

Exchange Control Regulations, 1996

S.I. 109 of 1996

[Gazetted 5th July 1996.]
Amended by SI 258A/97; 89/03; 5/04 and 24/05

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IT is hereby notified that His Excellency the President, in terms section 2 of the Exchange Control Act [Chapter 22:05], has made the following regulations: □

PART I: PRELIMINARY

1. Title

These regulations may be cited as the Exchange Control Regulations, 1996.

2. Interpretation

In these regulations □

“authorised dealer” means □

(a) the Reserve Bank; and

(b) any commercial bank or accepting house, or any class thereof, which the Reserve Bank, by order, declares to be an authorised dealer for the purposes of these regulations;

□ authorised officer □ means a person who is an authorised officer in terms of Section 42;

□ bearer certificate □ means a certificate of title to a security the delivery of which, with or without endorsement, transfers title to the security;

□ certificate of title □ in relation to a security, means a document whereby a person who has issued or will issue the security recognises another person's title to the security and, in the case of any such documents with coupons, whether they are attached or on separate coupon sheets, includes any coupons, which have not been detached;

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□coupon□means a coupon representing dividends or interest on a security;

□equivalent value in Zimbabwean currency□ means the equivalent in Zimbabwean currency after payment of any usual and proper charges of the authorised dealer concerned;

□exchange control authority□means □

(a) the Minister, in relation to every provision of these regulations; and

(b) the Reserve Bank, in relation to such of the provisions of these regulations as the Minister may specify by statutory instrument;ⁱ and

(c) in relation to any particular provision of these regulations, any authorized dealer that is declared, by order, to be an exchange control authority for the purposes of that provision;

□foreign currency□means □

(a) a foreign currency note or coin; or

(b) a foreign currency document;

□foreign currency account□means an account opened with a commercial or accepting house in Zimbabwe in terms of Part III;

□foreign currency document□means any bill of exchange, travellers cheque, letter of credit, draft or other document which □

(a) is issued outside Zimbabwe and is intended to enable the person to whom it is issued to obtain, directly or indirectly, Zimbabwean currency or any foreign currency note or coin from some other person on the credit of the person issuing the document;

(b) is issued in Zimbabwe and is intended to enable the person to whom it is issued to obtain, directly or indirectly, any foreign currency note or coin from some other person on the credit of the person issuing the document;

□foreign currency note or coin□means any currency, other than Zimbabwean currency or gold, which is legal tender in a country other than Zimbabwe.

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[definition of foreign exchange bureau de changerepealed by SI 89/03]

- foreign residentmeans a person who is not a Zimbabwean resident;
- free fundsmeans money which is lawfully held outside Zimbabwe by a Zimbabwean resident and which was acquired by him otherwise than as the proceeds of any trade, business or other gainful occupation or activity carried on by him in Zimbabwe;
- goldmeans gold in any form, including gold coins;
- goodsmeans movable property of any kind, including animals.
- insurance policymeans any policy securing the payment of a capital sum or an annuity on the occurrence of a specified event which is certain to happen, and includes a policy
- (a) by which the payment of money is assured on death, except death by accident only, or the happening of any contingency dependent on human life; or
 - (b) which secures the payment of an immediate annuity;
- and the reference in this definition to the occurrence of a specified event which is certain to happen includes the occurrence which is certain to happen of one or more specified events none of which by itself is certain to happen;
- listed in relation to a security, means included in the official list of securities kept by the committee of the Zimbabwe Stock Exchange in terms of section 16 of the Zimbabwe Stock Exchange Act [Chapter 24:18];
- Ministermeans the Minister responsible for finance;
- nominee in relation to a security, coupon or insurance policy, means a person
- (a) has no beneficial interest in the security, coupon or insurance policy; and

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(b) is not entitled to exercise any rights in relation to the security, coupon or insurance policy except in accordance with instructions given by another person;

□note□includes a part of a note;

□order□means an order made in terms of section 40;

□prescribed□means prescribed in an order;

□registered□ in relation to a security, means registered or inscribed in any book, file, index or other record in which securities are registered;

□repealed regulations□means the regulations repealed by section 50;

□Reserve Bank□means the Reserve Bank of Zimbabwe established by the Reserve Bank of Zimbabwe Act [Chapter 22:15];

□security□means any of the following □

- (a) shares, stocks, bonds, debentures and debenture stock;
- (b) units under a unit trust scheme;
- (c) shares in an oil royalty;
- (d) a renounceable letter of allotment or a letter of rights;
- (e) a warrant conferring an option to acquire, or a deposit certificate in respect of, anything referred to in paragraphs (1) to (d)

but does not include a bill of exchange or a promissory note;

□traveller□means a person who □

- (a) has just entered Zimbabwe; or
- (b) is on a train or aircraft destined for Zimbabwe; or
- (c) is about to depart from Zimbabwe, whether temporarily or otherwise.

□unit□ in relation to a unit trust scheme, means a right or interest, whether described as a unit or otherwise, which may be acquired under the scheme;

□unit trust scheme□means an arrangement the purpose or effect of which is

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to enable persons to participate in or receive profits or income arising from the acquisition, holding, management or disposal of property of any description, where

- (a) the property is held in trust for the participants; and
- (b) the participants do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions in regard to its management; and
- (c) the arrangement has either or both of the following characteristics
 - i. the participants' contributions and the profits or income out of which payments are to be made are pooled;
 - ii. the property is managed as a whole;

Zimbabwean currency means currency which has been issued under the Reserve Bank of Zimbabwe Act [Chapter 22:15] and which has not been demonetised under that Act;

Zimbabwean resident means a person who is regarded as a Zimbabwean resident in terms of section 3.

3. Determination of residence

- (1) Subject to subsection (2), for the purposes of these regulations
 - (a) an individual shall be regarded as a Zimbabwean resident if he is ordinarily resident in Zimbabwe;
 - (b) an individual ordinarily resides partly in Zimbabwe and partly in another country shall be regarded as a Zimbabwean resident whenever he is in Zimbabwe.
 - (c) A company or other body corporate shall be regarded as a Zimbabwean resident if
 - i. it is incorporated in Zimbabwe; or
 - ii. it has its head office or principal place of business in Zimbabwe;
 - (d) an unincorporated association of persons shall be regarded as a Zimbabwean resident if
 - i. it is incorporated in Zimbabwe; or
 - ii. it has its head office or principal place of business in Zimbabwe;

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- (e) the executor or administrator of a deceased estate shall be regarded, for the purpose of the administration, liquidation and distribution of the estate, as a resident of the country in which the deceased person ordinarily resided at the time of his death.

- (2) If

 - (a) it is not possible to ascertain the country of which a person is a resident; or

 - (b) a person is a resident of two or more countries at the same time; an exchange control authority may give direction that that person shall be regarded, for the purposes of these regulations or any particular provision of these regulations, as being resident or as not being resident, as the case may be, in such country or countries as the exchange control authority may specify.

PART II
DEALINGS IN FOREIGN CURRENCY

4. *Dealings in foreign currency*

(1) Subject to subsection (3), unless permitted to do so by an exchange Control authority

(a) no person shall, in Zimbabwe

(i) buy any foreign currency from or sell any foreign currency to any person other than an authorised dealer; or

(ii) borrow any foreign currency from, lend any foreign currency to or exchange any foreign currency with any person other than an authorised dealer;

(b) no Zimbabwean resident shall, outside Zimbabwe

(i) buy or borrow any foreign currency from any person if the transaction results in or is likely to result in a debt payable in or from Zimbabwe; or

(ii) sell or lend any foreign currency to any person if the foreign currency

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originated from Zimbabwe or is the proceeds of any trade, business or other gainful occupation or activity carried on by him in Zimbabwe; or

(iii) exchange any foreign currency with any person if

A. the transaction results in or is likely to result in a debt payable in or from Zimbabwe; or

B. except in the case of a travellers cheque, the foreign currency originated from Zimbabwe or is the proceeds of any trade, business or other gainful occupation or activity carried on by him in Zimbabwe.

[\[Amended by SI 89/03 w.e.f. 07.03.03 by the deletion from subparagraph \(i\) of or foreign exchange bureau de change](#)

(2) Subject to subsection (3) where

(a) any person buys, borrows or otherwise obtains any foreign currency in Zimbabwe; or

(b) any Zimbabwean Resident buys, borrows or otherwise obtains foreign currency outside Zimbabwe;

he shall comply with any conditions that any exchange control authority may give him from time to time in regard to the use to which the foreign currency may be put or the period for which it may be retained.

(3) Subsections (1) and (2) shall not apply to

(a) the acquisitions of foreign currency outside Zimbabwe by an individual who is a Zimbabwean resident, where the foreign currency is acquired with free funds which were available to him at the time of the acquisition; or

(b) the sale or loan of free funds by an individual who is a Zimbabwean resident to a foreign resident, where the free funds were available to the individual at the time of the sale or loan; or

(c) any lawful transaction with money in a foreign currency account;

(d) such other transactions as may be prescribed.

(4) For the purposes of this section

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(a) in the case of a foreign currency document that is issued but is not the subject of a sale□

(i) the person issuing the document shall be deemed to be selling it; and

(ii) the person to whom the document is issued shall be deemed to be buying it;

(b) where any foreign currency note or coin is obtained by means of a foreign currency document.

(i) the person issuing the currency shall be deemed to be selling it; and

(ii) the person to whom the currency is issued shall be deemed to be buying it.

5. *Money receivable outside Zimbabwe*

(1) In this section□

□right to receive money□includes any such right, whether present or future, vested or contingent.

(2) Subject to subsection (3), unless otherwise authorised by an exchange control authority, a Zimbabwean resident who has the right to receive money outside Zimbabwe□

(a) shall not do anything with intent to secure that□

(i) the receipt by him in Zimbabwe of the whole or part of the money is delayed; or

(ii) such money ceases, in whole or in part, to be receivable by him in Zimbabwe; and

(b) shall□

(i) ensure the receipt by him of such money in Zimbabwe; and

(ii) cause the money to be offered for sale to an authorised dealer or paid into a foreign currency account;

as soon as is reasonably possible in the circumstances.

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(3) Subsection (2) shall not apply to money which is held by an individual and which was acquired by him otherwise than by virtue of a trade, business or other gainful occupation or activity carried on by him in Zimbabwe.

(4) Unless otherwise authorised by an exchange control authority, a foreign resident who carries on any trade, business or other gainful occupation or activity in Zimbabwe and who has the right to receive money outside Zimbabwe as a consequence of or in connection with that trade, business or occupation□

(a) shall not do anything with intent to secure that□

(i) the receipt by him in Zimbabwe of the whole or part of the money is delayed; or

(ii) such money ceases, in whole or in part, to be receivable by him in Zimbabwe; and

(b) shall□

(i) ensure the receipt by him of such money in Zimbabwe; and

(ii) cause the money to be offered for sale to an authorised dealer or paid into a foreign exchange account;

as soon as is reasonably possible in the circumstances.

(5) An exchange control authority may give a person referred to in subsection (2) or (4) written directions to ensure the receipt by him in Zimbabwe of any money to which the subsection concerned relates, and the person shall comply with any such direction.

(6) Directions under subsection (5) may require a person to refuse to do any act or to provide any service until payment therefore or for previous acts or services has been received in Zimbabwe or made in such other manner as the exchange control authority may direct.

PART III: FOREIGN CURRENCY ACCOUNTS

6. Interpretation in Part III

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In this Part □

□holder□ in relation to a foreign currency account, means the person in whose name the account is held.

7. Right to open and operate foreign currency account

(1) **Subject to any order**, any person may open a foreign currency account with a commercial bank or accepting house which is an authorised dealer.

[Subsect (1) amended by section 2 of S.I. 258A of 1997, with effect from the 21st November, 1997.]

(2) Subject to any order, no one except the holder of a foreign currency account, or his authorised agent, may deal with the money held in the account.

8. Denominated currencies

The money held in a foreign currency account may be denominated in any prescribed foreign currency.

9. Deposits and withdrawals from foreign currency accounts

(1) The holder of a foreign currency account may deposit in the account any foreign currency held by or acquired by him, except such foreign currency as may be prescribed.

(2) Zimbabwean currency shall not be deposited in a foreign currency account, except in such circumstances as may be prescribed.

(3) Subject to any order, money may be withdrawn from a foreign currency account in any denominated currency or in Zimbabwean currency.

(4) Money in a foreign currency account may be withdrawn and applied to any purpose, except such purposes as may be prescribed.

Provided that, where a holder withdraws money from his foreign currency account for the purpose of a transaction for which he is required to obtain permission under these regulations, he shall obtain such permission before applying the money to that purpose.

PART IV: CONTROL OF PAYMENTS

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10. Payments in Zimbabwe

(1) Unless otherwise authorised by an exchange control authority, no person shall, in Zimbabwe □

- (a) make any payment to or for the credit of a foreign resident; or
- (b) make any payment to or for the credit of a Zimbabwean resident by order or on behalf of a foreign resident; or
- (c) place any money to the credit of a foreign resident; or
- (d) accept any payment from any person in respect of services that are to be provided outside Zimbabwe by another person.

(2) Subsection (1) shall not apply to □

- (a) any payment lawfully made from money held in a foreign currency account; or
- (b) such other transactions as may be prescribed.

11. Payments outside Zimbabwe

11. (1) Subject to subsection (2), unless otherwise authorised by an exchange control authority, no Zimbabwean resident shall □

- (a) make any payment outside Zimbabwe; or
- (b) incur any obligation to make a payment outside Zimbabwe.

(2) Subsection (1) shall not apply to □

- (a) any act done by an individual with free funds which were available to him at the time of the act concerned; or
- (b) any lawful transaction with money in a foreign currency account.

(3) Subject to subsection (4), unless authorised by an exchange control authority, no foreign resident carrying on any trade, business or other gainful occupation or activity in Zimbabwe shall □

- (a) make any payment outside Zimbabwe; or
- (b) incur any obligation to make a payment outside Zimbabwe; in respect of that trade, business, occupation or activity.

(4) Subsection (3) shall not apply to any lawful transaction with money in a foreign currency account.

PART V: SECURITIES

12. Issue of Zimbabwean-registered securities

Subject to section 17, unless otherwise authorised by an exchange control authority, no person shall issue to a foreign resident or nominee of a foreign resident any security which is registered in Zimbabwe.

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13. *Transfer of Zimbabwean-registered securities and coupons*

(1) Subject to section 17, unless otherwise authorised by an exchange control authority, no person shall transfer any security which is registered in Zimbabwe unless

(a) he or the person, if any, for whom he is a nominee is a Zimbabwean resident; and

(b) the transferee or the person, if any, for whom he is to be a nominee is a Zimbabwean resident; and

(c) he delivers to the transferee, at or before the time of transfer, a declaration in the form set out in the First Schedule as to his residence or his nominee's residence, as the case may be.

(2) Subject to section 17, unless otherwise authorised by an exchange control authority, no person shall transfer a coupon relating to a security which is registered in Zimbabwe if the transferee or the person, if any, for whom he is to be a nominee, is a foreign resident.

14. *Issue of bearer certificates and coupons*

Unless otherwise authorised by an exchange control authority, no Zimbabwean resident shall

(a) issue any bearer certificate or coupon relating to a security which is registered in Zimbabwe or so alter a document that it becomes such a bearer certificate or coupon; or

(b) in the case of a certificate of title to securities which are registered in Zimbabwe with coupons, whether attached or on separate coupon sheets, detach any of the coupons otherwise than in the ordinary course of collection.

15. *Foreign-currency securities*

(1) Subject to subsection (2), unless otherwise authorised by an exchange control authority, no Zimbabwean resident shall

(a) acquire from any person, wherever resident

(i) any security on which any capital amount, dividend or interest is payable or expressed to be payable in foreign currency or in respect of which the holder has an option to require payment of any capital amount, dividend or interest in foreign currency; or

(ii) any coupon relating to a security referred to in subparagraph (i); or

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(b) sell, transfer or otherwise, dispose of to a foreign resident□

(i) any security on which any capital amount, dividend or interest is payable or expressed to be payable in foreign currency or in respect of which the holder has an option to require payment of any capital amount, dividend or interest in foreign currency; or

(ii) any coupon relating to a security referred to in subparagraph (i).

(2) Subsection (1) shall not apply to□

(a) the acquisition of a coupon, where□

(i) the acquisition is gratuitous, with no consideration whatsoever being paid or payable by the person acquiring the security; or

(ii) any consideration payable in respect of the acquisition is paid from free funds held by the person acquiring the security or from money held by him in a foreign currency account; or

(b) the sale, transfer or disposal of a security or coupon whose acquisition was paid for out of free funds held by the acquirer or from money held by him in a foreign currency account; or

(c) the acquisition, sale, transfer or disposal of a listed security.

16. Duties of persons keeping registers of securities

(1) In this section□

□register□means any register, book, file, index, record or document in which the issue or transfer of securities is recorded or inscribed.

(2) Subject to subsection (3), unless otherwise authorised by an exchange control authority, no person concerned with the keeping of a register in Zimbabwe shall□

(a) make any entry in the register which involves the transfer of a security to or by a foreign resident; or

(b) enter in the register an address in Zimbabwe if he knows or has reason to believe that the person in whose name the security is or is to be registered is a foreign resident or that a foreign resident has an interest in that security; or

(c) transfer or make any entry in the register which involves the transfer of a security to a register outside Zimbabwe.

(3) Subsection (2) shall apply to an entry or transaction involving a security which is held or is to be held by a foreign resident in accordance with section 12.

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17. Special provisions for securities listed on Zimbabwe Stock Exchange.

Subject to such terms and conditions as may be prescribed, a listed security may be issued or transferred to a foreign resident or his nominee.

18. Validation of certain transfers

(1) Where a person has acquired a security for value without knowing that □

(a) his acquisition of the security was unlawful under these regulations or the repealed regulations because of the residence of the person who issued or transferred it to him; or

(b) a prior issue or transfer of the security was unlawful under these regulations or the repealed regulations because of the residence of any party to the issue or transfer;

his title to the security, and the title of anyone claiming through or under him, shall be valid notwithstanding the unlawfulness.

(2) Without derogation from subsection (1), an exchange control authority may issue a certificate to the effect that any purported issue or transfer of a security, which was unlawful under these regulations or the repealed regulations because of the residence of any party to the issue or transfer, shall be and shall be deemed always to have been valid notwithstanding the unlawfulness, and the issue or transfer shall have effect accordingly.

(3) Nothing in subsection (1) or (2) shall affect the liability of any person to prosecution for a contravention of these regulations or the repealed regulations.

19. Presumptions re mode and place of transfer of securities

(1) For the purposes of any provision of these regulations relating to the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer in relation to the security, whether the instrument is legally effective or not, and he shall be deemed to transfer the security at the place where he executes such an instrument.

(2) Subsection (1) shall not be construed as limiting the application of these regulations to transfer of securities which are effected by the method referred to in that subsection.

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PART VI: IMPORTS AND EXPORTS

20. *Export of currency, etc.*

(1) Subject to subsection (2), unless otherwise authorised by an exchange control authority, no person shall export or cause to be exported from Zimbabwe □

(a) any Zimbabwean currency; or

(b) any foreign currency; or

(c) any postal order or money order, or

(d) any □

(i) any certificate of title to any security; or

(ii) coupon; or

(iii) bill of exchange or promissory note; or

(iv) insurance policy;

including any such document which has been cancelled and any document certifying the destruction, loss or cancellation of any such document or of any foreign currency document; or

(e) any gold, silver or platinum or any article manufactured from or containing gold, silver or platinum; or

(f) any precious or semiprecious stone or pearl whose value exceeds such amount as may be prescribed, or any article mounted or set with a precious or semiprecious stone or pearl whose value exceeds such amount as may be prescribed.

(2) Subsection (1) shall not apply to □

(a) Zimbabwean currency, up to such amount as may be prescribed, which is taken out on the person or in the baggage of a person who is leaving Zimbabwe; or

(b) Any foreign currency, up to such amount as may be prescribed, which is taken out on the person or in the baggage of a Zimbabwean resident who is leaving Zimbabwe; or

(c) Any foreign currency which has been imported into Zimbabwe by a foreign resident and is being taken or sent out of Zimbabwe by that person on his person or his baggage; or

(d) Any foreign currency document issued by an authorised dealer which is being taken or sent out of Zimbabwe by the person to whom it was issued; or

(e) Any foreign currency document which enables the person to whom it is issued to obtain foreign currency held as free funds by the person who exports the document; or

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(f) Any certificate of title to a security or any coupon or insurance policy or any document relating to such a certificate, coupon or policy, where the security or insurance policy concerned has been paid for entirely out of free funds held by the person who exports the document; or

(g) Any article referred to in paragraph (e) or (f) of subsection (1) which is for the bona fide personal use of the person concerned and is being taken out of Zimbabwe on his person or in his baggage.

21. Export of goods

(1) In this section □

□Director□ means the Director of Customs and Excise referred to in subsection (1) of section 4 of the Customs and Excise Act [Chapter 23:02], or any person authorised by him to exercise the functions conferred on the Director by this section.

(2) Subject to this section, unless otherwise authorised by an exchange control authority, no person shall export any goods or cause any goods to be exported from Zimbabwe unless he satisfies the Director that □

(a) payment for the goods has been made to a Zimbabwean resident in such manner as may be prescribed, or will be so made within such period after the date of export as may be prescribed; and

(b) the amount of the payment that has been or will be made is such as to represent a return for the goods which is, in all the circumstances satisfactory in the interests of Zimbabwe.

(3) For the purpose of satisfying himself as to the matters specified in subsection (2), the Director may require the person making entry of the goods concerned for export to deliver to him, together with the entry, a declaration signed by such person as the Director may require.

(4) Where the Director is not satisfied, in relation to any goods, as to the matters specified in subsection (2), he shall give his reasons to the person making entry of the goods for export and shall take into consideration any representations made by that person.

(5) Where goods have been exported from Zimbabwe and payment for them has not been made in the period within which it ought to have been made in terms of subsection (1), an exchange control authority may give to such person as he things appropriate □

(a) such directions as he considers expedient for the purpose of obtaining or

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expediting the receipt of the payment in question; or
(b) if the goods have not been sold, such directions as he considers expedient as to the manner in which the goods are to be dealt with.

(6) This section shall not apply to

(a) the export of goods below such value as may be prescribed; or

(b) the export of

(i) travellers samples to be exported temporarily; or

(ii) vehicles to be exported temporarily by road; or

(iii) goods to be exported after having been imported under temporary clearance arrangements; or

(iv) the baggage of passengers, not being merchandise; or

(c) the export of goods to which section 20 applies; or

(d) such other exports as may be prescribed.

22. Departure or transit lounge

Unless otherwise authorised by an exchange control authority, no person who is about to leave Zimbabwe shall, at any airport or other port of entry to or exit from Zimbabwe, within the area known as the departure or transit lounge

(a) possess Zimbabwean currency in excess of such amount as may be prescribed; or

(b) possess foreign currency notes or coins in excess of such amount as may be prescribed; or

(c) obtain any goods on credit

23. Import of Zimbabwean currency

Unless otherwise authorised by an exchange control authority, no person shall import any Zimbabwean currency or cause any Zimbabwean currency to be imported into Zimbabwe in excess of such amounts as may be prescribed.

24. Payment for imports

(1) Where a person

(a) has been granted authority or permission under these regulations

(i) subject to a condition that any goods are to be imported into Zimbabwe; or

(ii) on the basis of an application stating an intention that any goods are to be imported into Zimbabwe; or

(b) has obtained foreign currency in Zimbabwe on the basis of an application

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stating that any goods are to be imported into Zimbabwe;
and the goods are not imported into Zimbabwe within such period as may be prescribed, that person shall notify an exchange control authority, in writing and within twenty-one days after the expiry of the prescribed period, of all the material particulars relating to the goods.

(2) Where goods have not been imported into Zimbabwe within the prescribed period referred to in subsection (1), an exchange control authority may give to any person he considers appropriate such directions as he considers expedient as to the manner in which the goods are to be dealt with.

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25. Transfer of insurance policies

(1) Unless otherwise authorised by an exchange control authority, a Zimbabwean resident shall not transfer to a foreign resident or foreign resident's nominee any right to the sums assured by an insurance policy.

(2) Where an insurer pays any sum assured by an insurance policy to a Zimbabwean resident or, with the permission of an exchange control authority, to a foreign resident

(a) he shall not be bound to inquire as to the residence of any person other than the payee and the person to whose order the payment is made, if that person is not himself the payee; and

(b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy notwithstanding that the payee's entitlement to payment arose by virtue of a transfer prohibited by subsection (1).

(3) An exchange control authority may issue a certificate declaring that any purported transfer of a right to a sum assured by an insurance policy shall be, and shall be deemed to have been, valid as if it had been done with the exchange control authority's permission, and the transfer shall have effect accordingly.

(4) The issue of a certificate under subsection (3) shall not affect the liability of any person to prosecution for a contravention of subsection (1) or the equivalent provision in the repealed regulations.

26. Settlements

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(1) In this section □

□interest□ in relation to any property, includes any beneficial interest whatsoever in the property, whether present or future, vested or contingent;

□power of appointment□ means a right conferred on any person under a usufruct, fideicommissum or trust to determine the person upon whom all or any of the property that is subject to the usufruct, fideicommissum or trust shall eventually devolve;

□settle□ in relation to property, includes the making of a disposition, covenant, agreement or arrangement whereby the property becomes subject to a usufruct, fideicommissum or trust, or, in the case of a re-settlement, to a different usufruct, fideicommissum or trust;

□will□ includes any testamentary disposition.

(2) Unless otherwise authorised by an exchange control authority, a Zimbabwean resident shall not □

(a) settle any property, otherwise than by will, so as to confer an interest in the property on a person who, at the time of the settlement, is a foreign resident; or

(b) exercise, otherwise than by will, any power of appointment, whether created by will or otherwise, in favour of a person who, at the time of the exercise of the power, is a foreign resident.

(3) A settlement or the exercise of a power of appointment shall not be invalid through being prohibited by subsection (2) except in so far as it purports to confer any interest on a person who, at the time of the settlement or the exercise of the power, is a foreign resident.

(4) An exchange control authority may issue a certificate declaring that any purported settlement or exercise of a power of appointment shall be, and shall be deemed to have been, valid as if it had been done with the exchange control authority's permission, and the settlement or exercise of power shall have effect accordingly.

(5) The issue of a certificate under subsection (4) shall not affect the liability of any person to prosecution for contravention of this section or the equivalent provision in the repealed regulations.

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27. *Borrowings, lendings and investments: foreign-controlled organisations*

(1) Subject to subsection (3), an exchange control authority may, by written notice to the parties concerned in the transaction, prohibit

- (a) the lending of any money, Treasury bill or security to; or
- (b) the borrowing of any money, Treasury bill or security from; or
- (c) the issue of any security to; or
- (d) the acquisition of any financial interest in any body of persons, whether incorporated or unincorporated, by;

any body corporate which is a Zimbabwean resident and which is controlled, directly or indirectly, by one or more foreign residents.

(2) Any person on whom a notice under subsection (1) is served shall forthwith take all necessary steps to comply with it.

(3) Any exchange control authority shall not issue a notice under subsection (1) prohibiting any of the following transactions

- (a) any transaction undertaken with free funds which were available to the party to the transaction at the time the transaction takes place; or
- (b) any transaction lawfully undertaken with money in a foreign currency account; or
- (c) any investment in a listed security which is authorised by section 17.

(4) For the purposes of this section, foreign residents shall be deemed to control a body corporate notwithstanding that other persons are associated with them in controlling it, if the foreign residents can together override those other persons.

PART VIII: GENERAL

28: *Remittability of funds*

(1) Subject to subsection (2), a person who receives or is entitled to receive any of the following amounts shall have the right to remit the whole or any part of the amount concerned out of Zimbabwe

- (a) in the case of an individual, money held by him in a foreign currency account;
- (b) any dividend or interest, up to such maximum amount as may be

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prescribed, on a security acquired by that person from money held in a foreign currency account;

(c) without derogation from section 29, any amount which the recipient has the right to remit out of Zimbabwe in terms of any enactment or any convention, treaty or agreement to which the Government is a party;

(2) The remittance of any amount referred to in subsection (1) shall be effected through an authorised dealer.

(3) Nothing in this section shall be construed so as to preclude the remittance out of Zimbabwe of any amount with the permission of an exchange control authority.

29. Grant of permission, authority, etc

(1) Where

(a) any person has acquired a right to do anything or an entitlement to anything in terms of any enactment or any convention, treaty or agreement to which the Government is a party; and

(b) that right or entitlement is by these regulations subject to permission or authority granted by an exchange control authority;

the exchange control authority shall without delay grant the permission or authority necessary to enable the person to exercise his right or obtain the benefit of his entitlement, as the case may be.

(2) Subsection (1) shall apply where the enactment, convention, treaty or agreement which confers the right or entitlement concerned provides, expressly or by implication, that the right or entitlement is to be exercised subject to permission or authority granted under these regulations.

30. Foreign exchange bureaux de change

[Repealed by SI 89/03 w.e.f. 07.03.03]

31. Export processing zones

Any area or premises declared to be an export processing zone in terms of the Export Processing Zones Act [Chapter 14:07], shall be deemed, for the purposes of these regulations, to be outside Zimbabwe, and any reference in

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these regulations to residence, the remitting or holding of funds or the importing or exporting of currency or goods shall be construed accordingly.

32. *Blocked accounts*

(1) In this section

□ blocked account □ means an account opened in Zimbabwe with an authorised dealer who is permitted by an exchange control authority to open and operate blocked accounts for the purposes of these regulations.

(2) Where the permission or authorisation of an exchange control authority is required under these regulations for the making of any payment or the placing of any sum to the credit of any person, the exchange control authority may direct that the sum payable or to be paid or credited shall be paid or credited to a blocked account.

(3) Where an exchange control authority has given a direction under subsection (2) that a payment is to be made to a blocked account, payment shall be made to an authorised dealer with a direction, which may be given by marking the cheque or warrant, to the effect that it is to be credited to the blocked account of the person concerned, and the sum collected shall be credited by the authorised dealer to the blocked account of that person.

(4) Subject to subsections (5) and (6), any sum standing to the credit of a blocked account shall not be dealt with in any manner except with the permission of an exchange control authority.

(5) Subject to these regulations the whole or any part of the sum may, at the request of the person in whose name the account stands, be invested through then authorised dealer in such investments as may be authorised by an exchange control authority.

(6) In the event of the death, insolvency or bankruptcy of the person in whose name a blocked account is standing, or in the event of his assigning his estate to his creditors, the authorised dealer with whom the account is held may transfer the account to the name of the executor, trustee or assignee, as the case may be:

Provided that

(i) no change shall be made in the name in which the account stands, except with the permission of an exchange control authority;

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(ii) where any such change is made, the account shall remain a blocked account subject to this section.

(7) Where the sum is due from any person to any other person but an exchange control authority directs in terms of subsection (2) that it should be paid or credited to a blocked account, the crediting of any sum to that account shall, to the extent of the sum credited, be a good discharge of the person by whom the sum is due.

33. Persons leaving Zimbabwe

Where a Zimbabwean resident leaves or intends to leave Zimbabwe, whether permanently or temporarily, an exchange control authority may, before, at or after the time that the person leaves Zimbabwe, direct that, for such period as may be specified in the direction

- (a) payments by him or on his behalf and to him or to his credit; and
- (b) transactions in relation to his property.

shall be subject to restrictions as may be specified in the direction, whether or not the person continues to be a Zimbabwean resident.

34. Declaration by travellers

Any traveller shall, if so required by an authorised officer

- (a) declare whether or not he has with him any thing the possession, importation or exportation of which, as the case may be, is prohibited or regulated by or under these regulations;
- (b) produce any permission or authority for the possession, importation or exportation, as the case may be, of any thing referred to in paragraph (a) which he is importing or exporting;
- (c) produce any thing referred to in paragraph (a) which he is importing or exporting.

35 Authorised dealers and other persons to comply with directions

(1) Authorised dealers shall comply with such directions as may be given to them by an exchange control authority relating to

- (a) the exercise of any functions conferred on them by or under these

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regulations;

(b) the terms on which they are to exchange foreign currency for Zimbabwean currency;

(c) the offer of foreign currency in their possession for sale to the Reserve Bank.

(2) Persons concerned with

(a) the keeping of any register in Zimbabwe; or

(b) the payment of capital moneys, dividends or interest in Zimbabwe; shall comply with such directions as may be given to them by an exchange control authority in relation to any function conferred or imposed on them by or under these regulations.

[\[Amended by SI 89/03 in subsection \(1\) by the deletion of "and foreign exchange bureaux de change" w.e.f. 07.03.03\]](#)

36. *Supervision of authorised dealers*

(1) In this section

"designated official" means any officer or employee of the Reserve Bank who is designated by the Reserve Bank for the purposes of this section.

(2) A designated official may, without previous notice and at all reasonable times, enter the premises of any authorised dealer and, after having informed the person in charge or control of the premises of the purpose of his visit, may do any or all of the following

(a) make such examination and inquiry as he considers appropriate;

(c) question any person who is employed in or at the premises;

(c) require any person who is employed in or at the premises to produce any book, notice, record, list or other document;

(d) examine and make copies of any book, notice, record, list or other document;

(e) take possession of any book, notice, record, list or other document;

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where such action is reasonably necessary for the purpose of ensuring that the authorized is complying with these regulations and any order or direction made thereunder.

(3) Any authorised dealer whose premises a designated official has entered in terms of subsection (2), and any person employed by such an authorised dealer shall forthwith furnish the designation official with such facilities as the designated official may reasonably require for the exercise of the powers conferred on him by subsection (2).

(4) A designated official

(a) shall be furnished with a certificate signed by or on behalf of the Governor of the Reserve Bank, stating that the holder is a designated official for the purposes of this section; and

(b) when exercising any power conferred on him by subsection (2), or when about to do so, shall on demand by any person concerned, produce the certificate referred to in paragraph (1).

(5) This section shall not be construed as limiting the power of the Reserve Bank under section 41 to give a direction to any person, including an authorised dealer, nor as limiting the powers of designated persons under that section.

[\[Amended by SI 89/03 by the deletion of foreign exchange bureau de change wherever it occurs w.e.f. 07.03.03\]](#)

37. Penalties for failure by authorised dealers to comply with regulations or directions

(1) Subject to this section ,if an exchange control authority is satisfied that an authorised dealer has

(a) contravened any provision of these regulations; or

(b) failed to comply with any order or direction with which it is its duty to comply;

the exchange control authority may direct the authorised dealer to cease all dealings in foreign currency, or such dealings as the exchange control authority may specify, for such period not exceeding twelve months as the exchange control authority may specify in the direction.

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(2) Before giving a direction in terms of subsection (1), the exchange control authority shall give the authorised dealer concerned an adequate opportunity to make representations in the matter.

(3) This section shall not be construed as limiting the power of

(a) the Reserve Bank to revoke the declaration of any institution as an authorised dealer; or

(b) .

[Section amended by SI 89/03 w.e.f. 07.03.03, (a) by the deletion of foreign exchange bureau de change wherever it occurs and (b) by the repeal of paragraph (b) of subsection (3).]

38. Exemptions

Notwithstanding any other provision of these regulations, an exchange control authority may issue a direction exempting any person from any obligation imposed by or prohibition contained in these regulations.

39. General provisions re directions, authorities, etc.

(1) Any direction issued or permission or authority granted under these regulations

(a) may be general or special;

(b) may be absolute or conditional;

(c) in the case of permission or authority, may be limited so as to expire on a specified date unless renewed;

(d) may be revoked or varied;

(e) shall be given to such persons or published in such manner as, in the opinion of the exchange control authority issuing or granting it, will give any person affected by it an adequate opportunity of getting to know of it.

(2) Notwithstanding paragraph (e) of subsection (1), no person shall be convicted of a contravention of these regulations or the repealed regulations by virtue of a direction which was not published in the Gazette unless it is proved that

(a) the direction was served on him; or

(b) he knew or avoided getting to know of the direction:

Provided that, where it is shown that reasonable steps were taken for the purpose of bringing the contents of the direction to his notice, the onus shall

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lie on him to show that he did not know and, did not avoid getting to know of the direction.

40. Orders

(1) Subject to subsection (3), the Reserve Bank may make orders for all or any of the following purposes□

(a) to protect or improve the value of Zimbabwean currency;

(b) to bring about and preserve stability in the currency market in Zimbabwe;

(c) to prescribe any matter which in terms of these regulations is required or permitted to be prescribed or which, in the Reserve Bank's opinion, is necessary or convenient to be prescribed in order to give effect to these regulations.

[Subsection (1) substituted by s. 3 of SI 258A, with effect from the 21st November, 1997.]

(2) Orders made under subsection (1) may provide for□

(a) the manner in which authorised dealers shall conduct their business for the purposes of these regulations;

(b) accounts, returns and reports to be submitted to the Reserve Bank by authorised dealers;

[Para (a) and (b) amended by SI 89/03 by the deletion of □and foreign exchange bureaux de change□w.e.f. 07.03.03.]

(c) the form of applications, permission, authorities, accounts, returns and reports made, granted, issued or submitted under these regulations;

(d) the suspension or cancellation of any permission or authority granted or issued in terms of these regulations;

(e) the liquidation of any foreign currency account or class of such accounts and the conversion to Zimbabwean currency of any money held in such an account;

(e1) terms and conditions under which money may be held in or withdrawn from a corporate foreign currency account, including terms and conditions □

(i) limiting the period that money may be retained in a foreign currency account; and

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(ii) requiring the conversion of foreign currency into Zimbabwe currency whenever money is withdrawn from a foreign currency account;
[paragraph (e1) inserted by SI 5/04 w.e.f. 09.01.04]

(f) the holding of foreign currency by authorised dealers, foreign exchange bureaux de change and other persons, including the fixing of maximum amounts of foreign currency that may be held by them;

(g) the giving of written directions by the Reserve Bank in respect of any matter referred to in this section.

[Paragraphs (e), (f) and (g) inserted by SI 258A/97 w.e.f. 21.11.97]

(2a) Orders made under subsection (1) may, notwithstanding section 41 of the Reserve Bank Act [chapter 22:15] or any other enactment □

(a) require foreign residents to settle in foreign currency any debt of a description specified in the order that is incurred by them in Zimbabwe;

(b) require Zimbabwean residents who lawfully receive any foreign currency that is the proceeds of any trade, business or other gainful occupation or activity carried on by them in Zimbabwe to settle in foreign currency any debt of a description specified in the order that is incurred by them in Zimbabwe;

Provided that any such order affecting Zimbabwean residents shall cease to have effect six months after it is published under subsection (3), unless earlier renewed or re-enacted and published under subsection (3) for a period not exceeding six months at a time.

[paragraph (2a) inserted by SI 5/04 w.e.f. 09.01.04]

(2b) Orders made under subsection (1) may, notwithstanding the Mines and Minerals Act [Chapter 21:05], the Minerals Marketing Corporation of Zimbabwe Act [Chapter 21:03] or any other enactment, require any person who mines or extracts in Zimbabwe or Exports from Zimbabwe platinum, osmium, palladium, rhodium or ruthenium, to deposit with an Authorised Dealer in Zimbabwe all or any of the proceeds from the mining, extraction, beneficiation, processing, exporting or dealing in such minerals in one or

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more foreign currency accounts of such class or classes as the Reserve Bank may specify in an order.

[Sub-section (2b) inserted by SI 24/05 w.e.f. 18.02.05]

(3) Orders made under subsection (1) shall not have effect until they have been approved by the Minister and published in the Gazette.

41. Power to require information and search persons and premises

(1) In this section □

□designated person□ means any person declared by the exchange control authority concerned to be a designated person for the purpose of a particular direction given under this section.

(2) An exchange control authority may give any person directions requiring him, in such manner and within such time as may be specified in the direction □

(a) to furnish to the exchange control authority or to a designated person any information which is in his possession or control to which he has access;

(b) to produce to the exchange control authority or to a designated person any book, account, document, record or thing which is in his possession or under his control or to which he has access; and which the exchange control authority believes on reasonable grounds is required for the purpose of securing compliance with or investigating any contravention of these regulations or the repealed regulations.

(3) A designated person may, without previous notice and at any time □

(a) search any person to whom a direction has been given under subsection (2) for the purpose of obtaining any information, book account, document, record, or thing, if there are reasonable grounds for believing that the search is necessary for the prevention, investigation or detection of an offence under the Act or for the seizure of any property that is the subject-matter of such an offence or evidence relating to such an offence:

Provided that, where a woman □ person is searched under this paragraph, the search shall be made only by a woman or by a medical practitioner and shall be conducted with strict regard to decency;

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(b) enter any premises owned, occupied or used by a person to whom a direction has been given under subsection (2) for the purpose of obtaining any information, book, account, document, record or thing, if there are reasonable grounds for believing that the entry is necessary for the prevention, investigation or detection of an offence under the Act or for the seizure of any property that is the subject-matter of such an offence or evidence relating to such an offence;

(c) examine and make extracts from and copies of any book, account, document or record referred to in paragraph (a) or (b);

(d) seize any book, account, document, record or thing found on any person or premises referred to in paragraph (a) or (b) which is believed on reasonable grounds to afford evidence of a contravention of the Act:

Provided that such book, account, document, record or thing shall be retained only so long as may be necessary for the purpose of any examination, investigation, trial or inquiry arising out of such contravention;

(e) require from any person an explanation of any entry made in any book, account, document or record found upon any person or premises referred to in paragraph (a) or (b);

(f) put questions to any person searched under paragraph (a) or found upon any premises referred to in paragraph (b), questions for the purpose of obtaining information relevant to the search or examination being conducted in terms of this section;

(g) use, for the purposes of any search under paragraph (a), or take with him on to any premises referred to in paragraph (b), an assistant or police officer.

(4) Any person to whom a direction has been given under subsection (2), and any person employed by him, shall forthwith furnish a designated person with such facilities as the designated person may reasonably require for the exercise of the powers conferred on him by subsection (3).

(5) Nothing in this section shall be taken to require any legal practitioner to disclose any privileged communication made to him in that capacity.

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(6) A court convicting a person of failing to give information or to produce any book, account, document, record or thing when required to do so under this section may require the person, within such period as the court may specify, to comply with the requirement to give the information or to produce the book account, document, record or thing, as the case may be.

(7) A designated person

(a) shall be furnished with a certificate signed by or on behalf of the exchange control authority that designated him, stating that the holder is a designated person for the purposes of this section; and

(b) when exercising any power conferred on him by this section, or when about to do so, shall on demand by any person concerned, produce the certificate referred to in paragraph (a).

42. *Authorised officers and their powers*

(1) Every person who is an officer in terms of the Customs and Excise Act [Chapter 23:02] and every immigration officer shall be an authorised officer for the purposes of these regulations.

(2) The Minister may appoint any person who is a member of the Public Service to be an authorised officer for the purposes of these regulations.

(3) The Reserve Bank may appoint any employee of the Reserve Bank to be an authorised officer for the purposes of these regulations.

(4) A person who is appointed in terms of subsection (2) or (3) to be an authorized officer

(a) shall be furnished with a certificate signed by or on behalf of the Minister or the Governor of the Reserve Bank, as the case may be, stating that the holder is an authorised officer for the purposes of these regulations; and

(b) when exercising any power conferred on him by these regulations, or when about to do so, shall on demand by any person concerned, produce the certificate referred to in paragraph (a).

(5) An authorised officer and any person acting under his direction may

(a) search any traveller; or

(b) examine or search any package or other article which a traveller has with

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him or in his baggage;

if there are reasonable grounds for believing that the search or examination is necessary for the prevention, investigation or detection of an offence under the Act or for the seizure of any property that is the subject-matter of such an offence or evidence relating to such an offence:

Provided that, where a woman's person is searched under this paragraph, the search shall be made only by a woman or by a medical practitioner and shall be conducted with strict regard to decency.

(6) An authorised officer may, at any airport or other port of entry or exit from Zimbabwe, within the area known as the departure or transit lounge, request any person whom he has reasonable grounds to suspect has contravened section 22 to make such declaration as the authorised officer considers necessary in order to ascertain whether or not there has been such a contravention.

(7) If an authorised officer finds on or in the baggage of any traveller who is about to depart from Zimbabwe any foreign currency document which is issued in the name of or payable to a person who is not the traveller concerned, the authorised officer may, unless he is satisfied that the traveller is lawfully in possession of the document and is entitled to export it, seize the document and retain it for so long as is necessary to ascertain whether or not it has been obtained in contravention of these regulations or the repealed regulations.

43. Appeals

(1) Any person who is aggrieved by a decision of an exchange control authority may appeal against the decision within thirty days after being notified of it to a review authority consisting of

(a) the Governor of the Reserve Bank or a Deputy Governor designated by the Governor; and

(b) the Secretary for Finance or a Deputy Secretary in the Ministry of Finance designated by the Secretary;

and the review authority, after making such investigation into the matter as it considers necessary, may confirm, vary or set aside the exchange control authority's decision.

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(2) Any person who is aggrieved by a decision of the review authority referred to in subsection (1) may appeal against the decision to the Minister within thirty days after being notified of the decision.

(3) On an appeal in terms of subsection (2) the Minister, after causing such investigation to be made into the matter as he considers necessary, may confirm, vary or set aside the review authority's decision.

(4) The procedure to be followed in an appeal under this section shall be as prescribed or, in regard to any matter that is not prescribed, shall be as determined

(a) in the case of an appeal under subsection (1), by the review authority;

(b) in the case of an appeal under subsection (2), by the Minister;

Provided that the review authority and the Minister shall observe the rules commonly known as the rules of natural justice and, in particular, shall take all reasonable steps to ensure that the appellant is given an adequate opportunity to make representations in the matter.

44. Effect of regulations on negotiable instruments

Notwithstanding any other law, an instrument which would otherwise be regarded as a bill of exchange or promissory note shall not cease to be a bill of exchange or promissory note, as the case may be, solely because these regulations prohibit payment under the instrument except with the permission or authority of an exchange control authority.

45. Effect of regulations on proceedings for recovery of debts

(1) In any proceedings for the recovery of a debt, a debtor may avoid payment solely on the grounds that

(a) the debt is not payable without the permission or authority of an exchange control authority; or

(b) an exchange control authority has not granted permission or authority for payment of the debt, or such permission has been revoked.

(2) In

(a) any insolvency, bankruptcy or assignment; or

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(b) the winding up of any company; or

(c) the administration of the estate of a deceased person;

any claim for a sum which is not payable without the permission or authority of an exchange control authority shall, notwithstanding that such permission has not been given or has been revoked, be admitted to proof as if such permission had been given or had not been revoked, as the case may be.

(3) Any payment in settlement of any debt or claim referred to in this section shall be subject to these regulations.

46. Presumptions

If, in any proceedings relating to a contravention of these regulations or the repealed regulations, the accused or any other person is described in the charge □

(a) as a Zimbabwean resident, he shall be deemed to be a Zimbabwean resident unless the contrary is proved;

(b) as a foreign resident, he shall be deemed to be a foreign resident unless the contrary is proved.

47. Destruction of records and obstruction of officers

(1) No person shall, with intent to evade any provision of these regulations or the repealed regulations, destroy, mutilate, deface, hide or remove any book account, document or record.

(2) No person shall hinder or obstruct any person on whom powers have been conferred by or in terms of these regulations or the repealed regulations.

48. Disposal of forfeited property

Any thing which has been declared under the Act to be forfeited to the State shall be dealt with in such manner as the Minister may direct.

49. Provisions having extra-territorial operation

The provisions of these regulations specified in the Second Schedule shall have extra territorial operation.

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50. Repeals and savings

(1) The regulations specified in the Third Schedule are repealed.

(2) Notwithstanding subsection (1) □

(a) any application made under the repealed regulations for the granting of any authority, permission or consent which had not been granted or refused before the date of commencement of these regulations shall be treated as though it were an application under the equivalent provision of these regulations.

(b) Any order made, permission, consent or authority granted or direction given under the repealed regulations which was in force immediately before the date of commencement of these regulations shall remain in force on and after that date as though it had been made, granted or given under the equivalent provision of these regulations.

First Schedule (Section 13)

FORM OF DECLARATION RE RESIDENCE

The holder of the above-mentioned security is a Zimbabwean resident and, from the facts known to us, or from the inquiries we have made, is not, to the best of our belief, holding the security as a nominee of a foreign resident.

Second Schedule (Section 49)

PROVISIONS HAVING EXTRA-TERRITORIAL OPERATION

Sections 4, 5, 11, 12, 13, 14, 15, 21, 24, 25, 26, 32, 33, 38, 41(2) and 47

Third Schedule (Section 50)

REPEALED REGULATIONS

Title Rhodesia Government Notice

Exchange Control Regulations, 1977 399 of 1977

Statutory Instrument

Exchange Control (Amendment) Regulations, 1980 (No. 1) 216F of 1980

Exchange Control (Amendment) Regulations, 1982 (No. 2) 556 of 1982

Exchange Control (Amendment) Regulations, 1984 (No. 3) 95A of 1984

Exchange Control (Amendment) Regulations, 1994 (No. 4) 138 of 1994

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ⁱ See SI 145/97 gazetted on the 11th July 1997 which, by Notice declared the Reserve Bank to be an exchange control authority in relation to all the provisions of these Regulations, other than section 43 [editor].