

Presidential Powers (Temporary Measures) (Amendment of  
Criminal Procedure and Evidence Act) Regulations, 2004

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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 Criminal Procedure and Evidence Act) Regulations, 2004.

*Amendment of section 32 of Cap. 9:07*

2. Section 32 ("Procedure after arrest without warrant") of the Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended in subsection (2) by the repeal of the proviso thereto and the substitution of—

"Provided that if the person arrested without warrant is charged with any offence referred to in paragraph 10 or 11 of the Third Schedule—

- (a) the judge or magistrate before whom he is brought in terms of this section shall not decline to order his further detention or to issue a warrant for his further detention solely on the basis that there are no *prima facie* grounds for the charge, and no court shall admit such person to bail for a period of seven days from the date when an order or warrant for his further detention was issued in terms of this paragraph; or
- (b) and the judge or magistrate before whom he is brought in terms of this section is satisfied that there are *prima facie* grounds for the charge, the judge or magistrate shall order his further detention or issue a warrant for his further detention for a period of twenty-one days (unless the charge is earlier withdrawn), and no court shall admit such person to bail for a period of fourteen days from the date when an order or warrant for his further detention was issued in terms of this paragraph."

*Amendment of section 121 of Cap. 9:27*

3. Section 121 ("Appeals against decisions regarding bail") of the Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended by the repeal of subsection (8) and the substitution of—

"(8) There shall be no appeal to a judge of the Supreme Court from a decision or order of a judge of the High Court in terms of paragraph (b) of subsection (2), unless the decision or order relates to the admission or refusal to admit to bail of a person charged with any offence referred to in paragraph 10 or 11 of the Third Schedule, in which event subsections (3) to (7) shall apply to such appeal."

*Amendment of Third Schedule to Cap. 9:07*

4. The Third Schedule ("Offences in respect of which Power to Admit Persons to Bail is Excluded or Qualified") of the Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended by the insertion of the following paragraph after paragraph 10—

"11. Committing a serious economic offence, that is—

- (a) contravening the Prevention of Corruption Act [*Chapter 9:16*];
- (b) contravening section 63 ("Money-laundering") of the Serious Offences (Confiscation of Profits) Act [*Chapter 9:17*];
- (c) the sale, removal or disposal outside Zimbabwe of any controlled product in contravention of the Grain Marketing Act [*Chapter 18:14*];
- (d) contravening subsection (1) of section 3 ("Prohibition of dealing in or possession of gold") or subsection (1), (2) or (3) of section 6 ("Disposal of gold by persons authorised to possess gold") of the Gold Trade Act [*Chapter 21:03*];
- (e) contravening subsection (1) of section 3 ("Unlawful dealing in or possession of precious stones prohibited") or subsection (1) or (6) of section 6 ("Registers to be kept and returns to be made") of the Precious Stones Trade Act [*Chapter 21:06*];
- (f) contravening subparagraph (i) of paragraph (a) of section 5 of the Exchange Control Act [*Chapter 22:05*] as read with—
  - (i) subsection (1) of section 10 of the Exchange Control Regulations, 1996, subparagraph and subparagraph (g) called "the Exchange Control Regulations", by unlawfully making any payment, placing any money or accepting any payment in contravention of paragraph (a), (b), (c) or (d) of that section of the Regulations;
  - (ii) paragraph (a) or (b) of subsection (1) of section 11 of the Exchange Control Regulations, by unlawfully making any payment outside Zimbabwe or incurring an obligation to make any payment outside Zimbabwe;
  - (iii) paragraph (b), (e) or (f) of subsection (1) of section 20 of the Exchange Control Regulations, by unlawfully exporting any foreign currency, gold, silver or platinum, or any article manufactured from or containing gold, silver or platinum, or any precious or semi-precious stone or pearl from Zimbabwe;
  - (iv) subsection (2) of section 21 of the Exchange Control Regulations, by unlawfully exporting any goods from Zimbabwe in contravention of that provision of the Regulations;
- (g) contravening paragraph (b) of subsection (1) of section 5 of the Exchange Control Act [*Chapter 22:05*] by making any false statement or producing any false document in

connection with a contravention of subsection (2) of section 21 of the Exchange Control Regulations;

- (h) a conspiracy, incitement or attempt to commit any offence referred to in subparagraphs (a) to (g)."

#### EXPLANATORY NOTE

*(This note does not form part of the regulations, but merely explains their contents)*

The amendment to the Criminal Procedure and Evidence Act effected by these regulations is intended to facilitate the investigation and prosecution of crimes affecting the economic interests of Zimbabwe, such as corruption, the laundering of the proceeds of crime, the externalisation of foreign currency (whether directly or through transfer pricing), the smuggling of gold and precious stones and the illegal export of agricultural products controlled under the Grain Marketing Act [*Chapter 18:14*].