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Statutory Instrument Issued as a Supplement to this Gazette Extraordinary

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118A. Presidential Powers (Temporary Measures) (Amendment of Exchange Control Act) Regulations, 2022.

Presidential Powers (Temporary Measures) (Amendment of
Exchange Control Act) Regulations, 2022

HIS Excellency the President, in terms of section 2 of the Presidential Powers (Temporary Measures) Act [*Chapter 10:20*], hereby makes the following regulations:—

Title

1. These regulations may be cited as the Presidential Powers (Temporary Measures) (Amendment of Exchange Control Act) Regulations, 2022.

Amendment of section 5 of Cap. 22:05

2. The Exchange Control Act [*Chapter 22:05*] (“the principal Act”) is amended in section 11 (“Civil penalty orders”) by the insertion of the following subsections after subsection (2)—

“(2a) The provisions of the Schedule, insofar as they expressly or impliedly permit the settlement of any transaction or payment for goods and services in foreign currency, shall be valid for the period of the National Development Strategy 1 (the national economic plan for the period from January 2021 to December 2025, published on the 16th November, 2021).

(2b) To avoid doubt, where any civil infringement against any provision of the Schedule is suspected, the provisions of section 41A (“Freezing orders”) of the Bank Use Promotion Act [*Chapter 24:24*] (2 of 2004) may be applied to any banking account involved in the commission or the facilitation of the commission of the infringement.”.

Amendment of Schedule to Cap 22:05

3. The Schedule to the principal Act is amended in paragraph 2 (“Power of Reserve Bank to issue civil penalty order”) by the insertion of the following subparagraph after subparagraph (9)—

“(10) A natural or legal person who—

- (a) borrows foreign currency or receives credit denominated in any foreign currency from an authorised dealer or any other banking or financial

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institution registered or required to be registered under the Banking Act or the Microfinance Act [*Chapter 24:30*] must, notwithstanding the terms under which the loan or credit is advanced, repay the loan or credit in that foreign currency; or

- (b) being an authorised dealer or any other banking or financial institution registered or required to be registered under the Banking Act or the Microfinance Act [*Chapter 24:30*], lends foreign currency or advances credit denominated in any foreign currency to any other natural or legal person, must, notwithstanding the terms under which the loan or credit is advanced, receive repayment of the loan or credit in that foreign currency;

and any failure to do so shall render the natural or legal person concerned guilty of a civil infringement.

(11) In the event of default in complying with subparagraph (10), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of the amount equivalent to the value of the foreign currency purported to be repaid in Zimbabwe dollars;
 - and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter.
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

Provided that—

- (i) if no such cause is shown within that period, the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error, the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.”.

(12) A natural or legal person shall be guilty of a civil infringement if he or she, being a seller of goods or services, offers such goods or services at an exchange rate above ten *per centum* the prevailing interbank rate published by the Reserve Bank of Zimbabwe.

(13) In the event of default in complying with subparagraph (12), the civil penalty shall provide for—

- (a) a combination of—
 - (i) a fixed penalty of twenty million Zimbabwe dollars or an amount equivalent to the value of the foreign currency charged for the goods or services in question (whichever is the greater amount); and
 - (ii) a cumulative penalty over a period not exceeding ninety days of five *per centum* of the outstanding amount of the fixed penalty for each day (beginning on the day after the service of a civil penalty order) that the fixed penalty or any outstanding amount thereof remains unpaid by the defaulter.
- (b) the suspension of the operation of the civil penalty order for a period of 48 hours from the date of its issuance to enable the alleged defaulter to show cause to the designated officer why the order should not have been issued, that is to say, to show that the order was issued in error:

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Provided that—

- (i) if no such cause is shown within that period the order shall be deemed to have been issued with effect from the beginning of such period;
- (ii) if within that period it is shown that the order was issued in error the designated officer shall withdraw the order and make the appropriate notation of withdrawal in the civil penalty register.