

## CHAPTER 11:17

# PUBLIC ORDER AND SECURITY ACT

*Act 1/2002, 23/2004 (s. 282), 6/2005 (s. 18), 18/2007.*

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## SCHEDULE

Classes of gatherings to which sections 23, 24, 25 and 26 do not apply.

**AN ACT to make provision for the maintenance of public order and security in Zimbabwe; to amend the Citizenship of Zimbabwe Act [Chapter 4:01], the Criminal Procedure and Evidence Act [Chapter 9:07] and the Miscellaneous Offences Act [Chapter 9:15]; to repeal the Law and Order (Maintenance) Act [Chapter 11:07]; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement : 22nd January, 2002]

### PART I

#### PRELIMINARY

#### 1 Short title

This Act may be cited as the Public Order and Security Act [Chapter 11:17].

#### 2 Interpretation

In this Act—

“act of insurgency, banditry, sabotage or terrorism” ....

[Definition repealed by section 282 of Act 23 of 2004]

“authorised officer” means a police officer appointed in terms of section 23(4) or (5);

[Definition inserted by section 2 of Act 18 of 2007]

“bomb” ....

[Definition repealed by section 282 of Act 23 of 2004]

“convener” means—

(a) any person who, of his or her own accord, convenes a gathering; and

(b) in relation to any organisation, any person appointed by such organisation in terms of section 23(1);

[Definition inserted by section 2 of Act 18 of 2007]

“convening notice” means a notice of a gathering referred to in section 25;

[Definition inserted by section 2 of Act 18 of 2007]

“election period” has the meaning given to that term by the Electoral Act [Chapter 2:13];

[Definition inserted by section 2 of Act 18 of 2007]

“essential service” ....

[Definition repealed by section 282 of Act 23 of 2004]

“gathering” means—

(a) a procession or public demonstration; or

(b) a public meeting;

[Definition inserted by section 2 of Act 18 of 2007]

“insurgent, bandit, saboteur or terrorist” ....

[Definition repealed by section 282 of Act 23 of 2004]

“law enforcement agency” ....

[Definition repealed by section 282 of Act 23 of 2004]

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

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

[Definition repealed by section 282 of Act 23 of 2004]

“official” ....

[Definition repealed by section 282 of Act 23 of 2004]

“organisation” means any association, group or body of persons, whether or not such association, group or body has been incorporated, established or registered in accordance with any law, and includes any branch thereof;

[Definition inserted by section 2 of Act 18 of 2007]

“peace officer” has the meaning given to that term in section 2 of the Criminal Procedure and Evidence Act [Chapter 9:07];

“police district” means an area designated by the Commissioner of Police as a police district for the purposes of the administration of the Police Force;

“procession” means a procession in a public place;

“prohibition notice” means a notice prohibiting a procession or public demonstration referred to in section 26(9);

[Definition inserted by section 2 of Act 18 of 2007]

“private place” means any place that is not a public place;

[Definition inserted by section 2 of Act 18 of 2007]

“public gathering” means a public meeting or a public demonstration;

“public demonstration” means a procession, gathering or assembly in a public place of persons and additionally, or alternatively, of vehicles, where the gathering is in pursuit of a common purpose of demonstrating support for, or opposition to, any person, matter or thing, whether or not the gathering is spontaneous or is confined to persons who are members of a particular organisation, association or other body or to persons who have been invited to attend;

“public meeting” means any meeting of more than fifteen persons in a public place or meeting which the public or any section of the public is permitted to attend, whether on payment or otherwise, but does not include a meeting of any organ or structure of a political party or other organisation held in—

(a) any private place, whether or not it is wholly or partly in the open; or

(b) any public place that is not wholly in the open;

[Definition substituted by section 2 of Act 18 of 2007]

“public place” means any thoroughfare, building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved;

“publication” includes a document, book, magazine, film, sound or visual broadcast, tape, disc or other material, medium or thing whatsoever in which, on which or by means of which a statement may be made;

“regulating authority”, in relation to any area, means the police officer who, in terms of section *four*, is the regulating authority for that area;

“responsible officer” means a person appointed in terms of section 24(1) as responsible officer or deputy responsible officer, and includes any person deemed in terms of section 24(3) to be a responsible officer;

[Definition inserted by section 2 of Act 18 of 2007]

“statement” means any expression of fact or opinion, whether made orally, in writing, electronically or by visual images;

“thoroughfare” means any road, street, lane, path, pavement, sidewalk or similar place which exists for the free passage of persons or vehicles;

“weaponry” .....

[Definition repealed by section 282 of Act 23 of 2004]

**3** .....

[Section repealed by section 282 of Act 23 of 2004]

#### **4 Regulating authorities**

(1) The police officer in command of each police district shall be the regulating authority for that police district.

(2) Whenever in this Act a convener is required to give a convening notice to a regulating authority, such notice shall be deemed to have been duly given if delivered to the police officer in charge of a police station closest in proximity to the place where the gathering is proposed to be held or, in the absence of the police officer in charge, the most senior officer present in that police station.

[Subsection inserted by section 3 of Act 18 of 2007]

(3) The police officer referred to in subsection (2) shall immediately notify the regulating authority of a convening notice received under that subsection.

[Subsection inserted by section 3 of Act 18 of 2007]

## **PART II**

### **OFFENCES AGAINST CONSTITUTIONAL GOVERNMENT AND PUBLIC SECURITY**

**5 – 13** .....

[Sections 5 to 13 repealed by section 282 of Act 23 of 2004]

#### **14 Temporary prohibition of possession of certain weapons within particular police districts**

(1) Without derogation from section *twenty-eight* (“Possession of dangerous weapons”) of the Criminal Law Code, if a regulating authority believes that the carrying in public (whether openly or by concealment in a public place or public thoroughfare) or public display of any of the following weapons or items capable of use as weapons—

(a) catapults, machetes, axes, knobkerries, swords, knives or daggers;

(b) any traditional weapon whatsoever;

is likely to occasion public disorder or a breach of the peace, he may within his police district prohibit for a specified period of time not exceeding three months the carrying in public or public display of any such weapons or items capable of use as weapons as he shall specify.

[Subsection as amended by section 282 of Act 23 of 2004]

- (2) A prohibition issued under subsection (1) shall not have effect until it is published—
- (a) in a newspaper circulating in the area to which the prohibition applies; or
  - (b) by notices distributed among the public or affixed upon public buildings in the area to which the prohibition applies; or
  - (c) by announcement of a police officer broadcast or made orally.

(3) Any person who is aggrieved by a prohibition issued under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the prohibition or give such order or direction in the matter as he thinks just.

(4) Any person who fails to comply with a prohibition made under subsection (1) 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.

[Subsection amended by Act 6 of 2006]

(5) A police officer may, without warrant, seize any weapon or item capable of use as weapon found in the possession of any person in contravention of subsection (1), and shall place in safe custody every weapon or item so seized so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with section *thirty-nine*.

**15 – 16 .....**

[Sections repealed by section 282 of Act 23 of 2004]

### PART III

#### OFFENCES AGAINST PUBLIC ORDER

**17 - 22 .....**

[Part III repealed by section 282 of Act 23 of 2004]

### PART IV

#### GATHERINGS

## **23 Appointment of conveners and authorised officers in the case of processions and public demonstrations**

- (1) An organisation intending to hold a procession or a public demonstration shall appoint—
- (a) a person to be responsible for the arrangements for that procession or public demonstration and to be present thereat, to give notice in terms of section 25 and to act on its behalf at any consultations or negotiations contemplated in section 26, or in connection with any other procedure contemplated in this Act at which his or her presence is required; and
  - (b) a deputy to a person appointed in terms of subparagraph (a).

(2) Such organisation shall forthwith notify in writing the regulating authority concerned of the names and addresses of the persons appointed under subsection (1).

(3) If a person appointed in terms of subsection (1) is or becomes unable to perform or to continue to perform his or her functions in terms of this Part, the organisation shall forthwith appoint another person in his or her stead, and a person so appointed shall be deemed to have been appointed in terms of subsection (1).

(4) The regulating authority or a person authorised thereto by him or her shall authorise one or more suitably qualified and experienced police officers, either in general or in a particular case, to represent the regulating authority at consultations or negotiations contemplated in section 26, and to perform such other functions as are conferred or imposed upon an authorised officer by this Part.

(5) If an authorised officer is or becomes unable to perform or to continue to perform his or her functions in terms of this Part, the regulating authority or a person authorised thereto by him or her shall forthwith designate another police officer to act in his or her stead, either in general or in a particular case, and the officer so designated shall be deemed to have been authorised in terms of subsection (4) for the purposes contemplated in that subsection.

(6) A regulating authority may delegate all or any of his or her functions under this Part to one or more authorised officers, in which event any reference to a “regulating authority” in this Part is a reference to any one or more such officers.

(7) If any consultations, negotiations or proceedings in terms of this Part at which the presence of a convener or an authorised officer is required, are to take place and such convener or officer is not available, such consultations or negotiations or other proceedings may be conducted in the absence of such convener or officer through

any proxy appointed by such convener or officer in terms of subsection (3) or (5), as the case may be, and the organisation or regulating authority, as the case may be, shall be bound by the result of such consultations, negotiations or proceedings as if it or they had agreed thereto.

(8) For the purpose of helping a regulating authority to ascertain that a meeting is not a “public meeting” as defined in section 2 because it is asserted to be a meeting of any organ or structure of a political party or other organisation, the regulating authority may request the political party or other organisation concerned to submit to it from time to time or at such regular intervals as it may require a list of the members of the organs or structures of the political party or organisation who are entitled to attend the meeting concerned.

[Section substituted by section 4 of Act 18 of 2007]

## **24 Appointment of responsible officers in the case of public meetings**

(1) An organisation intending to hold a public meeting shall appoint—

(a) a person to be responsible for the arrangements for that public meeting and to be present thereat, to give notice in terms of section 25 and to act on its behalf at any consultations or negotiations contemplated in section 26, or in connection with any other procedure contemplated in this Act at which his or her presence is required; and

(b) a deputy to a person appointed in terms of subparagraph (a).

(2) Such organisation shall forthwith notify in writing the regulating authority concerned of the names and addresses of the persons appointed under subsection (1).

(3) If a person appointed in terms of subsection (1) is or becomes unable to perform or to continue to perform his or her functions in terms of this Part, the organisation shall forthwith appoint another person in his or her stead, and a person so appointed shall be deemed to have been appointed in terms of subsection (1).

[Section substituted by section 4 of Act 18 of 2007]

## **25 Notice of processions, public demonstrations and public meetings**

(1) The convener shall not later than—

(a) seven days before the date on which a procession or public demonstration is to be held, give notice of the procession or public demonstration in writing signed by him or her to the regulating authority for the district in which the procession or public demonstration is to be held;

(b) five days before the date on which a public meeting is to be held, give notice of the public meeting in writing signed by him or her to the regulating authority for the district in which the public meeting is to be held:

Provided that—

(i) if the convener is not able to reduce a proposed convening notice to writing a regulating authority shall at his or her request do it for him or her;

(ii) during an election period the period of notice referred to in paragraph (b) shall be three days.

(2) The convening notice shall contain at least the following information—

(a) the name, address and telephone and facsimile numbers, if any, of the convener and his or her deputy;

(b) the name of the organisation on whose behalf the gathering is convened or, if it is not so convened, a statement that it is convened by the convener;

(c) the purpose of the gathering;

(d) the time, duration and date of the gathering;

(e) the place where the gathering is to be held;

(f) the anticipated number of participants;

(g) the proposed number and, where possible, the names of the marshals who will be appointed by the convener, and how the marshals will be distinguished from the other participants in the gathering;

(h) in the case of a procession or public demonstration—

(i) the exact and complete route of the procession or public demonstration;

(ii) the time when and the place at which participants in the procession or public demonstration are to assemble, and the time when and the place from which the procession or public demonstration is to commence;

(iii) the time when and the place where the procession or public demonstration is to end and the participants are to disperse;

(iv) the manner in which the participants will be transported to the place of assembly and from the point of dispersal;

(v) the number and types of vehicles, if any, which are to form part of the procession;

(vi) if a petition or any other document is to be handed over to any person, the place where and the person to whom it is to be handed over.

(3) If a gathering is postponed or delayed, the convener shall forthwith notify the regulating authority thereof, and section 26 shall, with such changes as may be necessary, apply to such postponed or delayed gathering as it applies to gatherings that are not postponed or delayed.

(4) If a gathering is cancelled or called off, the convener shall forthwith notify the regulating authority thereof and the notice given in terms of subsection (1) shall lapse.

(5) Any person who knowingly fails to give notice of a gathering in terms of this section, shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section substituted by section 4 of Act 18 of 2007]

## **26 Consultations, negotiations, amendment of notices, and conditions with respect to processions, public demonstrations and public meetings to avoid public disorder**

(1) If a regulating authority in receipt of a convening notice for a procession or public demonstration is of the opinion that negotiations are not necessary and that the procession or public demonstration may take place as specified in the convening notice or with such amendment of the contents of the notice as may have been agreed upon by him or her and the convener, he or she shall notify the convener in writing accordingly.

(2) If a regulating authority in receipt of a convening notice for a public meeting is of the opinion that negotiations are not necessary and that the public meeting may take place as specified in the convening notice, the public meeting may take place without any further notification, written or verbal, on the part of the regulating authority.

(3) If a regulating authority receives credible information on oath that there is a threat that a proposed procession, public demonstration or public meeting will result in serious disruption of vehicular or pedestrian traffic, injury to participants in the procession, public demonstration or public meeting or other persons, or extensive damage to property or other public disorder, he or she shall forthwith advise the convener of the perceived threat and invite the convener to a consultative meeting at a time and venue specified by the regulating authority in order to explore options to prevent the threat, and shall afford an opportunity to the convener to make representation thereon to the regulating authority.

Provided that the time for the meeting shall be specified for a date no later than seven days, in the case of a procession or public demonstration, or five days, in the case of a public meeting, from the date when the regulating authority received the convening notice.

(4) At a meeting held in terms of subsection (3)—

- (a) the regulating authority may invite, or allow to be present, representatives of such public bodies, including local authorities, and civil society groups, as in the opinion of such regulating authority ought to be present at such meeting, in order to discuss any amendment of the contents of the convening notice and such conditions regarding the conduct of the procession, public demonstration or public meeting as he or she may deem necessary.
- (b) discussions shall be held on the contents of the convening notice, amendments thereof or additions thereto and the conditions, if any, to be imposed in respect of the holding of the procession, public demonstration or public meeting so as to meet the objects of this Part.
- (c) the regulating authority shall ensure that such discussions take place in good faith.

(5) If at a meeting held in terms of subsection (3) agreement is reached, the procession, public demonstration or public meeting may take place in accordance with the contents of the convening notice, including amendments, if any, to such contents, on which agreement was reached at the meeting;

(6) If at a meeting held in terms of subsection (3) agreement is not reached on the contents of the convening notice or the conditions regarding the conduct of the procession or public demonstration, the regulating authority may, if there are reasonable grounds therefor, of his or her own accord or at the request of an authorised officer impose conditions with regard to the holding of the procession or public demonstration to ensure—

- (a) that vehicular or pedestrian traffic, especially during traffic rush hours, is least impeded; or
- (b) an appropriate distance between participants in the procession or public demonstration and rival processions or public demonstrations; or
- (c) access to property and workplaces; or
- (d) the prevention of injury to persons or damage to property.

(7) The regulating authority shall ensure as soon as possible that a written copy of the convening notice, including any amendment thereof and any condition imposed and the reasons and grounds therefor, is handed to the convener and the authorised member who, and to every party which, attended the meeting referred to in subsection (3):

Provided that if the identity or whereabouts of the convener is unknown, or if in view of the urgency of the case it is not practicable to deliver or tender the said written notice and reasons and grounds to him or her, the notice shall forthwith, notwithstanding any provision to the contrary in any other law contained, be published in one or more of the following manners:

- (a) in a newspaper circulating where the procession or public demonstration is to be held; or
- (b) by means of the radio or television; or

- (c) by the distribution thereof among the public and the affixing thereof in public or prominent places where the procession or public demonstration is to be held; or
- (d) by the announcement thereof orally where the procession or public demonstration is to be held; or
- (e) by affixing it in a prominent place at the address of the convener specified in the notice.

(8) The convener and the regulating authority shall, respectively, ensure that every marshal and every police officer at the procession or public demonstration know the contents of the convening notice, including any amendment or condition, if any.

(9) After considering representations made in the course of a meeting held in terms of subsection (3), if any, the regulating authority may, if he or she on reasonable grounds is convinced that no amendment or condition contemplated in subsection (5) or (6) would prevent the occurrence of any of the circumstances contemplated in subsection (3), issue a prohibition notice, giving the reasons and grounds therefor to the convener.

(10) If the regulating authority decides to issue a prohibition notice, he or she shall in a manner contemplated in the proviso to subsection (7), notify the convener, authorised member and every other person with whom he or she has so met or consulted, of the decision and the reasons and grounds therefor.

(11) Any person who knowingly opposes or fails to comply with a prohibition notice or any directions or conditions under which a procession, public demonstration or public meeting is authorised, shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section substituted by section 4 of Act 18 of 2007]

## **26A Exemption of certain gatherings from sections 23, 24, 25 and 26**

Sections 23, 24, 25 and 26 shall not apply to gatherings of a class described in the Schedule.

[Section inserted by section 4 of Act 18 of 2007]

## **27 Temporary prohibition of holding of public demonstrations within particular police districts**

(1) If a regulating authority for any area believes on reasonable grounds that the powers conferred by section 26 will not be sufficient to prevent public disorder being occasioned by the holding of processions or public demonstrations or any class thereof in the area or any part thereof, he may issue an order prohibiting, for a specified period not exceeding one month, the holding of all public demonstrations or any class of public demonstrations in the area or part thereof concerned.

[Subsection amended by section 6 of Act 18 of 2007]

- (2) Whenever it is practicable to do so, before acting in terms of subsection (1), a regulating authority shall—
- (a) cause notice of the proposed order to be published in the *Gazette* and in a newspaper circulating in the area concerned and to be given to any person whom the regulating authority believes is likely to organise a procession or public demonstration that will be prohibited by the proposed order; and

[Paragraph amended by section 6 of Act 18 of 2007]

- (b) afford all interested persons a reasonable opportunity to make representations in the matter.

(3) The regulating authority for the area in respect of which an order has been made under subsection (1) shall ensure that the order and any amendment or revocation thereof is published—

- (a) in the *Gazette*; and
- (b) in a newspaper circulating in the area; and
- (c) in such other manner as, in his opinion, will ensure that the order or its amendment or revocation, as the case may be, is brought to the attention of persons affected by it.

- (4) .....

[Subsection repealed by section 6 of Act 18 of 2007]

(5) Any person who organises or assists in organising or takes part in or attends any procession or public demonstration held in contravention of an order under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 18 of Act 6 of 2005 and Act 18 of 2007]

## **27A Gatherings in vicinity of Parliament, courts and protected places**

(1) Subject to subsection (2), all gatherings within a radius of—

- (a) twenty metres of the vicinity of the Parliament;
- (b) one hundred metres of the vicinity of the Supreme Court, the High Court, a Magistrate Court or any other court;
- (c) one hundred metres of any protected place or area declared as such in terms of the Protected Areas and Places Act [*Chapter 11:12*];

are prohibited.

(2) Subsection (1) does not apply to any gathering for which permission has, on written application to the Speaker of the House of Assembly, the Chief Justice, the Judge President or the responsible authority of a place referred to in subsection(1)(c), as the case may be, been granted in writing to the convener thereof:

Provided that the convener shall give prior notice of such gathering in writing, together with the appropriate permission attached thereto, to the regulating authority.

(3) For the avoidance of doubt it is declared that a “gathering” in subsection (1) does not refer to a gathering of any persons who are employed in, or concerned in any business conducted at, Parliament or a court or other place referred to in subsection (1).

[Section inserted by section 6 of Act 18 of 2007]

## 27B Appeals

(1) Any convener who is aggrieved by—

- (a) any prohibition notice; or
- (b) the contents of the directions issued in terms of section 26, or conditions under which a gathering is authorised, including any amendment thereof; or
- (c) order issued in terms of section 27;

may appeal against it to the Magistrates Court in the area where the gathering is proposed to be held, and the magistrate may confirm, vary or set aside the prohibition notice, direction, condition or order and give such order or direction in the matter as he or she thinks just:

Provided that the noting of an appeal in terms of this section shall not have the effect of suspending any prohibition order appealed against.

(2) An appeal in terms of subsection (1) shall be dealt with on an urgent basis and in any case before the date of the proposed gathering unless, due to the fault of the convener, the appeal is not lodged timeously.

[Section inserted by section 6 of Act 18 of 2007]

## 28 Civil liability in certain circumstances of convener of a gathering

(1) If the convener of a gathering—

- (a) has not given notice of the holding of the gathering in terms of subsection (1) of section *twenty-four*, or
- (b) fails or refuses to comply to the best of his ability with any direction, notice or order given in terms of section *twenty-five*, *twenty-six* or *twenty-seven*; or
- (c) incites or encourages persons taking part in the gathering to engage in conduct which amounts to or could reasonably be expected to lead to public disorder or a breach of the peace;

he shall be liable, at the suit of any injured party, for any loss of or damage to property and any injury to or death of a person occasioned by any public disorder or breach of the peace caused by or arising out of or occurring at the gathering.

[Subsection amended by section 9 of Act 18 of 2007]

(2) Where there is more than one convener of a gathering, their liability under this section shall be joint and several.

[Subsection amended by section 9 of Act 18 of 2007]

(3) In any proceedings in which it is alleged that a convener of a gathering is liable in terms of subsection (1) for any loss, damage, injury or death, the organiser shall bear the onus of proving on a balance of probabilities—

- (a) that he gave notice of the holding of the gathering in terms of section *twenty-four*;
- (b) that he complied to the best of his ability with any direction or order that is proved to have been made in relation to the gathering.

[Subsection amended by section 9 of Act 18 of 2007]

(4) This section shall be construed as adding to, and not as derogating from, any other law under which a convener of a gathering or any other person may be liable for any loss, damage, injury or death caused by or arising out of or occurring at the gathering.

[Subsection amended by section 9 of Act 18 of 2007]

(5) Subject to Part XIX of the Criminal Procedure and Evidence Act [*Chapter 9:07*], a court which has convicted a person of any offence in terms of section *twenty-four*, *twenty-five*, *twenty-six* or *twenty-seven* that involves any loss, damage, injury or death for which that person is liable in terms of this section shall forthwith award compensation to any person who has suffered personal injury or whose right or interest in property of any description has been lost or diminished as a direct result of the offence.

## 29 Powers of Police

(1) During the course of a gathering, whether held in compliance with Act or not, and whether consisting of more or less than fifteen persons, a police officer—

- (a) may, if he or she has reasonable grounds to believe that the Police Force will not be able to provide adequate protection for the persons participating in such a gathering, notify the convener and such persons accordingly;
- (b) may prevent people participating in the gathering from proceeding to a different place or deviating from the route specified in the convening notice or any amendment thereof or from disobeying any direction or condition to which the holding of the gathering is subject in terms of this Act;

- (c) may, in the case of a regulating authority not receiving a notice in terms of section 25(1) more than 48 hours before the gathering, restrict the gathering to a place or guide the participants along a route, to ensure—
  - (i) that vehicular or pedestrian traffic, especially during traffic rush hours, is least impeded, or an appropriate distance between participants in the gathering and rival gatherings, or
  - (ii) access to property and workplaces; or
  - (iii) the prevention of injury to persons or damage to property;
- (d) may order any person or group of persons interfering or attempting to interfere with a gathering to cease such conduct and to remain at a distance from such gathering specified by him or her;
- (e) may, when an incident, whether or not it results from the gathering, causes or may cause persons to gather at any public place, by notice in a manner contemplated in the proviso to section 26(7) specify an area considered by him or her to be necessary for—
  - (i) the movement and operation of emergency personnel and vehicles; or
  - (ii) the passage of a gathering; or
  - (iii) the movement of traffic; or
  - (iv) the exclusion of the public from the vicinity; or
  - (v) the protection of property;
- (f) take all such steps, including negotiations with the relevant persons, as are in the circumstances reasonable and appropriate to protect persons and property, whether or not they are participating in the gathering.

(2) In the circumstances where the holding or continuance of a gathering is unlawful by virtue of any prohibition notice or any direction or order under section 26 or 27, or if, during the course of a lawful gathering, any act is committed that constitutes a danger to persons and property, a police officer of or above the rank of assistant inspector may, and only then, take the following steps—

- (a) call upon the persons participating in the gathering to disperse, and for that purpose he or she shall endeavour to obtain the attention of those persons by such lawful means as he or she deems most suitable; and then,
- (b) in a loud voice order them in English and in ChiShona or SiNdebele, to disperse and to depart from the place of the gathering within a time specified by him or her, which shall be reasonable.

(3) If within the time specified under subsection (2)(b) the persons gathered have not so dispersed or have made no preparations to disperse, the police officer concerned may order the police officers under his or her command to disperse the persons concerned and may for that purpose order the use of force, excluding the use of weapons likely to cause serious bodily injury or death.

(4) The degree of force which may be so used shall not be greater than is necessary for dispersing the persons gathered and shall be proportionate to the circumstances of the case and the object to be attained.

(5) If any person who participates in a gathering or any person who hinders, obstructs or interferes with persons who participate in a gathering—

- (a) kills or seriously injures, or attempts to kill or seriously injure, or shows a manifest intention of killing or seriously injuring, any person; or
- (b) destroys or does serious damage to, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing serious damage to, any immovable property or movable property considered to be valuable;

a police officer of or above the rank of assistant inspector may order the police officers under his or her command to take the necessary steps to prevent the action contemplated in paragraph (a) or (b) and may for that purpose, if he or she finds other methods to be ineffective or inappropriate, order the use of force, including the use of firearms and other weapons.

(6) The degree of force which may be so used for the purposes of subsection (5) shall not be greater than is necessary for the prevention of the actions contemplated in subsection (5)(a) or (b), and the force shall be moderated and be proportionate to the circumstances of the case and the object to be attained.

(7) No statutory or common law principles regarding self-defence, necessity and protection of property, shall be affected by the provisions of this Act.

[Section substituted by section 7 of Act 18 of 2007]

**30** .....

[Section repealed by section 282 of Act 23 of 2004]

**31** .....

[Section repealed by section 282 of Act 23 of 2004]

## PART V

### ENFORCEMENT AND PRESERVATION OF PUBLIC ORDER AND SECURITY

#### 32 Persons to carry identity documents

(1) In this section—

“arrestable offence” means an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*];

“identity document” means—

- (a) a document issued to a person in terms of subsection (1) or (2) of section 7 of the National Registration Act [*Chapter 10:17*], or a passport or drivers licence issued by or on behalf of the Government of Zimbabwe; or
- (b) any visitors entry certificate or other certificate or permit issued to a person in terms of the Immigration Act [*Chapter 4:02*], or in terms of any enactment relating to refugees; or
- (c) any passport, identity document or drivers licence issued by a foreign government.

(2) Subject to this section, every person of or above the age of sixteen years shall, when in a public place, carry an identity document on his person.

(3) Subject to this section, a police officer may at any time require a person of or above the age of sixteen years in a public place to produce an identity document.

(4) Any person who fails to produce his identity document immediately on being required to do so by a police officer—

- (a) acting in good faith in the course of investigating or preventing an arrestable offence; or
- (b) at the scene or in the immediate vicinity of the commission of an arrestable offence committed within the preceding forty-eight hours; or
- (c) within a police cordon; or
- (d) at a police road block; or
- (e) in the immediate vicinity of any area controlled or protected in terms of the Defence Act [*Chapter 11:02*], the Protected Places and Areas Act [*Chapter 11:12*] or the Parks and Wild Life Act [*Chapter 20:14*]; or
- (f) at a public gathering or a public meeting of a political nature;

may be detained by the police officer until such time as his identity is established or verified to the satisfaction of the police officer:

Provided that the police officer shall afford the person detained every reasonable facility to enable him to establish or verify his identity.

(5) Any person who is found without an identity document on his person in circumstances other than those specified in subsection (4) shall be afforded an opportunity, within seven days thereafter, of producing his identity document at a police station specified by notice in writing issued by the police officer who required him to produce his identity document.

(6) Any person who, on being required to do so in terms of subsection (5), fails to produce his identity document at a police station specified in terms of that subsection, may be detained by a police officer until such a time as his identity is established or verified to the satisfaction of the police officer.

#### 33 Cordon and search

(1) A police officer of or above the rank of inspector may establish a cordon round any area if he considers it reasonably necessary—

- (a) to contain any public disorder or public violence within the area; or
- (b) to protect the area from any public disorder or public violence.

(2) Any person who, otherwise than in terms of a written permit issued by a police officer, knowingly enters or leaves any area round which a cordon has been established under subsection (1) 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.

[Subsection amended by section 18 of Act 6 of 2005]

(3) A peace officer may without warrant, within the area round which a cordon has been established in terms of subsection (1)—

(a) conduct a search for—

- (i) any person reasonably suspected of having committed an offence relating to or arising out of public disorder or public violence which gave rise to the establishment of the cordon; or
- (ii) any evidence relating to an offence referred to in subparagraph (i);

or

(b) arrest any person referred to in paragraph (a).

### 34 Powers of stopping and searching

(1) A police officer may stop and, without warrant—

- (a) search any person, vehicle or vessel entering or leaving Zimbabwe and any person in or upon such vehicle or vessel; and
- (b) seize any thing;

in circumstances where there are reasonable grounds for believing that the search or seizure is necessary in the interests of public safety, public order or public health or for the prevention, investigation or detection of a criminal offence.

(2) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of public safety, public order or public health to exercise without warrant the powers referred to in subsection (1) in respect of vehicles, vessels and persons in or upon such vehicles or vessels anywhere in Zimbabwe, he may authorise the erection of a road block or checkpoint for the purposes of stopping vehicles or vessels so that they can be searched, and thereupon such powers may be so exercised.

(3) Any person who fails or refuses to stop when so required in terms of this section or takes any measures to prevent being stopped or searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[Subsection amended by section 18 of Act 6 of 2005]

### 35 Powers of police officers in relation to aircraft, aerodromes and airstrips

(1) In this section—

“aerodrome” has the meaning given to it by section 2 of the Civil Aviation Act [*Chapter 13:16*];

“airstrip” means a cleared area for the landing and taking-off of aircraft.

(2) A police officer may without warrant—

- (a) board any aircraft that has landed in or is about to depart from Zimbabwe and search it and any person in or upon such aircraft; and
- (b) for the purpose of paragraph (a) but subject to subsection (4)—
  - (i) enter upon and search any aerodrome or airstrip; and
  - (ii) remain at any aerodrome or airstrip for so long as he considers it necessary for the proper performance of his duties;

and

- (c) search any person present within the aerodrome or airstrip or in the immediate vicinity of the aerodrome or airstrip; and
- (d) seize any thing;

in circumstances where there are reasonable grounds for believing that the search or seizure is necessary in the interests of public safety, public order or public health or for the prevention, investigation or detection of a criminal offence.

(3) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of public safety, public order or public health to exercise without warrant the powers referred to in subsection (2) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, he may, subject to subsection (4), authorise the presence of any police officer at such aerodrome or airstrip and thereupon such powers may be so exercised.

(4) Subject to subsection (5), no police officer shall, for the purposes of subsection (2) or (3), be authorised to remain at an aerodrome or airstrip for more than forty-eight hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(5) If the Minister is of the opinion that it is desirable in the interests of defence, public safety, public order or public health to do so, he may, by notice in a statutory instrument, declare that during such period as may be specified in such notice, police officers may, without warrant, exercise the powers referred to in subsection (2) or (3) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, and for that purpose to remain at an aerodrome or airstrip for more than forty-eight hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(6) Any person who hinders or obstructs any police officer in the exercise of his powers in terms of this section or takes any measures to prevent an aerodrome, airstrip or aircraft or any person in or upon such aircraft, aerodrome or airstrip being searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[Subsection amended by section 18 of Act 6 of 2005]

## PART VI

### GENERAL

36 .....

[Section repealed by section 282 of Act 23 of 2004]

### 37 When Defence Forces may assist Police Force under this Act

(1) If, upon a request made by the Commissioner of Police, the Minister is satisfied that any regulating authority requires the assistance of the Defence Forces for the purpose of suppressing any civil commotion or disturbance in any police district, he may request the Minister responsible for defence to authorise the Defence Forces to assist the police in the exercise of their functions under this Act in the police district concerned.

(2) Where authority is given under subsection (1) for the Defence Forces to assist the police—

- (a) every member of the Defence Forces who has been detailed to assist the police in any police district in the exercise of their functions under this Act shall be under the command of the regulating authority concerned; and
- (b) a member of the Defence Forces who is assisting a police officer in the exercise of his functions under this Act shall have the same powers, functions and authority, and be subject to the same responsibilities, discipline and penalties, as a member of the Police Force, and liable in respect of acts done or omitted to be done to the same extent as he would have been liable in the same circumstances if he were a member of the Police Force, and shall have the benefit of any indemnity to which a member of the Police Force would in the same circumstances be entitled.

### 38 Powers of seizure and forfeiture in relation to vehicles, aircraft and vessels

(1) Where any person is convicted of an offence under Chapter III (“Crimes Against the State”), Chapter IV (“Crimes Against Public Order”) or section 176 (“Assaulting or resisting peace officer”) or section 177 (“Undermining of police authority”) of the Criminal Law Code, the court may order that any vehicle, aircraft or vessel used for the purpose of or in connection with the commission of the offence shall be forfeited to the State:

Provided that, if it is proved that such vehicle, aircraft or vessel is not the property of the person convicted and that its owner was—

- (a) unaware that the vehicle, aircraft or vessel, as the case may be, was being so used; or
- (b) unable to prevent its use for the purpose of or in connection with the commission of the offence;

the court shall not make any such order in respect thereof.

[Subsection as amended by section 282 of Act 23 of 2004]

(2) Subject to subsection (3), where a police officer believes on reasonable grounds that any vehicle, aircraft or vessel which is liable to forfeiture in terms of subsection (1) is likely to be removed from Zimbabwe unless it is detained, he may seize and detain any such vehicle, aircraft or vessel so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with subsection (1).

(3) A magistrate may, on application by the owner of a vehicle, aircraft or vessel seized in terms of subsection (2), permit such owner, or such sureties as the magistrate may approve—

- (a) to enter into a bond for an amount approved by the magistrate; and
- (b) to deposit with the clerk of court such sum, if any, as may be fixed by the magistrate to satisfy any judgment which may be given on the bond;

whereupon the vehicle, aircraft or vessel shall be returned to the owner.

(4) A bond entered into in terms of subsection (3) shall be subject to the condition that the owner shall submit the vehicle, aircraft or vessel to the jurisdiction of the court trying the offence concerned when so required, and may be subject to such other conditions as the magistrate thinks fit to impose in the circumstances.

(5) Upon breach of any condition of a bond entered into in terms of subsection (3), any court may, on application by the Minister, give judgment against such person or his sureties in accordance with the provisions of the bond.

### 39 Powers of search, seizure and forfeiture generally

(1) For the avoidance of doubt it is declared that—

- (a) an arrest or search of any person or premises or of any person or premises in any area in terms of this Act shall be conducted in accordance with Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] or any other enactment which regulates such arrest or search, and, in particular, subsection (4) of section 41 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to the search of any woman;
- (b) except to the extent expressly provided in this Act, Part VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to any weapon, item capable of use as a weapon, publication, equipment, vehicle, aircraft, vessel or other article seized or detained in terms of this Act.

(2) The powers conferred by Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] on a police officer may be exercised by any peace officer within the area round which a cordon has been established in terms of subsection (1) of section *thirty-three*.

#### **40 Special jurisdiction of magistrates**

(1) Notwithstanding anything in the Magistrates Court Act [*Chapter 7:10*] or in any other enactment, where a person is convicted of a contravention of any of the provisions of this Act or of Chapter III (“Crimes Against the State”), Chapter IV (“Crimes Against Public Order”) or section 176 (“Assaulting or resisting peace officer”) or section 177 (“Undermining of police authority”) of the Criminal Law Code—

- (a) a court of a magistrate, other than a regional, provincial or senior magistrate, shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level eight or imprisonment for a period not exceeding three years;
- (b) a court of a senior or provincial magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level twelve or imprisonment for a period not exceeding ten years;
- (c) a court of a regional magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level fourteen or imprisonment for a period not exceeding twenty years.

[Subsection as amended by section 282 of Act 23 of 2004 and by section 18 of Act 6 of 2005]

(2) Subsection (1) shall apply in relation to a person who is convicted of—

- (a) attempting to contravene or inciting another person or conspiring with another person to contravene any of the provisions of this Act or any of the provisions of the Criminal Law Code referred to in subsection 1; or
- (b) being an accessory after the fact to the commission of the crime of contravening any of the provisions of this Act or any of the provisions of the Criminal Law Code referred to in subsection 1;

as though he had been convicted of a contravention of any of the provisions of this Act.

[Subsection as amended by section 282 of Act 23 of 2004]

(3) Nothing in this section shall be construed as authorising a court to impose for any contravention of any provision of this Act or any of the provisions of the Criminal Law Code referred to in subsection 1, a punishment greater than may, under the relevant provision of this Act, be imposed therefor, or as preventing a court from imposing, as often as it is specially authorised by any enactment to do so, any other punishment than the punishment mentioned in this section.

[Subsection as amended by section 282 of Act 23 of 2004]

(4) The President may, by proclamation, suspend the operation of subsection (1) and may, in similar manner, restore its operation.

#### **41 Amendment of Schedule**

(1) Subject to subsection (2), the Minister may, by notice in a statutory instrument, at any time add to, amend or replace the Schedule.

(2) Where the Minister seeks to amend the Schedule by reducing the classes of public gathering described in the Schedule, the Minister shall, within the next fourteen days on which Parliament sits after he makes a statutory instrument in terms of subsection (1), lay it before Parliament, and the statutory instrument shall not come into force unless approved by resolution of Parliament.

#### **42 Saving of other laws as to riotous gatherings, etc.**

Nothing in this Act shall be construed as affecting the right or duty of any person under any other law to disperse riotous gatherings and to prevent or suppress other unlawful acts, or to assist in such dispersal, prevention or suppression.

### **SCHEDULE (Sections 24 (5) and 41)**

CLASSES OF GATHERING TO WHICH SECTIONS 23, 24, 25 AND 26 DO NOT APPLY

[Title amended by section 8 of Act 18 of 2007]

Gatherings—

- (a) held exclusively for *bona fide* religious, educational, recreational, sporting or charitable purposes or any two or more such purposes;
- (b) held exclusively for the purposes of—
  - (i) baptism; or
  - (ii) wedding; or
  - (iii) funeral; or
  - (iv) cremation;
- (c) of members of professional, vocational or occupational bodies held for purposes which are not political;

- (d) for the purposes of agricultural shows;
- (e) at any *bona fide* theatrical, cinematographic or musical entertainment or any circus or fireworks display;
- (f) at any *bona fide* sale of goods or animals;
- (g) at a draw for prizes in any lottery held in terms of the Lotteries and Gaming Act [*Chapter 10:26*];
- (h) for the purposes of a luncheon, dinner or dance given or held by any club, association or organisation which is not of a political nature;
- (i) held by any club, association or organisation which is not of a political nature and at which the discussions and matters dealt with are not of a political nature;
- (j) held by a registered trade union for *bona fide* trade union purposes for the conduct of business in accordance with the Labour Relations Act [*Chapter 28:01*];
- (k) held to form any club, association or organisation which is not of a political nature;
- (l) for the purposes of an industrial show.

[Schedule amended by section 8 of Act 18 of 2007]