

Zimbabwe

Microfinance Act

Chapter 24:29

Legislation as at 19 November 2019

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Microfinance Act (Chapter 24:29)

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Zimbabwe

Microfinance Act Chapter 24:29

Commenced on 30 August 2013

[This is the version of this document from 19 November 2019.]

[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe. This version is up-to-date as at 31st December 2016.]

[Amended by [Microfinance Amendment Act, 2019 \(Act 6 of 2019\)](#) on 19 November 2019]

[Please note: the Microfinance Amendment Act [6 of 2019](#) purports to amend the Microfinance Act Chapter 24:30, but the Microfinance Act is in fact Chapter 24:29]

To provide for the registration, supervision and regulation of persons conducting microfinance business in Zimbabwe; to amend the Moneylending and Rates of Interest Act [Chapter 14:14] and the Banking Act [Chapter 24:20] (Act [No. 9 of 1999](#)); and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

Part I – Preliminary

1. Short title

This Act may be cited as the Microfinance Act [Chapter 24:29].

2. Interpretation

In this Act—

“**associate**”, in relation to a microfinance institution, means—

- (a) its subsidiary, as defined in section 143 of the Companies Act [Chapter 24:03]; or
- (b) any company of which the microfinance institution is the single largest shareholder; or
- (c) its holding company, as defined in section 143 of the Companies Act [Chapter 24:03]; or
- (d) where the microfinance institution is itself a subsidiary of a holding company, as defined in section 143 of the Companies Act [Chapter 24:03], any other such subsidiary of the same holding company; or
- (e) any person who has power, directly or indirectly, to control the microfinance institution’s management or policies;

[definition of “associate” inserted by section 2(a) of [Act 6 of 2019](#)]

“**board**”, in relation to a microfinance institution, means the board referred to in [section 20](#);

[definition of “board” amended by section 2(b) of [Act 6 of 2019](#)]

“**borrower**” means a person to whom a microfinance institution makes a loan or provides a credit facility, and includes a person to whom such a borrower’s rights and liabilities have passed, whether by assignment, delegation, cession or otherwise;

[definition of “borrower” amended by section 35 of [Act 6 of 2019](#)]

“**chief accounting officer**”, in relation to a microfinance institution, means a person who is responsible, under the direct authority of the institution’s chief executive officer, for—

- (a) preparing and maintaining the institution’s books of accounts and other financial records;
and
- (b) ensuring that the institution has systems of internal financial control that comply with this Act and any other enactment;

“**chief executive officer**”, in relation to a microfinance institution, means a person who is responsible, under the direct authority of the institution’s board, for conducting the institution’s microfinance business;

[definition of “chief executive officer” amended by section 35 of [Act 6 of 2019](#)]

“**company**” means company incorporated or registered under the Companies Act [*Chapter 24:03*];

“**corporate microfinancier**” *[definition of “corporate microfinancier” repealed by section 2(c) of [Act 6 of 2019](#)]*

“**credit-only microfinance business**” means the business of providing loans or other credit facilities to persons who, for the most part—

- (a) operate micro-enterprises, small enterprises or medium enterprises as defined in section 2 of the Small and Medium Enterprises Act [*Chapter 24:12*]; or
- (b) are individuals whose monthly income is below the poverty datum line or belong to households whose combined monthly income does not exceed five times the poverty datum line, as fixed by the Zimbabwe National Statistics Agency in terms of the Census and Statistics Act [*Chapter 10:29*];

and who are not shareholders or members of the person providing the loans or credit facilities;

[definition of “credit-only microfinance business” substituted by section 2(d) of [Act 6 of 2019](#)]

“**credit-only microfinance institution**” means a microfinance institution which conducts credit-only microfinance business;

[definition of “credit-only microfinance institution” inserted by section 2(d) of [Act 6 of 2019](#)]

“**deposit**” means an amount of money, whether made up of Zimbabwean or foreign currency or both, cheques or other negotiable or non-negotiable instruments, which a microfinance institution accepts for credit to an account in its books or those of another financial institution, but does not include money paid as security for performing a contract;

“**deposit-taking microfinance business**” means the business of accepting deposits from persons who, for the most part—

- (a) operate micro-enterprises, small enterprises or medium enterprises as defined in section 2 of the Small and Medium Enterprises Act [*Chapter 24:12*]; or
- (b) are individuals whose monthly income is below the poverty datum line or belong to households whose combined monthly income does not exceed five times the poverty datum line, as fixed by the Zimbabwe National Statistics Agency in terms of the Census and Statistics Act [*Chapter 10:29*];

where the depositors are not shareholders or members of the person accepting the deposits;

[definition of “deposit-taking microfinance business” substituted by section 2(e) of [Act 6 of 2019](#)]

“**deposit-taking microfinance institution**” means a microfinance institution which prioritises deposit-taking microfinance business and issuance of loans;

[definition of “deposit-taking microfinance institution” inserted by section 2(e) of [Act 6 of 2019](#)]

“**disciplinary committee**” means the committee appointed in terms of [section 45](#);

[definition of “disciplinary committee” inserted by section 2(f) of [Act 6 of 2019](#)]

“**financial institution**” has the meaning given to that phrase by or under the Banking Act [Chapter 24:20];

“**financial year**”, in relation to a microfinance institution, means the period of twelve months ending on the 31st of December in any year;

[definition of “financial year” amended by section 35 of Act 6 of 2019]

“**inspector**” means a person appointed as an inspector in terms of [section 43](#);

[definition of “inspector” amended by section 35 of Act 6 of 2019]

“**loan agreement**” means a contract under which a microfinance institution makes a loan or advances credit to a borrower;

[definition of “loan agreement” amended by section 35 of Act 6 of 2019]

“**material change**”, in relation to the particulars on the basis of which a microfinance institution is registered, means a change of ownership or control (including amalgamation with or significant transfer of its assets and liabilities to, another microfinance institution or person), directors, name or legal status of the microfinance institution, or any change in the scope of its business;

[definition of “material change” amended by section 35 of Act 6 of 2019]

“**microfinance business**” means credit-only microfinance business or deposit-taking microfinance business;

[definition of “microfinance business” substituted by section 2(g) of Act 6 of 2019]

“**microfinance institution**” means a person that conducts microfinance business;

[definition of “microfinance institution” substituted by section 2(g) of Act 6 of 2019]

“**microfinancier**” *[definition of “microfinancier” repealed by section 2(h) of Act 6 of 2019]*

“**micro-enterprise**”, “small enterprise” and “medium enterprise” *[definition of “micro-enterprise”, “small enterprise” and “medium enterprise” repealed by section 2(h) of Act 6 of 2019]*

“**minimum capital**” means capital representing a permanent commitment of funds by the shareholders of the deposit-taking microfinance institution (net of any loans and advances given to an insider and borrowed capital) which is available to meet losses incurred without imposing a fixed unavoidable charge on the institution’s earnings, and includes such of the following elements as are available to the institution after making any required deductions—

- (a) issued and fully paid up ordinary shares or common stock;
- (b) paid up non-cumulative irredeemable preference shares;
- (c) reserves consisting of—
 - (i) non-repayable share premiums;
 - (ii) disclosed reserves created by a charge to net income in the financial year immediately preceding the current one;
 - (iii) published retained earnings for the current year, including interim earnings, where these have been verified by external auditors; and
 - (iv) such other elements as may be prescribed from time to time;

[definition of “minimum capital” inserted by section 2(i) of Act 6 of 2019]

“**Minister**” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“**moneylender**” *[definition of “moneylender” repealed by section 2(h) of Act 6 of 2019]*

“**moneylending business**” *[definition of “moneylending business” repealed by section 2(h) of [Act 6 of 2019](#)]*

“**Register**” means the Register of Microfinance Institutions kept in terms of [section 9](#);

[definition of “Register” amended by section 35 of [Act 6 of 2019](#)]

“**registered**” in relation to a microfinance institution, means registered in terms of [section 7](#);

[definition of “registered” amended by section 35 of [Act 6 of 2019](#)]

“**Registrar**” means the Registrar of Microfinance Institutions appointed in terms of [section 4\(1\)](#) or any person performing his or her functions in terms of [section 4\(3\)](#);

[definition of “Registrar” amended by section 35 of [Act 6 of 2019](#)]

“**registration certificate**” means a registration certificate issued in terms of [section 8\(2\)](#);

“**Reserve Bank**” means the Reserve Bank of Zimbabwe established by the Reserve Bank of Zimbabwe Act *[Chapter 22:10]* (Act [No. 5 of 1999](#));

“**Secretary**” means the Secretary of the Ministry for which the Minister is responsible;

[definition of “Secretary” amended by section 35 of [Act 6 of 2019](#)]

“**supervisor**” means a person appointed or deemed to have been appointed as a supervisor in terms of [section 43](#);

“**undesirable method of conducting business**” means the conduct of microfinance business in a manner that does not comply with any provision of the First Schedule.

[definition of “undesirable method of conducting business” substituted by section 2(j) of [Act 6 of 2019](#)]

3. Application of Act

(1) Subject to this section, this Act shall apply to—

(a) every person carrying on microfinance business; and

[paragraph (a) substituted by section 3(a) of [Act 6 of 2019](#)]

(b) any subsidiary or division of—

(i) a banking institution registered as such under the Banking Act *[Chapter 24:20]* (Act [No. 9 of 1999](#)); or

(ii) a building society registered as such under the Building Societies Act *[Chapter 24:02]*;
or

[subparagraph (ii) amended by section 3(b)(i) of [Act 6 of 2019](#)]

(iii) People’s Own Savings Bank established by the People’s Own Savings Bank Act *[Chapter 24:22]*;

[subparagraph (iii) amended by section 3(b)(ii) of [Act 6 of 2019](#)]

engaging exclusively or predominantly in any microfinance business;

[paragraph (b) amended by section 3(b)(iii) of [Act 6 of 2019](#)]

(c) *[paragraph (c) repealed by section 3(c) of [Act 6 of 2019](#)]*

(2) This Act shall not apply to microfinance business conducted by—

(a) a body corporate established or constituted, or re-established or reconstituted, directly by any enactment, to the extent that the body corporate carries out functions conferred or imposed upon it by the enactment; or

- (b) a co-operative society registered in terms of the Co-operative Societies Act [Chapter 24:05], or a co-operative company registered in terms of the Companies Act [Chapter 24:05], to the extent that the society or company provides loans or other credit facilities to its members.

Part II – Administration

4. Registrar of Microfinanciers and other officers

- (1) The Reserve Bank shall appoint one of its employees to be the Registrar of Microfinance Institutions and shall assign such other of its other employees as may be necessary to assist the Registrar in giving effect to this Act.

[subsection (1) amended by section 35 of Act 6 of 2019]

- (2) The Registrar shall be responsible for registering microfinance institutions and cancelling their registration and performing such other functions as are conferred or imposed upon him or her by or in terms of this Act or any other enactment.

[subsection (2) amended by section 35 of Act 6 of 2019]

- (3) Subject to the directions of the Registrar, the other officers referred to in subsection (1) shall perform such of the Registrar's functions as the Registrar may assign to them.

5. Exercise of functions by Registrar

- (1) The Registrar shall exercise his or her functions under this Act in accordance with any general policy directives that may be given to him or her by the Board of the Reserve Bank.
- (2) The Registrar shall ensure that any policy directives referred to in subsection (1) are reduced to writing and kept in his or her offices, where (unless, for public policy reasons, any of them are expressed by the Reserve Bank to be confidential) they may be inspected by any member of the public, free of charge, during ordinary banking hours.
- (3) The Registrar, on reasonable written notice to deposit taking microfinance institutions and controlling companies concerned, may adopt such sound prudential supervisory and regulatory practices that are considered appropriate for the purpose of monitoring and supervising the activities of banking institutions and controlling companies.

[subsection (3) added by section 4 of Act 6 of 2019]

- (4) The Registrar shall ensure that the standards and practices adopted in terms of subsection (1) are made known to the deposit taking microfinance institutions and controlling companies.

[subsection (4) added by section 4 of Act 6 of 2019]

5A. Microfinance Advisory Council

- (1) There is hereby established a council, to be known as the Microfinance Council, consisting of—
 - (a) the Registrar, whose office shall be the Secretariat; and
 - (b) a member nominated by the Minister from among the officers of his or her Ministry; and
 - (c) a member nominated by the Minister responsible for small and medium enterprises; and
 - (d) a member nominated by the Insurance and Pensions Commission Board established by section 5 of the Insurance and Pensions Commission Act [Chapter 24:21] from among the staff of that Commission; and

- (e) a member nominated by the Securities and Exchange Commission of Zimbabwe established by section 3 of the Securities and Exchange Act [Chapter 24:25] from among the staff of that Commission; and
 - (f) a member nominated by the Board of Directors of the Deposit Protection Corporation established by section 4 of the Deposit Protection Corporation Act [Chapter 24:29] from among the staff of that Corporation; and
 - (g) a member nominated by an association recognised by the Minister as representing banking institutions; and
 - (h) a member nominated by an association of microfinance institutions recognised by the Minister; and
 - (i) a member nominated by an association that represents consumers and is recognised by the Minister; and
 - (j) such other members as the Minister may determine.
- (2) If any person or organisation fails to nominate a person for membership of the Microfinance Advisory Council in terms of subsection (1), the Minister may appoint any person as a member to represent the person or organisation concerned.
- (3) The functions of the Microfinance Advisory Council shall be—
- (a) to advise the Minister on strategies and policies to develop microfinance business; and
 - (b) to promote good financial practices among microfinance institutions; and
 - (c) to exercise any other function the Minister may confer or impose on the Council.
- (4) Members of the Microfinance Advisory Council shall hold office for such period and on such terms and conditions as may be prescribed or as the Minister may fix.
- (5) The procedure of the Microfinance Advisory Council, including the rotation of the Chairperson, shall be as prescribed or as fixed from time to time by the Council.

[section (5A) added by section 5 of [Act 6 of 2019](#)]

Part III – Registration of microfinanciers

6. Prohibitions in relation to conduct of microfinance business

- (1) No person—
- (a) shall conduct any microfinance business unless he or she is registered in terms of this Act;
 - (b) shall be registered as a microfinance institution unless that person is a company;
 - (c) registered as a moneylender in terms of this Act shall conduct deposit-taking microfinance business.
- (2) Any person who contravenes subsection (1)(a) or (c) shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.
- (3) Without derogating from subsection (2), where a person advances a loan or credit to another person in the course of microfinance business that is conducted in contravention of subsection (1)(a)—
- (a) no interest shall be payable on the loan or advance; and

- (b) the capital sum of the loan or advance shall not be recoverable from the borrower unless a competent court, on application by the lender, has condoned the lender's failure to comply with subsection (1).
- (4) Subsection (3) applies whether or not there has been a prosecution for an offence referred to in subsection (2).

7. Application for registration as microfinancier

- (1) An application for registration as a microfinance institution shall be made to the Registrar in the prescribed form and manner and shall—
 - (a) disclose—
 - (i) the names of the applicant's directors, chief executive officer, chief accounting officer and such other officers as may be prescribed, together with their addresses and qualifications and such other particulars concerning them as may be prescribed; and
 - (ii) the name and address of every person who holds five *per centum* or more of the applicant's shares; and
 - (iii) particulars of the applicant's authorised and paid-up share capital; and
 - (b) be accompanied by—
 - (i) certified copies of the applicant's certificate of incorporation and its memorandum and articles of association; and
 - (ii) a business plan in the form set out in the Second Schedule; and
 - (iii) the prescribed fee; and
 - (iv) such other information and documents as may be prescribed or as the Registrar may reasonably require.

[subsection (1) substituted by section 6 of [Act 6 of 2019](#)]

- (2) Subject to subsection (3), if the Registrar is satisfied that an applicant has complied with the requirements of subsection (1) and that—
 - (a) the applicant is a company; and
 - (b) the applicant has, or on registration will have, sufficient capital to conduct the microfinance business it intends to conduct; and
 - (c) the applicant's business plan is appropriate for the microfinance business it intends to conduct; and
 - (d) the applicant's directors are fit and proper persons to be directors of a microfinance institution; and
 - (e) the persons who will be the applicant's chief executive officer, chief accounting officer and such other officers as may be prescribed—
 - (i) are fit and proper persons to hold the offices concerned; and
 - (ii) have sufficient qualifications and experience to manage the microfinance business the applicant intends to conduct;
- and
- (f) the applicant will conduct its microfinance business in a prudent manner and will not adopt any undesirable method of conducting business; and

- (g) generally, the applicant will comply with such of the provisions of this Act as are applicable to the microfinance business it intends to conduct;

the Registrar shall register the applicant as a microfinance institution and shall notify the applicant, in writing, that it has been registered and issue to the applicant a registration certificate.

[subsection (2) substituted by section 6 of Act 6 of 2019]

- (3) If on consideration of an application the Registrar—
 - (a) is not satisfied as to any matter referred in subsection (2); or
 - (b) considers that it will not be in public interest to register the applicant as a microfinance institution;

he or she shall refuse to register the applicant concerned:

Provided that—

- (i) before refusing to register an applicant, he or she shall notify the applicant, in writing, of the proposed refusal and of the reasons for it, and shall afford the applicant at least thirty days to make representations in the matter; and
- (ii) if, after the period allowed for representations, the Registrar decides to refuse to register an applicant on any ground, he or she shall notify the applicant in writing, of the decision and of the reasons for it.

[paragraph (b) amended by section 35 of Act 6 of 2019]

- (4) The period between the Registrar's receipt of an application in terms of subsection (1) and all documents and information submitted in support of it, and the date on which he or she notifies the applicant of his or her decision or proposed decision in terms of subsection (2) or (3), as the case may be, shall not exceed sixty days, unless the applicant consents to an extension of the period:

Provided that, for the avoidance of doubt, it is declared that, non-compliance with this subsection by the Registrar does not imply that the applicant in question is entitled to registration.

8. Registration of microfinanciers

- (1) Registration of a microfinance institution shall be subject to such terms and conditions as may be prescribed.
- (2) Upon registering a microfinance institution, the Registrar shall issue the institution with a registration certificate, which shall be in the form prescribed and shall specify—
 - (a) the name of the microfinance institution; and
 - (b) any terms and conditions subject to which the microfinance institution is registered.

[section 8 amended by section 35 of Act 6 of 2019]

9. Register of microfinanciers

- (1) The Registrar shall maintain a register, to be called the Register of Microfinance Institutions, in which shall be recorded, in relation to each registered microfinancier—
 - (a) the name of the microfinance institution and whether it is registered as a credit-only microfinance institution or a deposit-taking microfinance institution; and
- [paragraph (a) substituted by section 7 of Act 6 of 2019]*
- (b) any terms and conditions subject to which the microfinancier is registered; and
 - (c) the address of the head office or principal place of business of the microfinancier; and

- (d) any amendment, cancellation or suspension of the microfinancier's registration; and
- (e) such other particulars as may be prescribed.

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) The Register shall be open for inspection by members of the public at all reasonable times at the office of the Registrar on payment of the prescribed fee, if any.

10. Period of registration

- (1) The registration of microfinance institutions shall remain in force until it is cancelled in terms of this Act.
- (2) Every registered microfinance institution shall pay the Registrar each year an annual fee of the prescribed amount.
- (3) The annual fee referred to in subsection (2) shall be paid by such date and in such manner as may be prescribed.

[section 10 substituted by section 8 of [Act 6 of 2019](#)]

10A. Renewal of registration of credit-only microfinance institution

- (1) A credit-only microfinance institution that wishes to renew its registration shall apply to the Registrar for renewal at least three months before the registration expires.
- (2) An application for renewal under subsection (1) shall be made in the prescribed form and shall be accompanied by the prescribed fee.
- (3) In an application for renewal under subsection (1), the applicant shall disclose any material changes that may have occurred in any of the particulars that were stated in—
 - (a) its application for registration as a credit-only microfinance institution; or
 - (b) its last application for renewal of its registration;

as the case may be, and if the Registrar considers such changes to be sufficiently great, he or she may treat the application as one for registration as a credit-only microfinance institution, in which event [section 7](#) shall apply to the application.

- (4) Subject to subsection (3), the Registrar shall issue a new registration certificate within sixty days to a microfinance institution that applies for renewal under subsection (1), unless the Registrar has reasonable grounds for believing that its registration should be cancelled under [section 12](#) ("Cancellation of registration"), in which event he or she may cancel its registration after complying with the provisions of that section.

[section 10A inserted by section 8 of [Act 6 of 2019](#)]

11. Amendment of registration

- (1) Subject to this section, the Registrar may at any time amend a microfinance institution's registration or any term or condition of its registration—
 - (a) to correct any error; or
 - (b) if microfinance institution requests the amendment; or
 - (c) if the Registrar considers the amendment necessary to reflect the true nature of the business which the microfinance institution is conducting; or
 - (d) if for any other reason the Registrar considers the amendment necessary or desirable in the public interest.

- (2) Before amending a microfinance institution's registration in terms of subsection (1), otherwise than at the microfinance institution's request, the Registrar shall notify the microfinance institution, in writing, of the nature of the amendment he or she proposes to make and of his or her reasons for wishing to make it, and shall give the microfinance institution an adequate opportunity to make representations in the matter.
- (3) If the Registrar refuses to make an amendment at the microfinance institution's request, he or she shall, within ten days after reaching his or her decision, notify the microfinance institution, in writing, of his or her decision and the reasons for it.

[section 11 amended by section 35 of [Act 6 of 2019](#)]

12. Cancellation of registration

- (1) Subject to subsections (2) and (3), the Registrar may, by notice in writing to the microfinance institution concerned, cancel the registration of a microfinance institution if he or she has reasonable grounds for believing that—
 - (a) the registration was obtained in error or through fraud or the misrepresentation of a material fact; or
 - (b) the microfinance institution—
 - (i) has contravened any provision of this Act or any other enactment with which it is its duty to comply; or
 - (ii) has contravened or failed to comply with a term or condition of its registration; or
 - (iii) without lawful cause—
 - A. has contravened or failed to comply with any instruction, requirement or condition imposed by the Registrar in terms of this Act; or
 - B. has refused or failed to pay a monetary penalty imposed upon it in terms of this Act;or
 - (iv) in an application for the renewal of its registration, failed to disclose a material change in the particulars that were stated in—
 - A. its application for registration as a credit-only microfinance institution; or
 - B. its last application for renewal of its registration;as the case may be; or
 - (v) misrepresents the facilities it offers the public; or
 - (vi) is engaging in undesirable methods of conducting business; or
 - (vii) is not conducting its microfinance business in accordance with sound administrative, accounting or risk-management practices; or
 - (viii) has not conducted any microfinance business for one hundred and eighty consecutive days;or
- (c) it is in the public interest that the registration should be cancelled.

[subsection (1) substituted by section 9 of [Act 6 of 2019](#)]

- (2) Before cancelling the registration of a microfinance institution, the Registrar shall notify the microfinance institution, in writing, that he or she proposes to cancel the microfinance institution's registration and of the reasons for it:

Provided that, if the Registrar believes on reasonable grounds that it is not possible to notify the microfinance institution at its registered office, the Registrar shall publish a notice in the *Gazette* and in a newspaper circulating in the area in which the microfinance institution's registered office is situated, stating that its registration will be cancelled unless the microfinance institution lodges an appeal with the Minister in terms of [section 50](#) within thirty days from the date of publication of the notice in the *Gazette*.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) The Registrar shall not cancel the registration of a microfinance institution until—
- (a) the period within which an appeal may be lodged in terms of [section 50](#) has elapsed; or
 - (b) the thirty day period referred to in the proviso to subsection (2) has lapsed, where a notice was published in terms of that proviso;

unless the microfinance institution has consented to the cancellation.

[subsection 3 amended by section 35 of [Act 6 of 2019](#)]

- (4) The Registrar may cancel the registration of a microfinance institution if the microfinance institution so requests, and the Registrar is satisfied that the cancellation will be in the best interests of microfinance institution's creditors, borrowers, depositors and members:

Provided that, if the Registrar decides not to cancel a microfinance institution's registration in terms of this subsection, he or she shall, within ten days after reaching that decision, notify the microfinance institution, in writing, of the decision and of the reasons for it.

[subsection (4) amended by section 35 of [Act 6 of 2019](#)]

13. Public notice of registration and cancellation of registration

- (1) Whenever the Registrar registers a microfinance institution or cancels its registration, he or she shall cause notice of the registration or cancellation to be published in the *Gazette*.
- (2) The Reserve Bank shall publish a list of registered microfinance institutions in each monetary policy statement and in such other manner as the Bank considers appropriate.

[section 13 substituted by section 10 of [Act 6 of 2019](#)]

14. Effect of cancellation of registration

- (1) Upon the cancellation of its registration, a microfinance institution shall immediately cease conducting any microfinance business, except to the extent that the Registrar may permit it to do so for the purpose of—
 - (a) recovering any amounts due to it from any borrowers; or
 - (b) settling its obligations towards any depositors; or
 - (c) transferring its business to another registered microfinance institution.
- (2) A microfinance institution whose registration has been cancelled shall within seven days of being notified of the cancellation return its registration certificate to the Registrar.
- (3) Anyone who contravenes subsection (2) shall be guilty of an offence and shall be liable to a fine not exceeding level twelve.

[section 14 amended by section 35 of [Act 6 of 2019](#)]

Part IV – Conduct of microfinanciers generally

14A. Annual fee payable by microfinance institutions

- (1) Every registered microfinance institution shall pay the Registrar each year a fee of the prescribed amount.
- (2) The annual fee referred to in subsection (1) shall be paid by such date and in such manner as may be prescribed.
- (3) Annual fees paid in terms of this section shall form part of the funds of the Reserve Bank.

[section 14A inserted by section 11 of [Act 6 of 2019](#)]

15. Information to be displayed or published by microfinanciers

- (1) Every microfinance institution shall—
 - (a) display conspicuously at the entrance to every place where the microfinance institution conducts microfinance business an authenticated copy of its registration certificate; and
 - (b) display, in easily legible letters and in the English language on every letter, advertisement or other communication published or issued by or on behalf of the microfinance institution its name and a statement of the fact that it is registered as a microfinance institution.

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) Every microfinance institution shall display the following information conspicuously, in easily legible letters, in every premises where it conducts a microfinance business—
 - (a) the services offered by the microfinance institution; and
 - (b) the monthly and annual rates of interest it charges on loans and advances; and
 - (c) details of all charges, other than interest, which it imposes on loans and advances; and
 - (d) the names of the directors and chief executive officer and the name of the person in charge of the premises where the information is displayed; and

[paragraph (d) amended by section 12(a) of [Act 6 of 2019](#)]

- (e) such information relating to the rights and responsibilities of borrowers and depositors as may be prescribed.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) The information referred to in subsection (2) shall be in the English language and in every other language that is spoken by a substantial number of borrowers or potential borrowers at the premises where the information is displayed.

- (4) Where a microfinance institution contravenes subsection (1), (2) or (3)—

- (a) the institution shall be guilty of an offence and liable to a fine not exceeding level 5;
- (b) each of its directors shall be guilty of an offence and liable to a fine not exceeding level 5 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment:

Provided that, if it is proved that a director took no part in the contravention, this paragraph shall not apply to him or her.

[subsection (4) substituted by section 12(b) of [Act 6 of 2019](#)]

16. Requirements for agreements

- (1) In this section—
“agreement means—
 - (a) loan agreement; or
 - (b) financial lease agreement.
- (2) Every agreement entered into by a microfinance institution in the course of its microfinance business shall—
 - (a) be in writing, setting out clearly all its material terms and conditions; and
 - (b) permit the borrower to make partial or total pre-payments of any amounts owed by him or her under the contract; and
 - (c) specify any penalties for prepayments of amounts owed by the borrower under the contract; and
 - (d) contain such terms and conditions as may be prescribed.
- (3) Any provision of an agreement which purports to allow the microfinance institution unilaterally to alter the rate of interest payable by the borrower, the repayment period, or any other obligation of the borrower, shall be void.
- (4) If a microfinance institution makes a loan or advances credit under an agreement which does not comply with subsection (2) or (3), no interest or other charge or fee whatsoever in connection with the loan or credit shall be payable on the loan or credit.

[section 16 amended by section 35 of Act 6 of 2019 and substituted by section 13 of [Act 6 of 2019](#)]

17. Microfinance Institutions code of conduct

Every microfinance institution shall comply with the code of conduct set out in the First Schedule.

[section 17 amended by section 35 of [Act 6 of 2019](#)]

Part V – Conduct of corporate microfinance business

18. ***

[section 18 repealed by section 14 of [Act 6 of 2019](#)]

19. Conduct of microfinance and other business by microfinance institutions

Subject to this Act, every microfinance institution shall conduct its microfinance business and other operations in accordance with sound administrative and accounting practices and procedures, adhering to proper risk-management policies, and shall comply with the terms and conditions of its registration and with any directions given to it by the Reserve Bank or the Registrar in terms of this Act.

[section 19 amended by section 35 of [Act 6 of 2019](#)]

20. Board of corporate microfinancier

- (1) The operations of every microfinance institution shall be directed by a board consisting of at least—
 - (a) three directors, in the case of a credit-only microfinance institution;

- (b) five directors, in the case of a deposit-taking microfinance institution;

who shall be responsible for formulating policies relating to the institution's microfinance business and supervising that business.

[subsection (1) substituted by section 15(a) of [Act 6 of 2019](#)]

- (1a) The Minister may prescribe the number of executive, non-executive and independent directors to be in the board of every microfinance institution.

[subsection (1a) inserted by section 15(b) of [Act 6 of 2019](#)]

- (2) No person shall exercise any of the functions of a director of a microfinance institution following his or her appointment or reappointment as a director, unless the Registrar has by written notice approved the appointment or re-appointment, as the case may be.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) The Registrar shall approve a person's appointment or re-appointment as a director of a microfinance institution if the Registrar is satisfied, having regard to—

- (a) the person's general probity; and
- (b) the person's competence and soundness of judgment; and
- (c) the diligence with which the person is likely to fulfil his or her responsibilities towards the microfinance institution;

that he or she is a fit and proper person to be a director of the institution in question:

Provided that a person who is disqualified under the section 173 of the Companies Act [*Chapter 24:03*] from being a director of a company shall not be a fit and proper person to be a director of a microfinance institution.

[subsection (3) amended by section 35 of [Act 6 of 2019](#)]

- (4) Where the Registrar is requested to approve the appointment or reappointment of a director for the purposes of this section, the Registrar shall consider the matter and, within two weeks after receiving the request shall notify the microfinance institution concerned, in writing—

- (a) of his or her decision on the application; and
- (b) if he or she refuses to approve the appointment of the person concerned, of the reasons for the refusal;

unless the applicant consents to the extension of the two-week period.

[subsection (4) amended by section 35 of [Act 6 of 2019](#)]

- (5) Where a person has knowingly contravened subsection (2)—

- (a) the microfinance institution concerned shall be guilty of an offence and liable to a fine not exceeding level 5;
- (b) that person and every other director of the microfinance institution concerned shall be guilty of an offence and liable to a fine not exceeding level 5 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment:

Provided that, if it is proved that a director had no knowledge of the contravention, this paragraph shall not apply to him or her.

[subsection (5) substituted by section 15(c) of [Act 6 of 2019](#)]

- (6) The board of directors of every microfinance institution shall meet at least once every three months for the transaction of its business.

[subsection (6) amended by section 35 of [Act 6 of 2019](#)]

- (7) The Chairperson of the Board of Directors of a deposit taking microfinance institution must be a non-executive and independent.

[subsection (7) added by section 15(c) of [Act 6 of 2019](#)]

20A. Responsibilities of directors and shareholders of microfinance institutions

- (1) In this section—

“principal officer”, in relation to a microfinance institution, means an officer referred to in [section 31](#).

- (2) Each director and principal officer of a microfinance institution owes a fiduciary duty and a duty of care and skill to the institution and, in particular, owes a duty to—

- (a) act *bona fide* for the benefit of the institution and for the benefit of its depositors and shareholders; and
- (b) avoid any conflict between his or her personal interests and the interests of the institution and its depositors and shareholders; and
- (c) possess and maintain the knowledge and skill that may reasonably be expected of a person holding a similar appointment and carrying out similar functions as those that he or she carries out; and
- (d) exercise such care in the carrying out of his or her functions in relation to the institution as may reasonably be expected of a diligent person who holds the same appointment under similar circumstances, and who possesses both the knowledge and skill mentioned in paragraph (c) and any additional knowledge and skill that he or she may have.

- (3) Without derogation from subsection (2), the directors and principal officers of all microfinance institutions shall, in the performance of their functions as such, observe any guidelines and comply with any requirements that are prescribed.

- (4) A director of a microfinance institution who fails, without just cause, to attend at least three-quarters of the meetings of the board of his or her institution that are convened during any period of a year shall be regarded as not having exercised the degree of diligence required of him or her by subsection (2)(d).

- (5) Without derogation from section 318 of the Companies Act [[Chapter 24:03](#)], where a microfinance institution has been placed under curatorship or judicial management or has been wound up, and it is established that the business of the institution or company has been carried on negligently, fraudulently or without regard for the requirements provided for in this Act—

- (a) every person who was a director or principal officer of the institution when its business was being carried on in that manner; and
- (b) every shareholder who was knowingly a party to the carrying on of the business of the institution in that manner;

shall be jointly and severally liable with the institution for any loss or damage suffered by creditors, including depositors, of the institution:

Provided that this subsection shall not apply to a director or officer who—

- (a) was not responsible for the manner in which the business of the institution was carried on; and

- (b) complied with his or her duties under subsections (2) and (3).
- (6) The Registrar and the chief executive officer of the Deposit Protection Corporation may institute proceedings—
 - (a) against a director, principal officer or shareholder of a microfinance institution in respect of any liability incurred by that person under subsection (5); and
 - (b) in terms of section 318 of the Companies Act [Chapter 24:03] against any director or principal officer of a microfinance institution who was knowingly a party to the carrying on of the business of the institution in the manner envisaged in that section.
- (7) Any amount recovered as a result of proceedings instituted by the Registrar or the Deposit Protection Corporation as envisaged in subsection (6), shall be applied—
 - (a) first to reimburse all expenses reasonably incurred by the Registrar or the Deposit Protection Corporation, as the case may be, in bringing the proceedings; and
 - (b) thereafter to set off against any amount paid to depositors by the Deposit Protection Corporation or any governmental body, as part or full compensation for the losses suffered by depositors as a result of the microfinance institution concerned being unable to repay their deposits; and
 - (c) thereafter for the *pro rata* repayment of the losses of creditors of the microfinance institution concerned.
- (8) This section is additional to, and shall not be regarded as limiting—
 - (a) the provisions of any other law concerning the duties of directors, officers and shareholders of microfinance institutions; or
 - (b) the right of a creditor of a microfinance institution to institute proceedings against the institution for the recovery of any loss or damage the creditor may have suffered.

[section 20A inserted by section 16 of [Act 6 of 2019](#)]

20B. Corporate governance

- (1) Every microfinance institution shall establish and maintain adequate and effective procedures of corporate governance consistent with such prudential standards as may be prescribed and with the nature, complexity and risks inherent in the activities and business of the microfinance institution.
- (2) The procedures of corporate governance referred to in subsection (1) shall be directed towards achieving the strategic and business objectives of the microfinance institution efficiently, effectively, ethically and equitably, within acceptable risk parameters, so as to ensure—
 - (a) commitment by the chief executive officer of the microfinance institution to adhere to corporate behaviour that is universally recognised and accepted as correct and proper; and
 - (b) accountability on the part of the board and chief executive officer of the microfinance institution towards shareholders; and
 - (c) a balance between the interests of shareholders and other persons who may be affected by the conduct of the board and chief executive officer of the microfinance institution; and
 - (d) the establishment and maintenance of mechanisms and procedures to minimise or avoid potential conflicts of interest between the business interests of the microfinance institution and the personal interests of directors and chief executive officer; and
 - (e) responsible conduct by the directors and chief executive officer of the microfinance institution; and

- (f) the achievement of the maximum level of efficiency and profitability of the microfinance institution within an acceptable risk profile; and
- (g) the timely, accurate and meaningful disclosure of matters that are material to the business of the microfinance institution or the interests of its shareholders and other interested persons; and
- (h) retention by the board of control over the strategic and business direction of the microfinance institution, whilst enabling its chief executive officer to manage its business and activities; and
- (i) compliance with this Act and any other enactments relating to microfinance institutions.

[section 20B inserted by section 16 of [Act 6 of 2019](#)]

20C. Compliance function

- (1) The board of every deposit taking microfinance institution shall establish, as part of risk management framework, an independent compliance function, headed by a compliance officer, to—
 - (a) identify, assess, monitor and advise the board on compliance risk; and
 - (b) advise the board on ways to comply with all applicable laws, codes of conduct and standards of good practice, and assist the board in complying with them.
- (2) The compliance officer of a deposit taking microfinance institution shall perform his or her functions subject to such requirements and conditions as may be prescribed.

[section 20C inserted by section 16 of [Act 6 of 2019](#)]

20D. Risk committee

- (1) Subject to subsection (3), the board of every deposit taking microfinance institution and controlling company shall appoint three or more of its members, all of whom shall be non-executive directors, to serve on a risk committee.
- (2) The functions of the risk committee shall be to assist the board of the deposit taking microfinance institution—
 - (a) to evaluate the adequacy and efficiency of the risk policies, procedures, practices and controls applied within the institution in the day to day management of its business; and
 - (b) to identify and assess the risks to which the institution is exposed; and
 - (c) to develop mitigation strategies to ensure that the institution manages optimally the risks to which it is exposed; and
 - (d) to ensure that the institution undertakes a formal risk assessment at least annually; and
 - (e) to identify and regularly monitor all key risks and key performance indicators to ensure that the institution maintains at a high level its decision making capability and the accuracy of its reporting; and
 - (f) to facilitate and promote communication, through reporting structures, regarding the matters referred to in paragraph (a) and any other related matter, between the board and the officers and employees of the institution; and
 - (g) where the institution is a member of a group of companies, to coordinate the monitoring of risk management on a group basis; and
 - (h) to establish and implement a process of internal controls and reviews to ensure the efficacy of the overall risk and capital management process; and

- (i) to establish and implement policies and procedures designed to ensure that the institution identifies, measures, and reports all material risks; and
- (j) to establish and implement a process that relates capital to the level of risk; and
- (k) to perform such other functions as may be prescribed.

[section 20D inserted by section 16 of [Act 6 of 2019](#)]

21. Records of transactions

- (1) Every microfinance institution shall maintain within Zimbabwe such records as are necessary—
 - (a) to reveal clearly and correctly the state of its business affairs and financial condition; and
 - (b) to explain its transactions so as to enable the Registrar to determine whether the microfinance institution has complied with this Act.

[paragraph (b) amended by section 35 of [Act 6 of 2019](#)]

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) Subject to subsection (3), every microfinance institution shall keep proper records of all transactions relating to its microfinance activities, and shall preserve them for such period as may be prescribed.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) Records and documents referred to in subsection (1) and (2) may be kept in their original form or in such other medium or form as may be prescribed.
- (4) This section shall not be construed as limiting the application of any other enactment providing for the keeping and preservation of records or documents.

22. Accounts and financial records of corporate microfinanciers

- (1) Every microfinance institution shall—
 - (a) keep proper accounts and other records relating thereto; and
 - (b) at the end of each financial year, prepare a financial statement; reflecting, in accordance with sound accounting practices, the microfinance institution's operations and financial condition.

[subection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) Where a microfinance institution conducts microfinance business through more than one branch, the accounts and financial statements referred to in subsection (1) shall be kept and prepared in a consolidated form to cover all the branches.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) Subject to subsection (2), the accounts, records and statement referred to in subsection (1) shall be kept and prepared in such form and detail, and in accordance with such accounting standards, as may be prescribed.

23. Audit of accounts of microfinance institutions

- (1) The accounts of a microfinance institution shall be audited by a person registered as a public auditor in terms of the Public Accountants and Auditors Act [[Chapter 27:12](#)].
- (2) Every microfinance institution shall send the Registrar a copy of its audited accounts of the previous financial year, and the auditor's report thereon.

- (3) The provisions of sections 40 to 44 of the Banking Act [Chapter 24:20] shall apply with necessary changes to every microfinance institution.

[subsection 3 added by section 17 of [Act 6 of 2019](#)]

Part VI – Provisions applying specifically to microfinance institutions

24. ***

[section 24 repealed by section 18 of [Act 6 of 2019](#)].

25. Restriction on type of business that may be carried on by microfinance institutions

- (1) A deposit-taking microfinance institution shall not (whether on its own account or through any branch, subsidiary or division) engage in—
- (a) issuing of third party cheques; or
 - (b) opening current accounts; or
 - (c) foreign trade operations; or
 - (d) trust operations; or
 - (e) investing in enterprise capital; or
 - (f) underwriting or placement of securities; or
 - (g) wholesale or retail trade; or
 - (h) purchasing or otherwise acquiring any land except as may be reasonably necessary for the purpose of expanding the microfinance business; or
 - (i) any other business except that approved under [section 29](#); or
 - (j) such other business as may be prescribed.

[paragraph (j) substituted by section 19(a) of [Act 6 of 2019](#)]

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) Where a microfinance institution has contravened subsection (1)—
- (a) the institution shall be guilty of an offence and liable to a fine not exceeding level 12;
 - (b) every director of the institution shall be guilty of an offence and liable to a fine not exceeding level 12 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment:

Provided that, if it is proved that a director had no knowledge of the contravention, this paragraph shall not apply to him or her.

[subsection (2) substituted by section 19(b) of [Act 6 of 2019](#)]

26. Requirements for lending by microfinance institutions

- (1) Before a microfinance institution makes a loan or advances credit to a borrower, the institution shall take reasonable steps to ensure that—
- (a) the borrower will be able to fulfil his or her obligations under the agreement while still being able to meet the necessary living expenses of himself or herself and his or her family; and
 - (b) the borrower understands the essential terms of the loan agreement; and

- (c) a credit control advisor provides the borrower with the necessary information to enable him or her to manage his or her credit.
- (2) A microfinance institution shall allow a borrower an opportunity to read the loan agreement or to have it read to him or her, before he or she signs it, and shall provide the borrower with a copy of the agreement when he or she had signed it.
- (3) If a microfinance institution makes a loan or advances credit without complying with subsection (1) or (2)—
 - (a) no interest shall be payable on the loan or advance; and
 - (b) the capital sum of the loan or advance shall be recoverable from the borrower in a manner that will be agreed upon between the microfinance institution and borrower, failure of which, the loan or advance will be recoverable through an application by the lender to a competent court on the terms that safeguard the interests of both parties.

[paragraph (b) substituted by section 20 of [Act 6 of 2019](#)]

27. Employees and agents of microfinance institutions

Every microfinance institution shall ensure that all its employees and agents engaged in soliciting concluding and enforcing loan agreements are given adequate instruction in the requirements of this Act.

28. Restriction on payment of dividends by microfinance institutions

A deposit-taking microfinance institution shall not pay a dividend to its shareholders unless it has made adequate provision against losses on loans and has taken adequate steps to ensure compliance with the financial requirements specified in this Act.

[section 28 amended by section 35 of [Act 6 of 2019](#)]

29. Restriction on other business that may be carried on by microfinance institutions

- (1) Subject to this section, without the Registrar's prior approval and on such terms and conditions as the Registrar may determine, no microfinance institution shall—
 - (a) engage on its own account in; or
 - (b) hold shares in a company which engages in;any business or activity other than approved microfinance business:
Provided that a microfinance institution may hold shares—
 - (i) which result from an arrangement whereby a loan owed to it by a company is converted into equity; or
 - (ii) under any other arrangement entered into for the purpose of recovering a debt to the institution.
- (2) If, on application being made, the Registrar refuses to grant approval for the purposes of subsection (1), he or she shall, within ten days after reaching his or her decision, notify the deposit-taking microfinance institution concerned, in writing, of his or her decision and of the reasons for it.
- (3) A deposit-taking microfinance institution that contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level ten.

30. Restriction on microfinance institution extending credit to officers, employees and certain shareholders and their relatives

- (1) In this section—
- “significant interest” means a percentage of—
- (a) the share capital of a deposit-taking microfinance institution; or
 - (b) the voting rights of members of a microfinance institution; which exceeds such percentage as may be prescribed.
- (2) Subject to subsection (3), no deposit taking microfinance institution shall knowingly extend credit to or for the benefit of—
- (a) any of its officers or directors; or
 - (b) any person who holds a significant interest in the institution; or
 - (c) any relative of persons referred to in paragraph (a) or (b);

on terms and conditions that are more favourable than those on which the institution, applying criteria normally applied in the deposit taking microfinance industry, would extend credit to other persons of the same financial standing:

Provided that this subsection shall not prevent a deposit taking microfinance institution from extending credit to one of its employees, where the credit is extended as part of the employee’s conditions of service and is available to other employees.

[subsection (2) substituted by section 21(a) of [Act 6 of 2019](#)]

- (3) In addition to complying with the requirements of subsection (2) —
- (a) any loan advanced to a person referred to in that subsection shall be secured by property at least equal in value to the amount of the loan;
 - (b) the deposit taking microfinance institution shall not advance a loan in terms of subsection (2) without prior approval from the Registrar.

[subsection (3) added by section 21(b) of [Act 6 of 2019](#)]

31. Principal officers of microfinance institutions

- (1) Every microfinance institution shall appoint persons approved by the Registrar to be—
- (a) chief executive officer; and
 - (b) chief accounting officer; and
 - (c) such other officers as may be prescribed;

and no person shall be appointed to hold two or more such offices at the same time.

- (2) Without the written permission of the Registrar, no microfinance institution shall appoint a person to an office referred to in subsection (1) if that person directly or indirectly holds more than five *per centum* of the shares in the institution.

[section 31 substituted by section 22 of [Act 6 of 2019](#)]

32. Alteration of memorandum or articles of association by microfinance institution

- (1) No deposit-taking microfinance institution shall alter its memorandum or articles of association or other rules for the conduct of its business unless the Registrar has given his or her written consent to the alteration.

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) The Registrar shall refuse to consent to any alteration if, in his or her opinion, the alteration conflicts with any provision of this Act.
- (3) If the Registrar refuses to consent to an alteration, he or she shall, within ten days after reaching his or her decision, notify the applicant, in writing, of the decision and the reasons for it.
- (4) Where a deposit-taking microfinance institution has contravened subsection (1)—
 - (a) the institution shall be guilty of an offence and liable to a fine not exceeding level 5; and
 - (b) every director of the institution shall be guilty of an offence and liable to a fine not exceeding level 5 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment:

Provided that, if it is proved that a director had no knowledge of the contravention, this paragraph shall not apply to him or her.

[subsection (4) substituted by section 23 of [Act 6 of 2019](#)]

33. Minimum capital and reserves of microfinance institutions

- (1) Every microfinance institution shall maintain in Zimbabwe such minimum capital and reserves as may be prescribed.
- (2) Where a microfinance institution has contravened subsection (1)—
 - (a) the institution shall be guilty of an offence and liable to a fine not exceeding level 10; and
 - (b) every director of the institution shall be guilty of an offence and liable to a fine not exceeding level 5 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment:

Provided that, if it is proved that a director had no knowledge of the contravention, this paragraph shall not apply to him or her.

[subsection (2) substituted by section 24 of [Act 6 of 2019](#)]

34. Limits on shareholding and transfer of shares in microfinance institutions and corporate microfinanciers

- (1) Subject to this section, no person shall hold more than such percentage of the shares in a microfinance institution as may be prescribed.

[subsection (1) substituted by section 25(a) of [Act 6 of 2019](#)]

- (2) The Registrar may register a microfinance institution in which a person holds more than the prescribed percentage of its shares, if the institution has satisfied the Registrar that it will implement a plan to reduce the person's shareholding within four years from the date on which the institution is registered, in order to comply with subsection (1).

[subsection (2) amended by section 25(b) of [Act 6 of 2019](#)]

- (3) Subsections (1) and (2) shall not apply in respect of—
- (a) a microfinance institution that is a wholly-owned subsidiary of a banking institution, a building society or another financial institution; or
 - (a1) any acquisition of shareholding pursuant to resolution of a failed or troubled institution;
[paragraph (a1) inserted by section 25(c)(ii) of Act 6 of 2019]
 - (b) such other microfinance institutions as may be prescribed.
[paragraph (b) amended by section 25 (c)(i) of Act 6 of 2019]
- (4) No person shall transfer, or cause to be transferred, more than ten *per centum* of the shares of a microfinance institution without the prior approval of the Registrar.
- (5) A transfer of shares in contravention of subsection (4) shall be void to the extent of the contravention.
- (6) Any person who contravenes subsection (1) or (4) shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding six months or to both such a fine and such imprisonment.
- (7) Shareholders of the microfinance institution are to be fit and proper persons.
[subsection (7) added by section 25(d) of Act 6 of 2019]

35. Curatorship and winding up of microfinance institutions

Every deposit-taking microfinance institution shall be required to be a contributor for the purpose of the Deposit Protection Act [Chapter 24:29] (Act No. 7 of 2011) and accordingly that Act's provisions for curatorship, insolvency and winding up of contributors shall apply.

[section 35 amended by section 26 and 35 of Act 6 of 2019]

Part VII – Supervision of microfinanciers

36. Responsibilities of Reserve Bank

- (1) Subject to this Act, the Reserve Bank shall be responsible for—
- (a) continuously monitoring and supervising microfinance institution to ensure that they comply with this Act; and
 - (a1) monitoring and supervising any associate of a microfinance institution in order to determine the microfinance institution's financial condition and monitor the conduct of its business; and
[paragraph (a1) inserted by section 27(a) of Act 6 of 2019]
 - (b) conducting investigations into any particular microfinance institution or class of such microfinance institution where the Reserve Bank considers such an investigation necessary for the purpose of preventing, investigating or detecting a contravention of this Act or any other law.
- (2) The Reserve Bank's function of monitoring and supervising microfinance institutions and their associates may be exercised through all or any of the following methods—
- (a) the analysis of documents and information supplied to it in terms of [section 42](#);

- (b) the inspection of documents and obtaining of information at the premises of the microfinance institutions and associates concerned, and the analysis of such documents and information;

[paragraph (b) amended by section 27(b)(ii) of Act 6 of 2019]

- (c) any other lawful means the Reserve Bank thinks appropriate.

[subsection (2) amended by section 27(b)(i) of Act 6 of 2019]

- (3) For the purposes of monitoring and supervising any microfinance institution, a supervisor may, subject to subsection (4)—
 - (a) at any time during normal working hours, without previous notice, enter any premises of the institution or any premises in which it is believed on reasonable grounds that records, accounts or documents pertaining to the institution's business are kept;

[paragraph (a) amended by section 27(c) (ii) and (iii) of Act 6 of 2019]
 - (b) require any officer, employee or agent of the institution to produce any of the institution's books, records, accounts or documents;

[paragraph (b) amended by section 27(c)(iii) and (iv) of Act 6 of 2019]
 - (c) search any premises referred to in paragraph (a) for any moneys, securities, books, records, accounts or any documents pertaining to the business conducted by the institution;

[paragraph (c) amended by section 27(c)(iv) of Act 6 of 2019]
 - (d) open or cause to be opened any strong room, safe or other container in which it is suspected, on reasonable grounds, that there are any of the institution's moneys, securities, books, records, accounts or documents;
 - (e) examine and make extracts from and copies of any of the institution's securities, books, records, accounts or documents;

[paragraph (e) amended by section 27(c)(iii) of Act 6 of 2019]
 - (f) remove any of the institution's securities, books, records, accounts or documents from the institution's premises, for so long as may be necessary for the purpose of examining them or making extracts from or copies of them:

[paragraph (f) amended by section 27(c)(iii) of Act 6 of 2019]

Provided that the supervisor shall give a full receipt for any such securities, books, records, accounts or documents so removed;
 - (g) require any officer, employee or agent of the institution—
 - (i) to explain any entry in the institution's books, records, accounts or documents;
 - (ii) to provide the supervisor with such information concerning the institution's management or activities as the supervisor may reasonably require.

[paragraph (g) amended by section 27(c) (iii) and (iv) of Act 6 of 2019]
- [subsection (3) amended by section 27(c)(i) of Act 6 of 2019]*
- (4) The powers of entry and search conferred by subsection (3) shall not be exercised except with the consent of the microfinance institution or person in charge of the premises concerned, unless there are reasonable grounds for believing that it is necessary to exercise them for the prevention, investigation or detection of an offence or for the obtaining of evidence relating to an offence.
 - (5) The powers conferred by subsection (3) may be exercised, subject to subsection (4), in relation to any associate of a microfinance institution, if the supervisor believes, on reasonable grounds, that

the exercise of the powers is necessary for the purpose of monitoring and supervising the activities of the microfinance institution.

[subsection (5) added by section 27(e) of Act 6 of 2019]

[section 36 amended by section 27(d) of Act 6 of 2019]

37. Action that may be taken by Reserve Bank where microfinancier found to have contravened the Act or condition of registration, etc

- (1) If, following a report by a supervisor and, where appropriate, after considering any representations made by the microfinance institution concerned in terms of subsection (2), the Reserve Bank is satisfied that a microfinance institution has contravened any term or condition of its registration or any provision of this Act or any direction, requirement or order made under this Act, the Reserve Bank may, subject to this section, do any one or more of the following—
- (a) issue a warning to the microfinance institution;
 - (b) require the microfinance institution to appoint a person who, in the Reserve Bank's opinion, is qualified to advise the microfinance institution on the proper conduct of its business;
 - (c) issue a written instruction to the microfinance institution to undertake remedial action specified in the instruction;
 - (d) impose a monetary penalty not exceeding the equivalent of a fine of level ten a day for each day that the contravention has continued;
 - (e) instruct the microfinance institution to suspend or remove any of its directors, officers or employees from his or her duties;
 - (f) direct the microfinance institution to suspend all or any of its business;
 - (g) appoint a supervisor to monitor the microfinance institution's affairs;
- [paragraph (g) amended by section 35 of Act 6 of 2019]*
- (h) convene a meeting of the shareholders or other owners of the microfinance institution to discuss the remedial measures to be taken;
 - (i) place the microfinance institution under the management of a curator;
 - (j) recommend to the Registrar—
 - (i) the imposition of any term or condition on the microfinance institution's continued registration, or the deletion of any such term or condition; or
 - (ii) the cancellation of the microfinance institution's registration.

[paragraph (j) amended by section 35 of Act 6 of 2019]

[subsection (1) amended by section 35 of Act 6 of 2019]

- (2) Before taking any action in terms of subsection (1), the Reserve Bank shall inform the microfinance institution concerned, in writing, of—
- (a) the contravention of which it is believed to be guilty and, in substance, the grounds for that belief; and
 - (b) the action the Reserve Bank proposes to take in respect of the alleged contravention; and shall afford the microfinance institution an adequate opportunity to make representations in the matter:

Provided that, where the Reserve Bank considers that immediate action is necessary to prevent irreparable harm to the institution or its depositors, creditors or shareholders, the Reserve Bank

may take such action before affording the microfinance institution an opportunity to make representations in terms of this subsection.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

38. Investigation into microfinance institution

- (1) If—
- (a) a microfinance institution has failed to furnish the Reserve Bank with any statement, document or information required under any provision of this Act within the period specified by or in terms of that provision, and has not furnished that statement, document or information within a period of thirty days, commencing on the date on which the Reserve Bank has reminded it, in writing, of its failure; or
 - (b) a microfinance institution has furnished incorrect or incomplete information to the Reserve Bank and has not furnished correct or complete information within a period of thirty days, commencing on the date on which the Reserve Bank has called upon it to correct or complete the information; or
 - (c) any statement, document or information furnished by a microfinance institution to the Reserve Bank shows that the microfinance institution or any of its officers, employees or agents has failed to comply with any provision of this Act; or
 - (d) the auditor of any deposit-taking microfinance institution has informed the institution or the Reserve Bank of an irregularity that requires correction and the institution has not corrected the irregularity within a period of thirty days, commencing on the date on which the Reserve Bank or a supervisor has called upon the institution in writing, to correct it; or
- [paragraph (d) amended by section 28 of [Act 6 of 2019](#)]*
- (e) the Reserve Bank has reasonable grounds for believing that a microfinance institution or any person connected with a microfinance institution has committed an offence under this Act, other than an offence arising out of conduct referred to in paragraph (a) or (b); or
 - (f) the Reserve Bank has reasonable grounds for believing that the rights of any class of depositors with a microfinance institution are being prejudiced; or
 - (g) the Reserve Bank has reason to believe that any person has or had any interest, direct or indirect, in a microfinance institution or its business in contravention of this Act; or
 - (h) a microfinance institution or any of its officers, employees or agents has prevented a supervisor from exercising any of his or her powers in terms of this Part or in terms of section 10 of the Balance of Payments Reporting Act [*Chapter 22:16*];

[paragraph (h) amended by section 35 of [Act 6 of 2019](#)]

and the Reserve Bank considers that an investigation is necessary for the purpose of preventing, investigating or detecting a contravention of this Act or any other law, the Reserve Bank may direct an inspector to conduct an investigation into the microfinance institution concerned or any aspect of its management or activities.

- (2) It shall not be necessary for the Reserve Bank to afford the microfinance institution concerned an opportunity to make representations before it directs an inspector to conduct an investigation.

(3) For the purposes of an investigation in terms of subsection (1), an inspector may exercise any of the powers of a supervisor set out in [section 36\(3\)](#) and, in addition, may—

- (a) seize any securities, books, records, accounts or documents of the microfinance institution concerned which in his or her opinion may afford evidence of an offence or irregularity:

Provided that—

- (i) the inspector shall issue a full receipt for any securities, books, records, accounts or documents so seized;
- (ii) any securities, books, records, accounts or documents so seized shall be retained only for so long as may be necessary for the purposes of the investigation;

- (b) examine, whether under oath or otherwise, any person who is or was a director, officer, employee, agent, auditor, legal adviser, valuator, debtor, creditor, policy-holder, shareholder or partner of the microfinance institution concerned:

Provided that—

- (i) any person so examined shall be entitled to have his or her legal practitioner present at the examination;
- (ii) no person shall be required to answer any question which he or she would not be required to answer if he were a witness in a civil or criminal case before a court;
- (c) require any person referred to in paragraph (b) to produce any security, book, record, account or document of the microfinance institution concerned to which he or she has access, or to give any information at his or her disposal relating to the management or affairs of the microfinance institution:

Provided that no such person shall be required to produce anything or to answer any question which he or she would not be required to produce or answer, as the case may be, if he or she were a witness in a civil or criminal case before a court.

- (4) A microfinance institution whose securities, books, records, accounts or documents have been seized under this section shall be entitled, through its authorised representative, to examine, make entries in and make extracts from them during office hours under such supervision as an inspector may determine.
- (5) In conducting an investigation in terms of subsection (1), an inspector shall have the same powers, rights and privileges as are conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 19 of that Act shall apply, with such changes as may be necessary, in relation to an investigation made in terms of this section and to any person summoned to give or giving evidence at that investigation.
- (6) Any person who, without just cause, hinders or obstructs an investigator in the exercise of his or her functions under this section shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[section 38 amended by section 35 of [Act 6 of 2019](#)]

39. Procedure on completion of investigation

- (1) On completion of an investigation in term of [section 38](#), an inspector shall forward his or her report thereon to the Reserve Bank.

- (2) On receipt of a report in terms of subsection (1), the Reserve Bank shall—
 - (a) send a summary of the conclusions reached in the report, and any recommendations made therein, to the microfinance institution which was the subject of the investigation; and
 - (b) invite the microfinance institution to make representations on the conclusions and recommendations set out in the summary.
- (3) A microfinance institution to which a summary of conclusions and recommendations has been sent in terms of subsection (2) may, within thirty days, submit to the Reserve Bank representations on any of the conclusions or recommendations.

[section 39 amended by section 35 of [Act 6 of 2019](#)]

40. Action by Reserve Bank following investigation

- (1) If, after considering an inspector's report sent to it in terms of [section 39\(1\)](#), together with any representations made by the microfinance institution concerned in terms of subsection (3) of that section, the Reserve Bank is satisfied that the microfinance institution has contravened any term or condition of its registration or any provision of this Act or any direction, requirement or order made under this Act, the Reserve Bank may, subject to subsection (2), take any action referred to in [section 37\(1\)](#).
- (2) Before taking any action referred to in subsection (1), the Reserve Bank shall—
 - (a) inform the microfinance institution concerned, in writing, of the action it proposes to take; and
 - (b) afford the microfinance institution concerned an adequate opportunity to make representations in the matter:

Provided that, where the Reserve Bank considers that immediate action is necessary to prevent irreparable harm to the microfinance institution or its depositors, creditors or shareholders, the Reserve Bank may take such action before affording the microfinance institution an opportunity to make representations in terms of this subsection.

[section 40 amended by section 35 of [Act 6 of 2019](#)]

41. Expenses of investigation

- (1) The Reserve Bank may recover from a microfinance institution which has been investigated in terms of this Part all the expenses necessarily incurred in connection with the investigation.
- [subsection (1) amended by section 35 of [Act 6 of 2019](#)]*
- (2) In any proceedings in a court for the recovery of any expenses referred to in subsection (1), a certificate purporting to be signed by the Governor or a Deputy Governor of the Reserve Bank and setting out the amount of the expenses concerned shall be *prima facie* proof of their amount.
 - (3) The Registrar may recover the expenses of the investigation from monetary penalties imposed on microfinance institutions in terms of [section 37](#) of the Act.

[subsection (3) added by section 29 of [Act 6 of 2019](#)]

42. Statements and reports to be submitted by microfinance institutions

- (1) At such times as may be prescribed, every microfinance institution shall submit to the Registrar a statement in such form as may be prescribed, reflecting the microfinancier's operations and condition.

- (2) Within ninety days after the end of its financial year, every microfinance institution shall submit to the Registrar a copy of the financial statement prepared in terms of [section 22\(1\)\(b\)](#) and certified (in the case of deposit-taking microfinance institutions) by the institution's auditor.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) If required to do so by the Registrar for the purpose of ensuring proper compliance with this Act, every microfinance institution shall supply the Registrar with any document, report or information whatsoever relating to the institution's business or transactions.

[subsection (3) amended by section 35 of [Act 6 of 2019](#)]

[section 42 amended by section 35 of [Act 6 of 2019](#)]

43. Appointment of supervisors and inspectors

- (1) The Reserve Bank may appoint—

- (a) as supervisors one or more of its Officers or employees as supervisors for the purpose of monitoring and supervising microfinance institutions and exercising any other function conferred or imposed on supervisors by or in terms of this Act; and

[paragraph (a) amended by section 35 of [Act 6 of 2019](#)]

- (b) subject to the Public Service Act [[Chapter 16:04](#)], one or more persons as inspectors for the purpose of conducting an investigation into any microfinance institution or class of such institution and exercising any other function conferred or imposed on inspectors by or in terms of this Act.

[paragraph (b) amended by section 35 of [Act 6 of 2019](#)]

- (2) Reserve Bank may appoint an officer or employee to be both a supervisor and an inspector in terms of subsection (1).
- (3) The Reserve Bank shall provide every supervisor and inspector with a document identifying him or her as a supervisor or inspector, as the case may be, and he or she shall produce it on request by any interested person.
- (4) Any person appointed as a supervisor or inspector in terms of section 46 of the Banking Act [[Chapter 24:20](#)] ([Act No. 9 of 1999](#)) shall be entitled to carry out the functions of a supervisor or inspector, as the case may be, as if he or she had been appointed in terms of this section.

Part VIII – Enforcement of microfinanciers' code of conduct

44. ***

[section 44 amended by section 35 of [Act 6 of 2019](#) and repealed by section 30 of [Act 6 of 2019](#)]

45. Disciplinary committee

For the purpose of an investigation and hearing in terms of this Part there shall be a disciplinary committee composed of—

- (a) the Registrar or his or her authorised delegate, who shall be the chairperson of the disciplinary committee; and
- (b) a representative appointed by the Minister of any association of microfinance institutions which, in the opinion of the Minister represents a substantial number of microfinance institutions generally,

or represents the class of microfinance institutions to which the microfinance institution subjected to an investigation under this Part belongs; and

[paragraph (b) amended by section 35 of Act 6 of 2019]

- (b1) a member nominated by an association, recognised by the Minister, that represents consumers; and

[paragraph (b1) inserted by section 31 of Act 6 of 2019]

- (c) a representative of the Reserve Bank appointed by the Governor of the Reserve Bank.

[section 45 amended by section 35 of Act 6 of 2019]

46. Complaints against microfinanciers and initial investigation by disciplinary committee

- (1) A person who is aggrieved by any conduct on the part of a microfinance institution that may constitute an undesirable method of conducting business may, within a reasonable time after the conduct giving rise to the complaint, lodge his or her complaint, in writing and in the prescribed form and manner, with the Registrar.
- (2) If the Registrar receives a complaint or suspects on reasonable grounds that a microfinance institution may be guilty of engaging in an undesirable method of conducting business, the Registrar shall inform the Secretary of the complaint or suspicion, and the Secretary shall thereupon instruct the disciplinary committee to meet and investigate the complaint or suspicion.
- (3) For the purposes of an investigation under this section, the disciplinary committee may, through the Registrar or any of its members, at all reasonable times with or without notice—
 - (a) visit and inspect the premises of the microfinance institution concerned;
 - (b) require the microfinance institution concerned to provide it with such information as the committee considers may be relevant to the investigation.
- (4) If the disciplinary committee finds that a *prima facie* case against the microfinance institution concerned has been disclosed, it shall inform the Secretary, the microfinance institution and any person who may have lodged a complaint accordingly, and shall then proceed in terms of this Part.

[section 46 amended by section 35 of Act 6 of 2019]

47. Notice of complaint or of allegation of undesirable method of conducting business

Upon a finding in terms of [section 46\(4\)](#), the disciplinary committee shall notify the microfinance institution concerned in writing of the complaint or allegation against it and of the grounds on which the committee considers there is a *prima facie* case against the microfinance institution, and in that notice shall—

- (a) call upon the microfinance institution to reply to the complaint or allegation, in writing, within such reasonable time as may be specified in the notice; and
- (b) advise the microfinance institution that in its reply—
 - (i) it may admit or deny the truth of the complaint or allegation;
 - (ii) if it—
 - (A) admits the truth of the complaint or allegation, it may make any statement in mitigation that it wishes the disciplinary committee to consider; or
 - (B) denies the complaint or allegation, it may offer an explanation of its attitude to the complaint or allegation, indicating the basis of its defence;

- (iii) it may indicate whether it wishes to be present through a director, principal officer or other employee or represented by a legal practitioner at an inquiry held to determine the truth of the complaint or allegation.

[subparagraph (iii) amended by section 35 of [Act 6 of 2019](#)]

[section 47 amended by section 35 of [Act 6 of 2019](#)]

48. Determination of complaint or allegation

- (1) Having received a reply from a microfinance institution in terms of [section 47](#) or, if no such reply is received, after the expiry of the period within which the reply should have been sent, the disciplinary committee may proceed to determine the matter in accordance with this section.

[subsection (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) In determining a matter for the purposes of this section, the disciplinary committee shall—
 - (a) ensure that the microfinance institution concerned has been given adequate opportunity to make representations in the matter; and
 - (b) hold a hearing if there are factual disputes which in the committee's opinion, cannot be resolved on the papers before the committee.

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) If the disciplinary committee holds a hearing, it shall not be bound by the rules of evidence applicable to a court of law.
- (4) For the purposes of a hearing into a complaint or allegation, the disciplinary committee may
 - (a) by *subpoena*, summon witnesses and require the production of any book, record, document or thing; and
 - (b) through its chairperson, administer an oath to and take evidence from any witness; and
 - (c) examine any book, record, document or thing produced to it.
- (5) A *subpoena* summoning a witness to attend before the disciplinary committee or to produce to it a book, record, document or thing shall—
 - (a) be in the prescribed form; and
 - (b) be signed by the Registrar or by his or her authorised delegate.
- (6) The disciplinary committee may, with the approval of the Secretary, pay from the funds of the Ministry the expenses incurred by a person for attendance as a witness at a hearing into a complaint or allegation under this Part:

Provided that—

- (i) no such payment shall exceed the amounts prescribed for attendance as a witness in a criminal trial held in a magistrates court; and
- (ii) any expenses incurred by the Ministry under this subsection shall, if the allegation against it is substantiated under this Part, be recoverable from the microfinance institution concerned under an order as to costs referred to in subsection (10)(b).

[subsection (6) amended by section 35 of [Act 6 of 2019](#)]

- (7) A person giving evidence at a hearing before the disciplinary committee shall be entitled to the same privileges and immunities as if he or she were a witness giving evidence in a civil or criminal trial in a magistrates court.

- (8) If for the purposes of an investigation the disciplinary committee is required to determine an issue which has already been determined by a court of law, the committee may accept the court's determination and may rely on any indictment, record, judgment or other evidence of the court's proceedings or findings which the committee considers is reliable for the purposes of its own determination.
- (9) Where the disciplinary committee has determined an issue on the basis of a court's previous determination, and the court's determination is subsequently set aside on appeal or review, the disciplinary committee shall reconsider the issue in the light of the decision on appeal or review
- (10) If the disciplinary committee finds that a microfinance institution is guilty of an undesirable method of conducting business, it shall notify the microfinance institution, in writing, of that finding and—
- (a) may—
 - (i) caution or reprimand the microfinance institution; or
 - (ii) impose on the microfinance institution a fine not exceeding level twelve, which shall be paid into the funds of the Reserve Bank; or
 - (ii) vary or cancel the registration of the microfinance institution:

[Please note: numbering as in original]

Provided that the committee shall not impose any such penalty unless the microfinance institution has been given an adequate opportunity to make representations as to the appropriate penalty to be imposed;

and

- (b) may make such order as to the costs of the proceedings as it thinks fit, including an order requiring the microfinance institution to bear all the costs directly connected with the investigation.

[subsection (10) amended by section 35 of [Act 6 of 2019](#)]

- (11) Where a microfinancier, upon being notified of a complaint or allegation against it—
- (a) admits in writing truth of the complaint or allegation, with or without mitigation; or
 - (b) indicates that it does not wish to be present or be represented at a hearing under this section, whether or not it accompanies the indication with an explanation or its attitude to the complaint or allegation; or
 - (c) does not appear at a hearing under this section;

the disciplinary committee may proceed to make a finding on the complaint or allegation without holding a hearing.

49. Offences in connection with investigations under this part

A person subpoenaed in terms of [section 48\(4\)\(a\)](#) shall obey the *subpoena* served on him or her, and any such person who, without just cause—

- (a) fails to attend and give evidence at a hearing under [section 48](#) at the time and place specified in the *subpoena*; or
- (b) fails or refuses to be sworn when the chairperson of the disciplinary committee desires to administer an oath to him or her; or
- (c) fails to produce any book, record, document or thing that he or she had been required by *subpoena* to produce; or

- (d) fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Part IX – General

50. Appeals

- (1) Subject to this section, any person who is aggrieved by a decision, proposal or action of the Registrar or the Reserve Bank under this Act may appeal against the decision, proposal or action to the Minister.
- (2) An appeal shall be made in the form and manner prescribed and shall be lodged with the Minister within thirty days after the appellant was notified of the decision, proposal or action appealed against.
- (3) In an appeal the Minister may conduct or cause to be conducted such inquiry into the matter as he or she thinks appropriate and may confirm vary or set aside the decision, proposal or action appealed against:

Provided that the Minister shall ensure that the appellant and the Registrar or Reserve Bank as the case may be are given an adequate opportunity to make representations in the matter
- (4) The Minister shall ensure that the appellant and the Registrar or Reserve Bank, as the case may be, are notified of any decision reached by him or her in terms of subsection (3).
- (5) Any person who is aggrieved by a decision of the Minister on an appeal in terms of subsection (1) may appeal against his or her decision to the Administrative Court within the time and in the manner prescribed in rules of that court.
- (6) In an appeal in terms of subsection (5), the Administrative Court may confirm, vary or set aside the decision, proposal or action appealed against and give such other order, whether as to costs or otherwise, as the Court considers just.

51. Extension of time-limits

If a microfinance institution is required to comply within a specified or prescribed period with any provision of this Act, or with any direction or requirement of the Registrar in terms of this Act, the Registrar may, on good cause shown, extend the period at the request of the microfinance institution concerned.

[section 51 amended by section 35 of [Act 6 of 2019](#)]

52. Translations of documents, etc, may be demanded

Where any person for the purposes of this Act, submits any statement, document or other information to the Reserve Bank or the Registrar in a language other than the English language, the Reserve Bank or the Registrar, as the case may be, may direct him or her to provide, at his or her own expense, a translation of the statement, document or information, and until the person concerned complies with the direction the statement, document or information shall be deemed not to have been submitted for the purposes of this Act.

53. Powers of Registrar where unregistered person is suspected of conducting microfinance business

- (1) Where the Registrar has reason to suspect that a person who is not registered is conducting any microfinance business, he or she may—
 - (a) direct that person, by written notice, to supply, within a period stated in the notice, any document or information concerning the person's business or activities; or
 - (b) direct a supervisor to examine that person's business in order to ascertain whether or not the suspicion is well-founded.
- (2) Any person who fails to comply to the best of his or her ability with a notice in terms of subsection (1)(a) shall be guilty of an offence and liable to a fine not exceeding level six.
- (3) For the purposes of an examination in terms of subsection (1)(b), a supervisor may exercise any of the powers conferred on supervisors by [section 36](#), any references in that section to a microfinance institution being construed as references to a person conducting or suspected of conducting microfinance business.
[subsection (3) substituted by section 32 of [Act 6 of 2019](#)]
- (4) Any person who, without just cause, hinders or obstructs a supervisor in the conduct of an examination in terms of subsection (1)(b) shall be guilty of an offence and liable to a fine not exceeding level six.
- (5) Nothing in this section shall be construed as limiting the power of a police officer to investigate any offence in terms of this Act.

54. Preservation of secrecy and use of confidential information for personal gain

- (1) The following persons, namely—
 - (a) the Registrar or other officer referred to in [section 4](#);
 - (b) any officer or employee of the Reserve Bank;
 - (c) any supervisor or inspector;
 - (d) any auditor of a microfinance institution;
 - (e) any employee or agent of a person specified in paragraph (a), (b), (c) or (d);shall not disclose any information which he or she has acquired in the performance of his or her functions under this Act and which relates to the business or other confidential affairs of a microfinance institution.
[subsection (1) amended by section 35 of [Act 6 of 2019](#)]
- (2) Except with the permission of the Reserve Bank, no microfinance institution or employee or agent of a microfinance institution shall disclose any information provided to it by the Reserve Bank in confidence in the performance of its functions under this Act.
[subsection (2) amended by section 35 of [Act 6 of 2019](#)]
- (3) Subsection (1) and (2) shall not apply to—
 - (a) any disclosure made by the person concerned in the performance of his or her functions under this Act or when required to do so by a court or in terms of any other enactment; or
 - (b) the supplying of statistics in terms of [section 55](#); or

- (b1) in the case of an auditor, the disclosure of information that he or she is professionally required to disclose following an audit; or
[paragraph (b1) inserted by section 33 of [Act 6 of 2019](#)]
 - (c) the disclosure of information that is generally known to members of the public or a substantial section of the public; or
 - (d) a disclosure of such information in such circumstances as may be prescribed.
- (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level six or imprisonment for a period not exceeding one year or to both such fine and such imprisonment.
- (5) Subject to subsection (2), if any of the persons referred to in subsection (1) for personal gain makes use of any information which he or she has acquired in the performance of his or her functions under this Act and which relates to the affairs of a microfinance institution he or she shall be guilty of an offence and liable to—
- (a) a fine not exceeding level ten or double the amount of his or her gain, whichever is the greater; or
 - (b) imprisonment for a period not exceeding five years; or both such fine and imprisonment.
- [subsection (5) amended by section 35 of [Act 6 of 2019](#)]*
- (6) It shall be a defence to a charge under subsection (1) for the person charged to show that the information which he or she used was generally known to members of the public or to a substantial section of the public.

55. Reserve Bank and Registrar may supply statistics

For the purposes of the Census and Statistics Act [*Chapter 10:29*] (Act [No. 1 of 2007](#)), the Reserve Bank and the Registrar shall supply the Director-General of the Zimbabwe National Statistics Agency such statistics relating to microfinance institutions in Zimbabwe as may be required by or under the Census and Statistics Act [*Chapter 10:29*], but no such statistics shall reveal confidential information concerning any particular microfinance institution or other person.

[section 55 amended by section 35 of [Act 6 of 2019](#)]

56. Annual reports of Reserve Bank and Registrar

- (1) As soon as possible after the end of every calendar year, and in any event not more than three months thereafter, the Reserve Bank and the Registrar shall submit to the Minister a provisional report (which report shall relate exclusively to microfinance business) on microfinance business in Zimbabwe during that year.
- (2) The Minister upon receiving a provisional report may—
 - (a) approve it as a final report; or
 - (b) require that the report include such further information or disclosures in the public interest as the Minister shall specify, and upon compliance therewith, the Minister shall approve the amended report as the final report.
- (2) The Minister shall lay a copy of any report submitted to him or her in terms of subsection (1) before the National Assembly on one of the fourteen days on which the House next sits after he or she has received it.

[Please note: numbering as in original.]

[subsection (2) amended by section 35 of [Act 6 of 2019](#)]

57. Exercise of functions by Reserve Bank and Registrar

- (1) Any function of the Reserve Bank under this Act may be exercised on behalf of the Bank—
 - (a) by the Governor of the Reserve Bank; or
 - (b) subject to the directions of the Governor, by a Deputy Governor of the Reserve Bank specified by the Governor with the approval of the Board of Directors of the Reserve Bank.
- (2) The Governor and Deputy Governor of the Reserve Bank shall exercise the said functions in accordance with any directions that the Board of Directors of the Reserve Bank may give them.
- (3) Subsection (1) and (2) shall not be construed as limiting the Reserve Bank's power under any other law to delegate its functions under this Act to any of its officers or employees.

58. Evidence and presumptions

- (1) Any document or copy thereof certified by—
 - (a) the Registrar, as a document or copy thereof lodged with or furnished to or issued by the Registrar in terms of this Act; or
 - (b) the Reserve Bank, as a document or copy thereof lodged with or furnished to or issued by the Reserve Bank in terms of this Act;

shall be presumed to be such a document or a copy, as the case may be, and shall be admissible in evidence in any court on its production by any person.

- (2) A document purporting to be signed by the Registrar and—
 - (a) stating that any person is not registered under this Act; or
 - (b) setting out the terms and conditions of any microfinance institution's registration; or
[paragraph (b) amended by section 35 of Act 6 of 2019]
 - (c) stating whether or not any microfinance institution's registration has been cancelled or suspended;
[paragraph (c) amended by section 35 of Act 6 of 2019]

shall be admissible in any proceedings in any court on its production by any person as proof of the facts stated therein.

59. Amendment or substitution of First and Second Schedules

- (1) Subject to subsection (1), the Minister, after consultation with the Registrar and the Reserve Bank, may by notice in a statutory instrument amend or replace the First or Second Schedule.
- (2) When the Minister wishes to amend or replace the First or Second Schedule the Minister shall lay the draft statutory instrument amending or replacing the First or Second Schedule before the National Assembly, and if National Assembly makes no resolution against the publication of the statutory instrument within the next seven sitting days after it is so laid before National Assembly, the Minister shall cause it to be published in the *Gazette*.

[subsection (2) amended by section 35 of Act 6 of 2019]

60. Regulations

- (1) Subject to subsection (4), the Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations may provide for—

- (a) the conduct of microfinance business, including the specification of undesirable methods of conducting business;
- (b) limits on the amount that may be lent by a microfinance institution to any one borrower or class of borrower;

[paragraph (b) amended by section 35 of Act 6 of 2019]

- (c) the disclosure by microfinance institutions of information concerning transactions, deposits and funds held or dealt with by them, where such information is required for the purposes of—
 - (i) detecting, investigating or preventing an offence, whether under Zimbabwean law or the law of any other country; or
 - (ii) recovering the proceeds of any offence referred to in subparagraph (i); or
 - (iii) complying with any obligation of Zimbabwe under an international convention, treaty or agreement;

[paragraph (c) amended by section 35 of Act 6 of 2019]

- (d) the standard form of a microfinance loan agreement;
- (e) the preservation of records by microfinance institutions;

[paragraph (e) amended by section 35 of Act 6 of 2019]

- (f) the issue of directions by the Registrar or the Reserve Bank to microfinance institutions in respect of any matter relating to their microfinance business;

[paragraph (f) amended by section 35 of Act 6 of 2019]

- (g) fees and charges for anything done or provided in terms of this Act;
- (h) the application to microfinance institutions, with or without modifications, of any prudential guidelines issued by or under the Banking Act [Chapter 24:20] to banking institutions;
- (i) the setting up of any advisory council in connection with microfinance business.

(3) Regulations may provide penalties for contraventions thereof:

Provided that no such penalty shall exceed a fine of level seven or imprisonment for a period of six months or both such fine and such imprisonment.

- (4) Except where the urgency of the circumstances otherwise requires, any regulations which have the effect of imposing additional requirements or obligations upon microfinance institutions shall afford existing microfinance institutions a reasonable time within which to comply with the regulations.

[subsection 4) amended by section 35 of Act 6 of 2019]

61. Amendment of Cap. 14:14

The Moneylending and Rates of Interest Act [Chapter 14:14] is amended—

- (a) by repeal of sections 2A, 2B, 3, 4, 5, 6 and 7;
- (b) in section 20 (“Exempted transactions”) by the insertion after subsection (2) of the following subsection—

“(2a) Nothing in this Act, other than sections 8 to 16, shall apply to or in respect of a person registered as a microfinancier in terms of the Microfinance Act [Chapter 24:29].”;

- (c) in section 22 (“Regulations”) (2) by the repeal of subsections (a) and (b).

62. Amendment of Cap. 24:20

The Banking Act [Chapter 24:20] is amended—

- (a) in section 2 (“Interpretation”) (1) by the repeal of the definition of “microfinance bank”;
- (b) in section 4 (“Registrar of Banking Institutions and other officers”) (1) by the deletion of the words “section 46” and the substitution of “section 59”;
- (c) in section 5 (“Banking business and banking activities not to be conducted except by registered banking institution”) by the repeal of subsection (5);
- (d) in section 6 (“Classes of banking business”) by the repeal of paragraph (e);
- (e) in section 81 (“Regulations”) (2) by the repeal of paragraph (g).

63. Transitional provision

Any person who, immediately before the date of commencement of this Act, was conducting any business for which he or she is required to be registered under this Act may continue to conduct that business—

- (a) for six months after the date of commencement of this Act; and
- (b) if he or she applies for registration in terms of this Act, until the application is finally determined.

First Schedule (Section 2)

Microfinance Institutions Code of Conduct

[First Schedule amended by section 35 of [Act 6 of 2019](#)]

In this Schedule, a microfinance institution shall be considered to be adopting undesirable methods of conducting business if it fails to comply with any of the following ethical practices and rules of conduct—

1. Treatment of clients generally

In the conduct of their business all microfinance institutions must follow practices built on respect, fair treatment, persuasion and courtesy towards clients.

2. Operating guidelines and procedures

A microfinance institution must—

- (a) devise and keep up to date operating guidelines and procedures to ensure that clients and potential clients are treated with dignity, respect and sensitivity; and
- (b) ensure that the microfinance institution’s staff is trained and equipped to implement the foregoing guidelines and procedures.

3. Pledged security

- (1) Every borrower shall pledge as security property that is not (subject to this paragraph) more than twice the Value of the amount borrowed from the microfinance institution, which security shall—
 - (a) not be used by the microfinance institution; and
 - (b) not be pledged by the microfinance institution as security if the borrower has defaulted; and
 - (c) be kept in safe custody by the microfinance institution.

- (2) A borrower who has pledged security whose value is more than twice the value of the amount borrowed can at any time substitute a new security that is more commensurate to the value borrowed.
- (3) Where a borrower pledges security worth more than the value of the money borrowed, the microfinance institution must ensure, in the event that the borrower defaults, the return of the balance after subtracting the amount due to them.
- (4) Pledged security held by the microfinance institution shall be at the microfinance institution's risk unless the microfinance institution can satisfy the Registrar or a court, as the case may be, that—
 - (a) the pledged security was held in a safe place of custody; and
 - (b) the loss or destruction of the pledged security was not attributable to any negligence on the part of the microfinance institution.

4. Transparency

There must be full disclosure to clients and potential clients of all terms and conditions (including any changes) attaching to any of the financial services offered by the microfinance institution in plain and simple language understood by the client, including in particular the following in respect to its loan and credit services—

- (a) the microfinance institution must provide to every client documents clearly indicating the rate of interest, terms of repayment, collateral required from the client and details of all charges other than interest (if any);
- (b) the microfinance institution must provide to every client at his or her request without delay written periodical statements setting out all the charges levied upon the client, all the payments made by him or her, and the outstanding balance owed by him or her under the loan agreement.

5. Avoiding overindebtedness

- (1) All microfinance institutions must take reasonable steps to ensure that the credit services offered by them are based on the need and repayment capacity of each client and that this service will not put the borrowing client at significant risk of overindebtedness.
- (2) Before advancing a loan to a client or potential client a microfinance institution shall diligently investigate and consider the client's creditworthiness, debt history, sources of income, and the nature of the collateral that may be reasonably expected from him or her.
- (3) All microfinance institutions must avoid demanding collateral whose value exceeds the value of the loan, and in any case must not (subject to paragraph 3(2) and (3) accept collateral exceeding twice the value of the loan.

6. Appropriate interaction and collection practices

- (1) Every microfinance institution shall behave in a dignified manner towards clients, that is to say, in a way that does not humiliate or degrade them.
- (2) Every microfinance institution shall interact with clients in English and ChiShona or SiNdebele or any other indigenous language understood by the client
- (3) Every microfinance institution shall have a clearly defined procedure in the case of defaulting clients, and shall notify clients of such procedure as part of the terms and conditions of any loan or credit facility.
- (4) No microfinance institution shall, without the client's prior consent, visit a client's house or place of abode or place of employment for the collection of moneys due from the client, unless such visits have been expressly authorised as part of the terms and conditions of the agreement for the loan or

credit facility, in which case every such visit must be conducted by persons identified to the client in advance, and must be carried out with the utmost regard for decency and courtesy.

- (5) In any event, there must be no such visits during public holidays (including Sundays) or on any day on which the client or any member of his or her family is celebrating a marriage, or on any occasion set aside by the family of the client for memorialising a bereavement.
- (6) Every microfinance institution shall avoid stressful recovery methods and in particular microfinance institutions shall not detain ATM cards or demand post-dated cheques as security for any loan or credit facility.
- (7) Microfinance institutions should promote a culture of social sensitivity towards their clients, and in particular should endeavour to foster a long-term and individualised relationship with each of their clients.

7. Privacy of client's information

Every microfinance institution shall keep personal client information strictly confidential unless required to disclose it by a court order or for the purpose of legal proceedings.

8. Client education and financial literacy

- (1) Microfinance institutions must adequately inform clients and potential clients of any information additional to that referred to in paragraph 3 that will enable them to make informed choices and decisions concerning the range of credit facilities or options available to them, whether or not such facilities or options are offered by the microfinance institution concerned.
- (2) Every microfinance institution shall have at least one credit control advisor to give credit control advice to clients or potential clients where needed, and such advisor must not also be involved in any way with offering credit facilities or loans to clients or potential clients.

[subparagraph (2) amended by section 35 of [Act 6 of 2019](#)]

9. Feedback or grievance mechanism

- (1) Every microfinance institution shall—
 - (a) institute a procedure for dealing with complaints from clients and ensure that—
 - (i) every complaint is attended to and, if possible and appropriate, remedied within a reasonable time; and
 - (ii) the complainant is made aware of his or her right to complain to the Registrar if his or her complaint is not remedied to his or her satisfaction;
 - (b) keep a record of all complaints made, and avail such record to the Registrar or an inspector at his or her request.

[paragraph (9) amended by section 35 of [Act 6 of 2019](#)]

Second Schedule (Section 7)

Contents of business plan of microfinancier

[Second Schedule amended by section 35 of [Act 6 of 2019](#)]

1. Identifying information

- (1) The name and location of the applicant microfinance institution including the location of any branches.

[subparagraph (1) amended by section 35 of [Act 6 of 2019](#)]

- (2) Description or diagram of the applicant's corporate structure.

[subparagraph (2) amended by section 35 of [Act 6 of 2019](#)]

- (3) A brief discussion of the origin of the applicant, including how its founders came together and the reasons for wanting to become a microfinance institution.

[subparagraph (3) amended by section 35 of [Act 6 of 2019](#)]

2. Business strategy and objectives

Brief description of the services to be offered by the applicant.

3. Capitalisation and additional capital sources

- (1) Description of the plans for financing growth, internally or externally, over the first four years of operation.
- (2) Description of what additional capital sources are available should the need arise.

4. Business plan

The business plan shall include, or be accompanied by, the following projections based on normal assumptions and showing, where necessary, compensation to be given to management and staff, expected mixes of assets and liabilities, volume of each type of service to be offered and fixed asset investment—

- (a) a projected annual balance sheet for the first three years of operation; and
- (b) a projected annual income statement (profit and loss account) for the first three years of operation; and
- (c) a projected cash flow statement for the first three years of operation:

Provided that in the case of a business plan for an external operation, the above projections may be based on the first three years of the external operation.

[paragraph 4 substituted by section 34 of [Act 6 of 2019](#)]