and coins issued by the Bank shall be—
- (a) in such multiples or fractions of kwacha or ngwee as the Bank shall determine; and
- (b) of such forms and designs as the Bank shall determine.
- (2) The standard weight, composition and amount of remedy of coins issued by the Bank shall be determined by the Bank and shall be published in the *Gazette*.
- Minting and issue** **32.** The Bank shall have all such powers and make all such arrangements as may be necessary for the printing of notes, the minting of coins and for the issue, re-issue, exchange and destruction of notes and coins; and for the safeguarding thereof.
- Legal tender** **33.** (1) A tender of payment of money shall be legal tender if it is in notes or coins that are made and issued by the Bank under this Act:
- Provided that the Minister may by regulation make restrictions as to any particular maximum amount considered as legal tender.
- (2) Whenever the Board thinks desirable, the Bank may, with the approval of the Minister, issue coins of any denomination for purposes other than monetary use and designate the same to be legal tender within the Republic and every such issue shall be publicised in the *Gazette* and may be further published in such manner as the Minister may determine.
- Powers of recall** **34.** (1) Whenever the Bank intends to call in, for the purpose of withdrawing from circulation or payment of the face value thereof, any notes or coins which it has issued, it shall give prior notice in the *Gazette* and may further publicise its intention in such manner as it thinks fit.
- (2) Any notes or coins called in under subsection (1) shall cease to be legal tender on a date or dates fixed by the Bank and shall not be redeemed at their face value after a set date or dates.
- (3) Notification of the date or dates after which notes or coins shall not be deemed shall be published in the *Gazette*.
- Exchange of notes or coins** **35.** Subject to section *thirty-six*, the Bank shall exchange, on demand and without charge, any notes or coins, which the Bank has issued, for notes or coins of equivalent value and of such denomination as may be requested by any person or agent surrendering such notes or coins in accordance with section *thirty-four*:
- Provided that in the event of the denomination being requested, not being available, the Bank may deliver notes and coins of the nearest denomination available.

36. (1) No person shall be entitled to recover from the Bank the value of any lost or stolen notes or coins, except as may be provided under the terms of a waiver of risk expressly executed in respect of an assumption undertaken by the Bank for the shipment of notes and coins:

Lost and
mutilated
notes and
coins

Provided that the Bank shall be liable for any loss suffered by any person in consequence of the negligence or misconduct of any director, staff or agent of the Bank committed in the course of such person's official duties.

(2) The Bank may determine and publish in the *Gazette* the conditions under which mutilated or otherwise damaged notes may be exchanged by the Bank.

(3) The Bank, except in its sole discretion, shall not exchange coins which have been perforated, cut, clipped, broken or otherwise marked or defaced or the design of which is not recognisable.

37. (1) It shall be the duty of the Bank to ensure or cause the enforcement, in the Republic, of any law relating to the forgery of notes or counterfeiting of notes and coins.

Counterfeit
of notes and
coins

(2) A certification by a duly authorised staff of the Bank that an item in question is or is not genuine shall be *prima facie* evidence of that fact in any legal proceedings in the Republic.

38. (1) Any person who wilfully—

- (a) soils, tears, defaces or in any other way whatsoever mutilates any note issued by the Bank;
- (b) writes, paints, stamps or draws upon any such note; or
- (c) wilfully defaces, mutilates or pierces a coin issued by the Bank;

Penalty for
mutilation of
currency

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand fine units or to imprisonment for a term not exceeding two months, or to both:

Provided that this section shall be complementary to, and not in derogation of, the provisions of the Penal Code relating to forgery, coining, counterfeiting and similar offences.

(2) A person shall not, without the prior approval of the Bank—

- (a) make, design, engrave, print or reproduce; or
- (b) use, issue or publish;

any article or thing resembling a bank note or coin or so nearly resembling or having such a likeness to a bank note or coin so as to likely be confused with, or mistaken for, such bank note or coin.

(3) Any person who contravenes subsection (1), shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding thirty thousand fine units or to imprisonment for a term not exceeding two years or both.

(4) Where a person is convicted of an offence against subsection (2), a court may order the article or thing, any copy of it, any plates, block, dies, and other instruments used or capable of being used for printing or reproducing, in the possession of that person, to be destroyed.

PART V

INTERNATIONAL RESERVE, AND FOREIGN EXCHANGE OPERATIONS

International
reserves

39. (1) The Bank shall maintain, on such terms and conditions as the Board may determine, an international reserve which shall consist of all or any of the following:

- (a) gold;
- (b) foreign exchange in the form of notes or coins or bank balances held abroad, denominated in such currencies and located in such countries as the Board may approve;
- (c) any internationally recognised reserve asset, including—
 - (i) the facilities to make reserve tranche purchases from the International Monetary Fund;
 - (ii) holding of special drawing rights;
- (d) bill of exchange and promissory notes denominated and payable in such foreign currencies and in such places as the Board may approve;
- (e) treasury bills and other securities denominated in such foreign currencies, issued or guaranteed by such foreign governments and payable in such places as the Board may approve;
- (f) securities issued or guaranteed by international financial institutions specified by the Board; and
- (g) such other international reserve assets as the Board may approve.

(2) The Bank shall use its best endeavours to maintain the international reserves referred to in subsection (1), at a level which is adequate for achieving the objectives of the Bank.

40. (1) The Bank may, subject to such term and conditions as the Board may determine—

Operations
in gold and
foreign
exchange

- (a) buy, sell or deal in foreign currencies using any of the instruments commonly in use for the purpose;
- (b) buy, sell or deal in gold coin or bullion or other precious metals;
- (c) buy, sell or deal in treasury bills and other securities issued or guaranteed by foreign governments or international financial organisations;
- (d) open and maintain accounts with, and act as agent or correspondent for, international financial organisations, central banks, monetary authorities or financial institutions outside Zambia, and with the approval of the Minister, foreign governments or their agencies.

(2) In carrying out its functions under subsection (1), the Bank shall deal only with the Government, banks or other financial institutions in the Republic, foreign governments or their agencies, international financial organisations, central banks, monetary authorities or financial institutions outside the Republic.

PART VI

RELATIONS WITH BANKS AND FINANCIAL INSTITUTIONS

41. (1) The Bank may, by Gazette notice, determine—

Minimum
liquidity
ratios and
reserve
requirements

- (a) the minimum ratio of liquid assets which each financial institution is required to hold; and
- (b) the minimum reserve balance which each financial institution shall maintain with the Bank.

(2) The Bank may, by Gazette notice, determine the class or classes of assets which shall qualify to be liquid assets referred to under this section.

(3) The Bank may, by Gazette notice, specify the class or classes of liabilities against which the ratio requirement may be calculated.

(4) No bank or financial institution shall be required to maintain higher percentages than any other bank or financial institution.

(5) If the Bank at any time increases any of the ratios referred to in subsection (3), every bank or financial institution shall be allowed not less than ten days in which to comply.

(6) The Bank may require any bank or financial institution to furnish such information as the Bank may consider necessary to satisfy itself that the bank or financial institution concerned is complying with the provisions of this section.

(7) Where the Bank holds a balance in an account for a depositor who is subject to a regulation made pursuant to subsection (1)—

(a) the Bank may pay interest on such balances, on such terms and conditions, as it considers appropriate;

(b) where a bank or financial institution which is subject to subsection (1) fails to maintain a balance in its account with the Bank sufficient to comply with its duty under that subsection, the bank or financial institution shall pay to the Bank daily interest calculated on the amount that its balance is deficient at the rate determined by the Bank for that purpose.

Accounts for
banks and
other
financial
institutions

42. (1) The Bank may operate accounts for banks and other financial institutions on such terms and conditions, as the Board may determine.

(2) In respect of any account operated in accordance with subsection (1), the Bank may—

(a) purchase, sell, discount or rediscount any treasury bills or other securities issued or guaranteed by the Government, forming part of a public issue and their acquisition by the Bank;

(b) grant, for a period not exceeding six months, advances secured by:

(i) instruments specified in paragraph (a);

(ii) other securities issued or guaranteed by the Government and forming part of a public issue; and

(iii) holdings of any assets which the Bank is permitted to buy, sell or deal in under section *thirty-nine*.

(3) Where the Bank is of the opinion that an advance is necessary in order to—

(a) meet liquidity requirements; or

(b) forestall insolvency to safeguard the financial system;

of a holder of any account operated in accordance with subsection (1), the Bank may make an unsecured advance or an advance

secured by such assets; and on such special terms and conditions as the Board may determine.

43. (1) The Bank may determine, and make public its rates for discounts, rediscounts and advances.

Bank rates for discounts, rediscounts and advances

(2) The Bank may determine different rates for different classes of transactions or maturities.

44. The Bank may, in conjunction with other financial institutions, organise facilities for the clearing of their cheques and other instruments for effecting payments; and for this purpose organise a clearing system in Lusaka and elsewhere:

Clearing facilities

Provided that only commercial banks at the discretion of the Bank may be permitted to maintain settlement accounts with the Bank.

PART VII

RELATIONS WITH GOVERNMENT

45. The Bank shall—

(a) be the banker to and fiscal agent of the Government; and

(b) through the Minister act as financial adviser to the Government and render advice and furnish reports on matters relating to the functions of the Bank and on other matters likely to affect such functions.

Banker, fiscal agent and adviser to the Government

46. (1) The Bank shall be the official depository of Government funds:

Depository of Government funds

Provided that the Government may maintain accounts with, and generally use the services of, any bank or financial institution.

(2) When the Bank performs services for the Government pursuant to this Act or at the request of the Government, the Government shall pay the Bank such fees as may be agreed between the Bank and the Minister.

47. The Bank shall, on such terms and conditions as the Minister may determine, issue and manage Government loans or loans guaranteed by the Government which form a public issue.

Management of Government loans

48. The Bank shall act as agent for the Government for such purposes and on such terms and conditions as the Minister may determine.

Agency functions

49. The Bank shall not advance funds to the Government except in special circumstances and on such terms and conditions as may be agreed upon between the Bank and the Minister.

Advances to Government

Limitations
on lending to
Government

50. (1) Except as provided in section *forty-nine* and in subsection (4), the Bank shall not directly or indirectly, at any time, give credit to the Government by way of short term advances, purchases or securities in a primary issue, or any other form or extension of credit that exceeds fifteen percent of the ordinary revenue of Government in the previous financial year.

(2) If in the opinion of the Bank the limitation provided for in subsection (1), is likely to be exceeded, the Bank shall submit to the Minister a report stating—

(a) the details of the amounts then outstanding of the funds advanced and credit facilities extended by the Bank and the Bank's holding of securities referred to in subsection (1);

(b) the causes which are likely to lead to such limitation being exceeded; and

(c) its recommendation to forestall or otherwise remedy the situation.

(3) The Bank shall continue to make further reports and recommendations on the matters referred to in subsection (2), at intervals of not more than six months until such time as, in its opinion, the situation has been rectified.

(4) Where the limitation provided for in subsection (1) is exceeded, the Bank shall forthwith advise the Minister of that fact and shall not allow any further increase, whether directly or indirectly, in the aggregate amount of the funds advanced and credit facilities extended by the Bank and the Bank's holding of securities referred to in subsection (1).

Depository
and fiscal
agency for
international
financial
organisations

51. In respect of any dealings with any international financial organisation of which Zambia is a member, the Minister may designate the Bank to be the depository of any funds and the fiscal agency through which such dealings shall be conducted.

Transaction
with
Government
securities

52. The Bank may underwrite, purchase, sell or deal in securities issued or guaranteed by the Government which form part of a public issue.

PART IX

GENERAL

Prohibited
business

53. Except as otherwise expressly authorised by this Act, the Bank shall not—

(a) engage in trade, purchase stocks or shares of, or otherwise have a direct interest in any commercial, agricultural,

industrial, financial or like undertaking, save as the Bank may acquire as security for, or in satisfaction of, debts due to it, and any interest so acquired shall be disposed of at the earliest convenient opportunity;

(b) accept for discount, or as security for any advance, bills or notes signed by a director or by a member of the staff of the Bank;

(c) acquire by purchase, lease or otherwise, any right in, or to, any immovable property except in so far as the Bank shall consider necessary or expedient for providing premises for the conduct of its business and requirements incidental to the functions or business of the Bank;

(d) make unsecured advances or advances secured otherwise than is provided for under this Act.

54. (1) For the purpose of carrying out its functions under this Act, the Bank may require any person to provide such information as it may specify.

Right to call information

(2) Where the Bank believes that any information or data supplied by any person pursuant to subsection (1), is, or maybe, inadequate or inaccurate, it may, by notice in writing to that person, require that information or data to be audited by an auditor approved by the Bank.

55. The Bank shall carry out, periodically or at such times as the Bank may consider necessary, an inspection of any bank or financial institution in accordance with the provisions of the Banking and Financial Services Act.

Inspection

56. (1) The Bank shall be exempt from payment of any taxes, levies or duties in respect of its profits, operations, capital, property or documents or any transaction, deed, agreement or promisory note to which it is a party.

Act No. 21 of 1994

Exemptions from taxes, etc.

(2) The Bank shall be exempt from the payment of taxes or any duties in respect of notes or coins issued as currency under this Act.

57. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may, on the recommendation of the Bank, make rules or regulations prescribing any matter which the Bank is authorised by this Act to formulate, regulate or determine.

(3) Regulations or rules made under this Act may provide in respect of any contravention thereof that the offender shall be liable to a fine not exceeding one hundred thousand fine units or to a term of imprisonment not exceeding ten years, or to both.

Property

58. The Bank may construct, purchase or lease or otherwise acquire for the conduct of its business or, for the residence of its staff, property and may manage, insure, sell, lease or otherwise dispose of that property.

Restriction on execution against property and assets of the Bank

59. Notwithstanding anything to the contrary contained in any written law, where any judgement or order has been obtained against the Bank, no execution or attachment, or process in the nature thereof, shall be issued against the Bank or against any property or asset of the Bank; but the Bank shall cause to be paid such amounts as may, by the judgement or order, be awarded against the Bank to the person entitled thereto.

Fees and recovery of expenses

60. The Bank may charge fees and recover expenses incurred in the carrying out of its duties or operations under this Act.

Exemption from Banking and Financial Services Act No. 21 of 1994

61. The Bank shall not be subject to the Banking and Financial Services Act except in so far as that Act imposes a duty on the Bank.

Savings

62. (1) Any assets, liabilities, obligations, rights, interests of or anything belonging to or pertaining to or attached to, the Bank established under section *three* of the Bank of Zambia Act, 1985, shall continue to vest in the Bank.

Act No. 24 of 1985

(2) The present staff of the Bank shall continue in service in accordance with any contracts of employment or conditions of service existing or in force before the commencement of this Act.

Repeal of Act No. 24 of 1985

63. (1) The Bank of Zambia Act, No. 24 of 1985 is hereby repealed.

Cap. 699
Cap. 598

(2) Section 6 of the Currency Act which was repealed by the Bank of Zambia Act, may, notwithstanding that repeal, be resorted to for the purposes of money expressed in pounds, shillings and pence in any law, deed, instrument, security for money or other document made before the 16th of January, 1968, or in any contract or agreement, whether in writing or not, entered into prior to that date.

(3) Notwithstanding subsections (1) and (2), every regulation, order, rule, notice or directive made or given under the Bank of Zambia Act, 1985, or the Currency Act, which stand repealed, and in force at the commencement of this Act shall remain in force, so far as it is not inconsistent with this Act, until the same is repealed and shall be deemed for all purposes to have been made or given under this Act.

Act No. 24
of 1985
Cap. 699



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THE BANK OF ZAMBIA ACT, 1996

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