

TITLE 10

PREVIOUS CHAPTER**Chapter 10:22****RESEARCH ACT**

Acts 5/1986, 2/1988, 18/1989 (s. 40, s. 43), 11/1991 (s. 29), 2/1998, 22/2001.

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AN ACT to establish the Research Council of Zimbabwe and to confer on the Council functions and powers relating to the promotion, direction, supervision and co-ordination of research; to provide for the establishment of research councils and research institutes and for the control of such research councils and research institutes by the Council; to provide for the control of research conducted by bodies or persons in terms of any Act; to provide for the registration of foreign researchers; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 1st October, 1986.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Research Act [Chapter 10:22].

2 Interpretation

In this Act—

“Council” means the Research Council of Zimbabwe established by section three;

“financial year”, in relation to the Council, means the financial year of the Council referred to in section nineteen;

“member” means a member of the Council;

“Minister” means a Vice-President or any Minister to whom the President may, from time to time, assign the administration of this Act;

“Minister responsible”, in relation to any matter for which a research council or research institute is to be or has been established, means—

(a) any Minister who is empowered or required by any law to exercise any function in respect of such matter; or

(b) a Vice-President, where that Vice-President is empowered or required by any law to exercise any function in relation to such matter;

“potentially harmful research or undertaking”—

(a) means any form of research or undertaking which, in the Council’s opinion, poses or is likely to pose a danger to persons, animals or plants or to the environment generally;

(b) in relation to a safety board which has been appointed to ensure the safety of a particular class of research or undertaking referred to in paragraph (a), means that class of research or undertaking;

“repealed Act” means the Research Act [Chapter 336 of 1974];

“research” means any systematic, critical or scientific study of, or inquiry into, any subject or matter for the extension of knowledge;

“research council” means a research council established in terms of this Act to conduct research, and includes, where the context so requires or admits, a research council established in terms of the repealed Act;

“research institute” means a research institute established in terms of this Act to conduct research;

“safety board” means a safety board established by the Council in terms of subsection (1) of section twenty-eight B.

PART II

RESEARCH COUNCIL OF ZIMBABWE

3 Establishment of Council

There is hereby established a council, to be known as the Research Council of Zimbabwe, which shall be a body corporate and shall be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as a body corporate may by law perform.

4 Composition of Council

(1) The Council shall consist of such members as the Minister shall appoint, not being less than ten or more than fifteen in number, as the Minister may from time to time determine.

(2) The Minister shall appoint one member as chairman of the Council and one other member as vice-chairman of the Council and the vice-chairman shall exercise the functions of the chairman during any period that the chairman is unable to exercise his functions.

5 Disqualifications for appointment to Council

The Minister shall not appoint a person as a member, and no person shall be qualified to hold office as a member who—

- (a) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside; or
- (b) has, within the period of five years immediately preceding the date of his proposed appointment, been sentenced in any country to a term of imprisonment imposed without the option of a fine for an offence involving fraud or dishonesty; or
- (c) is a member of Parliament or was, at any time during the period of twelve months ending on the date of his proposed appointment as a member, a member of Parliament.

6 Tenure and conditions of office of members of Council

(1) A member shall, subject to this Part, hold office for such period, not exceeding three years, as the Minister may fix on his appointment, and shall, upon the expiry of his term of office, be eligible for reappointment as a member.

(2) Subject to this Act, a member shall hold office on such conditions as the Minister may fix for members generally.

7 Vacation of office by member and suspension of member of Council

(1) A member shall vacate his office and his office shall become vacant—

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment imposed in any country; or
- (c) if he becomes disqualified to hold office as a member in terms of paragraph (a) or (c) of section five; or
- (d) if he is required in terms of subsection (2) to vacate his office; or
- (e) if he is absent from three consecutive meetings of the Council of which he has had notice without the permission of the Council.

(2) The Minister may require a member to vacate his office if that member—

- (a) is guilty of any conduct that renders him unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any of the conditions of his office fixed by the Minister in terms of subsection (2) of section six; or
- (c) is mentally or physically incapable of efficiently carrying out his functions as a member.

(3) The Minister may suspend a member against whom criminal proceedings have

been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed and, while that member is so suspended, he shall not carry out any functions as a member.

8 Filling of vacancies on Council

On the death of, or the vacation of office by, a member, the Minister shall appoint a person to fill the vacancy until the expiry of the period during which the member would, but for his death or the vacation of his office, have continued in office:

Provided that, if, but for his death or the vacation of his office, the member would have continued to hold office for less than three months the Minister need not appoint a person to fill the vacancy.

9 Meetings and procedure of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may specify and thereafter the Council shall meet for the transaction of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit:

Provided that a meeting of the Council shall be held not less than three times in each year.

(2) The chairman of the Council may at any time, and shall, at the request in writing of at least three other members, convene a special meeting of the Council.

(3) A notice convening a special meeting of the Council shall specify the purpose for which the meeting is to be convened.

(4) If the chairman of the Council is prevented by any cause from exercising his functions in relation to the Council and the vice-chairman notifies the Minister in writing that he is unable to exercise the functions of the chairman as is provided in subsection (2) of section four, the Minister may appoint a member, other than the vice-chairman, to act as chairman of the Council and the member so appointed shall exercise the functions of the chairman.

(5) If at a meeting of the Council the chairman and the vice-chairman are absent and an acting chairman has not been appointed in terms of subsection (4), the members present may elect one of their number to preside as chairman at that meeting.

(6) Not less than one-half of all members shall form a quorum at a meeting of the Council.

(7) All acts, matters or things authorized or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.

(8) At all meetings of the Council each member shall have one vote on a question before the Council and, in the event of an equality of votes, the chairman of the Council, the vice-chairman of the Council, an acting chairman or any other member presiding at the meeting, as the case may be, shall have a casting vote in addition to his deliberative vote.

10 Transaction of business of urgent nature

(1) If it is not practicable to hold a meeting of the Council for the transaction of business of an urgent nature, the chairman shall, after consulting such other members as is practicable in the circumstances, deal with the business himself, and as soon as may be thereafter give to the Council full particulars of the nature and extent of the urgency of the business and the circumstances in which the urgency arose and of the action taken by him in the matter.

(2) Any proposal circulated among all members and agreed to in writing by a majority of all members shall have the same effect as a resolution passed at a duly constituted meeting of the Council and shall be incorporated in the minutes of the next following meeting of the Council:

Provided that if a member requires that such proposal be placed before a meeting of the Council this subsection shall not apply to such proposal.

11 Committees of Council and observers

(1) For the better exercise of its functions the Council may establish one or more

committees in which may be vested such of the functions of the Council as the Council may direct:

Provided that the vesting in a committee of any such functions shall not divest the Council of such functions and the Council may, in the exercise of its functions, amend or rescind any decision of any such committee.

(2) On the establishment of a committee of the Council in terms of subsection (1), the Council—

(a) subject to subsection (3), may appoint as members of that committee persons who are not members of the Council; and

(b) shall appoint to that committee at least one member of the Council and shall appoint that member or, in the event that there are two or more members on the committee, one of those members, as the case may be, to be chairman of the committee.

(3) The Council shall not appoint a person to be a member of a committee if he is disqualified in terms of section five from appointment as a member of the Council.

(4) A member of a committee of the Council shall vacate his office—

(a) in the case of a member who is a member of the Council, upon his ceasing to be a member of the Council;

(b) in the case of a member who is not a member of the Council—

(i) if his appointment is terminated by the Council; or

(ii) if he would be required in terms of section seven to vacate his office had that section and paragraphs (a) and (c) of section five applied to him.

(5) Subject to this section and section fifteen, members of committees of the Council shall hold office on such conditions as the Council may fix for members of committees generally.

(6) Subject to section twelve, the procedure to be followed at any meeting of a committee of the Council and the quorum at such meeting shall be determined by the Council.

(7) The chairman of the Council may at any time and place convene a meeting of a committee of the Council.

(8) No decision or act of a committee of the Council or act done under the authority of a committee of the Council shall be invalid solely on the ground that—

(a) the committee consisted of fewer than the number, if any, fixed by the Council as constituting the membership of the committee; or

(b) a disqualified person purported to act as a member of the committee at the time the decision was taken or the act was done or authorized.

(9) For the better exercise of the functions of the Council, the chairman of the Council or of a committee of the Council may, with the approval of the Council, invite to attend any meeting of the Council or of a committee of the Council, as the case may be, any person who, in the opinion of the chairman of the Council or of the committee, has special knowledge or experience that is relevant to the matter to be considered by the Council or the committee, as the case may be, at that meeting.

(10) A person invited to attend a meeting of the Council or of a committee in terms of subsection (9) may take part in the proceedings of the Council or of the committee as if he were a member thereof but shall not have a vote on any question before the Council or committee, as the case may be.

12 Minutes of proceedings of Council and committees

(1) The Council shall cause minutes of all proceedings of and decisions taken at all meetings of the Council and of every committee of the Council and safety board to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Council or of the committee or safety board concerned, as the case may be, shall be accepted for all purposes as prima facie evidence of the proceedings of and decisions taken at the meeting concerned.

13 Validity of decisions and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid solely on the ground that—

- (a) the Council consisted of fewer than the minimum number of members for which provision is made in subsection (1) of section four; or
- (b) there was a vacancy in the membership of the Council; or
- (c) a disqualified person purported to act as a member at the time the decision was taken or the act was done or authorized.

14 Execution of contracts and instruments by Council

An agreement, contract or instrument approved by the Council may be entered into or executed on behalf of the Council by any person or persons generally or specially authorized by the Council for that purpose.

15 Remuneration and allowances of members of Council and committees

A member of the Council or of a committee of the Council or a safety board shall be paid from the funds of the Council—

- (a) such remuneration, if any, as the Minister, with the approval of the Minister responsible for finance, may from time to time fix for such members generally; and
- (b) such allowances, if any, as the Minister, with the approval of the Minister responsible for finance, may from time to time fix to meet any reasonable expenses incurred by such members in connection with the business of the Council or of the committee or safety board concerned, as the case may be.

PART III

FUNCTIONS AND POWERS OF COUNCIL

16 Functions of Council

(1) The Council shall generally be responsible for the promotion, direction, supervision and co-ordination of research with particular reference to the interests of Zimbabwe and shall, in appropriate cases, discharge its responsibilities—

- (a) by exercising the power of control conferred upon it by or under this Act over research councils and research institutes; and
- (b) by making donations or grants and awarding fellowships or any other similar awards for specific research; and
- (c) by promoting, assisting and encouraging research in Zimbabwe and co-operating with individuals, organizations and institutions in the co-ordination of research in Zimbabwe; and
- (c1) by ensuring that persons, animals, plants and the environment generally are protected from the effects of potentially harmful research or undertakings;
- (d) by making recommendations to the Minister in relation to—
 - (i) the grant to an individual, the holder of an office or post, a body, unit, corporation or other association of persons of an honour or award for outstanding achievement, invention or discovery in the field of research; and
 - (ii) the payment of a reward or gratuity to the recipient of an honour or award referred to in subparagraph (i) from moneys appropriated for the purpose by Act of Parliament; and
- (e) by co-operating with persons, organizations or institutions in any other part of the world in matters of research; and
- (f) by securing full use in the public interest of the results of research by the collection and dissemination of information and by the giving of advice in relation thereto; and
- (g) by making recommendations to the Minister in relation to—
 - (i) the formulation and implementation by the Government of a national science policy; and
 - (ii) the research needs of Zimbabwe and the priorities to be observed in the allocation of funds and other resources for purposes of meeting such needs; and

(iii) the establishment of research councils or research institutes to conduct research; and

(iv) the constitution under which a research council or research institute shall be established in terms of this Act or the constitution under which a research council was established in terms of the repealed Act; and

(v) the assignment of responsibilities to the Minister responsible in respect of any research council or research institute established in terms of this Act or any research council established in terms of the repealed Act; and

(vi) subject to section twenty-seven, the approval and monitoring of research conducted in Zimbabwe by scholars and other persons who are not citizens or residents of Zimbabwe; and

(vii) all such other things, and the steps to be taken, as fall within the functions of the Council in terms of this Act; and

(h) by tendering advice to the Minister on the overall management of research programmes and the allocation of funds and other resources for research.

(2) Without prejudice to subsection (1), the Council may, after consultation with the Minister responsible and subject to subsection (3), exercise the powers and functions conferred upon it by or under this Act over research conducted by any person or body in terms of any Act.

(3) Where the Council intends to exercise the powers and functions referred to in subsection (2) it shall, by notice in writing, advise the person or body concerned that with effect from such date as may be specified in the notice, the Council intends to exercise its powers over that person or body and, where such notice is given, with effect from the date specified therein, sections twenty-six and twenty-eight shall, notwithstanding the provisions of the Act concerned apply, *mutatis mutandis*, to the person or body as though such person or body were a research council or a research institute referred to in those provisions.

17 Powers of Council

(1) The Council shall have power to do all or any of the matters or things specified in the Schedule.

(2) The Minister, after consultation with the Council, may from time to time, by statutory instrument, make amendments to the Schedule.

PART IV

FINANCIAL PROVISIONS

18 Funds of Council

The funds of the Council shall consist of—

(a) such moneys as may be payable to the Council from moneys appropriated for the purpose by Act of Parliament; and

(b) such other moneys or assets as may vest in or accrue to the Council in the course of its operations or otherwise.

19 Financial year of Council

The first financial year of the Council shall be the period ending on the 30th June immediately following the date of the commencement of its operations or on such other date as the Minister may direct and thereafter the financial year of the Council shall be the period of twelve months ending on the 30th June in each year or on such other date as the Minister may direct.

20 Accounts of Council

(1) The Council shall keep proper accounts and other records relating thereto in respect of all its operations, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Council shall prepare and submit to the Minister in accordance with subsection (4) of section twenty-one, a statement of accounts in respect of each financial year or such other period as the Minister may direct.

21 Appointment of auditors and audit of accounts of Council

(1) The Council shall annually appoint as auditors one or more persons approved by

the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [Chapter 27:12].

(2) The accounts of the Council kept in terms of subsection (1) of section twenty shall be examined by the auditors appointed in terms of subsection (1).

(3) The auditors shall make a report to the Council on the accounts examined by them and on the statement of accounts prepared in terms of subsection (2) of section twenty and such report shall include a statement showing—

(a) whether or not they have obtained all the information and the explanations they have required; and

(b) whether, in their opinion, such statement of accounts is properly drawn up so as to exhibit a true and fair view of the state of affairs of the Council according to their best information and the explanations given to them and as shown by the books of the Council.

(4) As soon as the accounts of the Council have been audited, the Council shall submit to the Minister its statement of accounts referred to in subsection (2) of section twenty, together with a copy of the report of the auditors referred to in subsection (3).

(5) In addition to the report of the auditors referred to in subsection (3), the Minister may require the Council to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Council as the Minister may consider expedient.

(6) If, in the opinion of the auditors—

(a) they have not obtained the information and explanations they require;

or

(b) the accounts and records relating thereto have not been properly kept;

or

(c) the Council has not complied with this Part;

the auditors shall include in the report made in terms of subsection (3) or (5), as the case may be, statements to that effect.

22 Powers of auditors

(1) The auditors appointed in terms of subsection (1) of section twenty-one shall have the right of access at all reasonable times to the books, accounts and vouchers of the Council and other records relating thereto kept by the Council and shall be entitled to require from any member, employee or agent of the Council such information and explanations as in their opinion are necessary for the purposes of their audit.

(2) Any member, employee or agent of the Council who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

23 Reports by Council

(1) In addition to any annual report which the Council may be required to submit to the Minister in terms of the Audit and Exchequer Act [Chapter 22:03], the Council—

(a) shall submit to the Minister such other reports as the Minister may require;

(b) may submit to the Minister such other reports as the Council considers desirable.

(2) The Council shall give to the Minister all such information relating to the operations and undertakings of the Council as the Minister may at any time require.

(3) The Minister may lay before Parliament a report submitted to him by the Council in terms of subsection (1).

PART V

RESEARCH COUNCILS AND RESEARCH INSTITUTES

24 Establishment of research councils and research institutes

(1) Whenever the Minister responsible considers it necessary or desirable to establish a research council or research institute for the purposes of facilitating the carrying out

of research, he shall submit his proposal to the Council and shall include the suggested constitution of the research council or research institute concerned.

(2) The Council shall consider any proposal received by it in terms of subsection (1) and shall thereafter submit its own recommendations thereon to the Minister.

(3) Where the Minister has received any proposal and the recommendations of the Council in terms of subsection (2), he may—

(a) approve the proposal with or without such qualifications or amendments as he may direct in writing; or

(b) decline to approve the proposal.

(4) Where the Minister has approved a proposal in terms of subsection (3), the Minister responsible may establish the research council or research institute concerned in accordance with the approval granted by the Minister and shall cause notice of the establishment of the research council or research institute to be given in the Gazette.

25 Provisions to be contained in constitution of research council or research institute

(1) The constitution of a research council or research institute which is intended to be a body corporate shall contain provision for the following matters—

(a) the name of the research council or research institute;

(b) the composition of the research council or research institute and the tenure and conditions of office of members thereof;

(c) the disqualifications for appointment as a member of the research council or research institute;

(d) the circumstances in which the Minister responsible may require a member of the research council or research institute to vacate his office and in which the Minister responsible may suspend such member from the exercise of his functions as a member;

(e) the circumstances in which a member of the research council or research institute shall vacate his office;

(f) the filling of vacancies on the research council or research institute;

(g) meetings and the procedure at meetings of the research council or research institute;

(h) minutes of proceedings of the research council or research institute;

(i) the transaction of business of an urgent nature by the research council or research institute;

(j) the validity of the decisions and acts of the research council or research institute;

(k) the execution of contracts and instruments by the research council or research institute;

(l) the appointment of an executive committee and other committees of the research council or research institute and the powers to delegate functions to such committees;

(m) the funds of the research council or research institute;

(n) the keeping of accounts, audit and reports of the research council or research institute;

(o) the corporate powers which shall be exercised by the research council or research institute and the conditions or limitations upon which or within which such corporate powers shall be exercised;

(p) the nature and scope of the research to be carried out by the research council or research institute;

(q) the dissolution of the research council or research institute and the proper and effective winding-up of its affairs, including the transfer of employees, if any, and the disposition of any assets and liabilities;

(r) such other matters as may be considered necessary or desirable.

(2) The Minister responsible may, after consultation with the Council and with the

approval of the Minister, amend the constitution of a research council or research institute.

26 Functions and research programmes of research council or research institute

(1) Subject to section twenty-eight, the functions of a research council or research institute shall be to carry out research within Zimbabwe in accordance with its constitution and a research programme approved by the Council in terms of subsection (1) of section twenty-eight.

(2) A research council or research institute, as the case may be, shall, as often as the Council may direct, prepare and submit to the Council—

- (a) a research programme showing its proposals with respect to—
 - (i) the research to be carried out by the research council or research institute, as the case may be; and
 - (ii) the priorities to be observed in carrying out such research; and
 - (iii) such other matters as the Council may require; and
- (b) reports on the implementation by it of research programmes approved or funded, whether wholly or in part, by the Council.

27 Registration in relation to foreign research with Council

(1) Any person—

- (a) who wishes to conduct research in Zimbabwe on behalf of a foreign institution, foreign organization or other foreign person, whether as an employee or otherwise; or
 - (b) other than a citizen of or a person ordinarily resident in Zimbabwe, who wishes to conduct research in Zimbabwe;
- shall, before conducting such research, register with the Council in the form and manner to be determined by the Council and shall tender to the Council the appropriate registration fee.

(2) The Council may, with the approval of the Minister, fix a fee for the registration and in so doing may fix different fees for the registration of different classes of persons.

(3) The Council may, before registering a person referred to in subsection (1), request that person to furnish it with such relevant information as it may require.

(4) The Council shall, on registering a person in terms of subsection (1), issue to that person a certificate of registration.

(5) Where there has been a substantial or material change in the particulars of research conducted by a person who has been registered in terms of subsection (1), such person shall as soon as possible advise the Council of such change.

(6) A person who has been registered in terms of subsection (1) shall—

- (a) at such time as the Council may request, submit an interim report relating to his research;
- (b) on completion of his research, submit a final report on the results or other findings of his research to the Council.

28 Control of research councils and research institutes by Council

(1) The Council—

(a) shall consider the research programme submitted to it from time to time by a research council or research institute in terms of subsection (2) of section twenty-six and may, subject to such modifications as the Council thinks fit, approve the research programme to be carried out by the research council or research institute, as the case may be; and

(b) shall exercise general supervision and control of the research council or research institute concerned and ensure that the research council or research institute, as the case may be, observes the provisions of this Act and of its constitution and the research programme as approved or amended by the Council from time to time; and

(c) may, after consultation with the research council or research institute concerned, give the research council or research institute, as the case may be, general

directions on matters of policy.

(2) The Council may, after consultation with a research council or research institute, as the case may be, make such amendments to the approved research programme of that research council or research institute as the Council thinks fit.

(3) Every research council and research institute shall permit the Council and any person appointed by the Council to make inspections and examinations of its operations, records and accounts, and shall comply with any directions given to it by the Council under the provisions of this Act.

28A Access to research facilities

(1) Subject to this section and to any directions given to it by the Council, a research Council or research institute may permit any person to utilize research facilities owned or controlled by the research council or institution for the purpose of conducting any form of research or undertaking.

(2) A person who utilizes any research facilities in accordance with subsection (1) shall pay the research council or research institute concerned—

(a) such fee as may be agreed between him and the research council or research institute; or

(b) a reasonable fee determined by the Council, where he and the research council or research institute have been unable to agree on a fee.

(3) The research council or institute may vary any of the terms or conditions upon which it has permitted a person to utilize its facilities in terms of subsection (1):

Provided that before doing so the research council or institute shall give the person concerned an adequate opportunity to make representations in the matter.

PART VA

MEASURES TO ENSURE SAFETY OF RESEARCH

28B Safety boards

(1) Subject to this Part, the Council may establish one or more boards for the purpose of ensuring the safety of potentially harmful research or undertakings generally or any class of potentially harmful research or undertakings.

(2) Where the Council has established a safety board, it shall publish notice of that fact in the Gazette.

(3) A safety board shall consist of such number of members appointed by the Council as the Council may from time to time determine.

(4) The Council may appoint persons who are not members of the Council to be members of a safety board.

(5) Subsections (3) to (10) of section eleven shall apply, mutatis mutandis, in respect of safety boards and their members.

28C Functions of safety boards

(1) Subject to subsection (3), the functions of a safety board shall be-

(a) to monitor and supervise potentially harmful research or undertakings; and

(b) to formulate and additionally or alternatively, to implement measures to protect persons, animals and the environment generally from dangers that may arise from potentially harmful research or undertakings; and

(c) to make recommendations to the Council in regard to the control and regulation of, and the policy to be adopted towards, potentially harmful research or undertakings; and

(d) to publish information regarding potentially harmful research or undertakings;

(e) to perform such other functions in regard to potentially harmful research or undertakings as may be prescribed.

(2) The Council may vest in a safety board such of the Council's functions, in so far as they relate to potentially harmful research or undertakings, as the Council may think fit:

Provided that the vesting of such a function in a safety board shall not divest the

Council of that function, and the Council may amend or rescind any decision the safety board may have made in the exercise of that function.

PART VI

GENERAL

29 Discoveries and inventions by officers of Council, research council or research institute.

(1) Subject to section thirty the rights in all discoveries and inventions and in all improvements in respect of processes, articles, substances, materials, machinery or apparatus made in the course of their employment by officers of the Council or a research council or research institute or persons holding research fellowships or other similar awards granted by the Council or a research council or research institute shall be vested in the Council or the research council or research institute, as the case may be, and such discoveries, inventions and improvements shall be made available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Council or the research council or research institute, as the case may be, may, in accordance with regulations made by the Minister, determine.

(2) The Council or a research council or research institute may, out of its funds, pay the discoverer or inventor working as an officer of the Council or the research council or research institute, as the case may be, or as a person holding a research fellowship or other similar award granted by the Council or the research council or research institute, as the case may be, such bonus, or make provision for such financial participation in the profits derived from the relevant discovery or invention as the Minister or the Minister responsible, as the case may be, in consultation with the Minister responsible for finance, may determine.

(3) The Council, a research council or research institute may apply for a patent in respect of any discovery, invention or improvement referred to in subsection (1) and shall, for the purposes of the Patents Act [Chapter 26:03], be regarded as the assignee of the discoverer or inventor.

30 Special investigations at request of person with a specific object of making discoveries, inventions or improvements

(1) Subject to the approval of the Minister or the Minister responsible, as the case may be, the Council, a research council or research institute may, at the request of any person and at such place and subject to such conditions and the payment of such charges as may be agreed upon, carry out or cause to be carried out through its officers or through persons holding research fellowships or other similar awards granted by it or to whom special grants were made by it special investigations with the object of the discovery or invention of or the improvements in respect of any process, article, substance, material, machinery or apparatus.

(2) The rights in any discovery, invention or improvement so made shall be vested in the Council or the research council or research institute concerned, as the case may be, or the person who made the discovery, invention or improvement if he is a person to whom a special grant is made by the Council or the research council or research institute, as may be provided by a written agreement entered into by the parties concerned prior to the investigation.

(3) Any discoveries, inventions or improvements, the rights to which are vested in the Council, a research council or research institute in pursuance of an agreement referred to in subsection (2), shall be made available for use in the public interest and the Council, the research council or research institute concerned may apply for a patent in respect thereof, as if they were discoveries, inventions or improvements referred to in subsection (1) of section twenty-nine.

(4) If the rights to any discovery, invention or improvement are, in pursuance of an agreement referred to in subsection (2), vested in any person other than the Council, the research council or research institute concerned, that discovery, invention or improvement shall be used or made available for use in the public interest subject to such conditions as may be provided by the agreement.

31 Minister may give Council directions in public interest

The Minister may from time to time give the Council such directions of a general character relating to the exercise of its functions as appear to the Minister to be requisite in the public interest and the Council shall be bound to comply with any such directions.

31A Exemption from liability

No liability shall attach to the Council, any committee of the Council or a safety board, or to any member or employee of the Council a committee of the Council or a safety board, in respect of loss or damage sustained by any person as a result of the bona fide exercise or performance by the Council, committee, safety board, member or employee concerned of any function conferred or imposed upon it or him, as the case may be by or under this Act:

Provided that this section shall not be construed so as to prevent any person from recovering damages or compensation for any loss or damage sustained by him which was caused by negligence or breach of contract.

32 Regulations

(1) The Minister, after consultation with the Council, may make regulations prescribing anything which in terms of this Act is permitted or required to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for the better carrying out of or giving effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provided for—

(a) the terms and conditions under which persons may utilize research facilities in terms of section twenty-eight A;

(b) the prohibition, regulation and control of potentially harmful research or undertakings;

(c) precautions to be taken by persons carrying on potentially harmful research or undertakings in order to prevent or minimize danger to persons, animals or plants or to the environment generally;

(d) the functions of safety boards in regard to potentially harmful research or undertakings;

(e) the inspection of any premises or place where it is known or suspected on reasonable grounds that any potentially harmful research or undertaking is being or will be carried on;

(f) returns and other information to be supplied by persons who carry on potentially harmful research or undertakings.

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level fourteen or imprisonment for a period of one year or both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

PART VII

TRANSITIONAL PROVISIONS

33 Transitional provisions

Where, prior to the 1st October, 1986, a research council has been established in terms of the Research Act [Chapter 336 of 1974] and is operating on the 1st October, 1986, date in accordance with its constitution—

(a) subject to paragraph (b), that research council shall continue in existence and shall be deemed to have been established in terms of section twenty-four; and

(b) the constitution of that research council shall be deemed to have been drawn up in terms of sections twenty-four and twenty-five and may be amended in accordance with of those sections; and

(c) that research council shall continue to operate subject to this Act and of its constitution, as may be amended from time to time.

SCHEDULE (Section 17 (1))

POWERS OF COUNCIL

1. To employ, upon such terms and conditions as may be determined by the Council and approved by the Minister, such professional, technical, administrative and other staff as may be necessary for conducting the affairs of the Council, and to suspend or discharge such staff.

2. To pay any person in its employment such salary, wages or other remuneration as may be determined by the Council and approved by the Minister, and to grant him such leave as the Council may consider appropriate.

3. To provide for persons in its employment or their dependants, by means of insurance, a pension fund or provident fund or by any other means whatsoever, pecuniary benefits upon retirement, death or termination of service or in the event of sickness or injury.

4. Subject to the Audit and Exchequer Act [Chapter 22:03], to raise moneys by way of loan, bank overdraft or otherwise in such amounts and for such purposes as the Minister may approve:

Provided that, if the power specified in the this paragraph is conferred on a research council or research institute in terms of its constitution, the Minister or the Minister responsible, as the case may be, shall not give his approval until he has consulted the Council.

5. To purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property, and any rights, including patent rights or privileges, which the Council considers necessary or expedient for the purpose of performing its functions.

6. To construct, maintain, alter and improve any of its buildings, works, machinery and plant necessary or expedient for the purpose of performing its functions.

7. To work or otherwise beneficially use and to exchange, let, sell or mortgage any of the property, rights or privileges acquired or constructed under paragraph 5 or 6:

Provided that the Council or, where the power specified in this paragraph is conferred on a research council or research institute in terms of its constitution, a research council or research institute shall not sell any of its immovable property except with the consent of the Minister or the Minister responsible, as the case may be.

8. Subject to the Audit and Exchequer Act [Chapter 22:03], to invest and deal with any of its moneys not immediately required in such securities and in such manner as the Council may consider appropriate, and to vary or realize such investments.

9. To invite and receive donations from any person towards its expenses and to grant fellowships and other similar awards and make donations and grants in such amounts and for such purposes as the Minister may approve.

10. With the approval of the Minister, to enter into agreements to facilitate the voluntary transfer of professional, technical or other staff between the Council and any other person.

11. For the better performance of its functions—

(a) to co-operate with Ministries and departments of the State, universities, technical colleges and persons conducting research in Zimbabwe; and

(b) with the approval of the Minister, to co-operate with persons and organizations engaged in research in other countries.

12. Subject to the approval of the Minister, to have charge of, and direction and supervision over, the research which may be undertaken under conditions to be determined in each case by or for single industrial firms, or by such organizations or persons as may desire to avail themselves of the facilities for this purpose.

13. Subject to the approval of the Minister, to publish from time to time such information as the Council may consider necessary.

14. To do all things incidental or conducive to the exercise or enjoyment of the rights, interests and powers conferred upon the Council and the performance of the obligations imposed upon it by this Act.

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