H.B. 4, 2026.]

# WHISTLE-BLOWERS AND WITNESS PROTECTION BILL, 2026

## Explanatory Memorandum

The purpose of this Bill is to provide for a framework within which whistle-blowers can disclose information regarding conduct inimical to public interest without the whistleblower suffering any threat or harm and to provide for the protection of witnesses. Below is a summary of each clause of the Bill.

*Clause 1*

This clause sets out Bill's short title and date of commencement. The Bill deals with matters relating to the protection of both whistle-blowers and witnesses, hence the title Whistle-blowers and Witness Protection Bill, 2026.

*Clause 2*

This clause defines and gives meaning to some of the terms used in the Bill.

*Clause 3*

This clause will set out the objectives and the scope of application of the Act.

*Clauses 4 to 17*, which constitute Part II, provides for the protection of public interest disclosure and witness blowers.

*Clause 4* deals with the protection of public interest disclosure and whistle blowers in general. The section requires any person who receives a public interest disclosure to give necessary assistance to the whistle blower to enable the whistle blower to furnish the information to the appropriate authority.

*Clause 5* addresses the mitigation or remission of culpability for whistle-blowers in cases of public interest disclosures—

(a) if a whistle-blower's disclosure helps uncover a crime they committed, their punishment may be reduced or waived;

(b) employers must pause disciplinary proceedings against an employee if their disclosure is under investigation;

(c) if the disclosure is made in good faith, the employer must reduce or waive disciplinary action;

(d) whistle-blowers do not violate confidentiality obligations when making a disclosure, even if contractual or statutory provisions suggest otherwise.

This ensures protections for whistle-blowers while balancing regulatory and legal considerations.

*Clause 6* establishes protection against reprisals for whistle-blowers making public interest disclosures and highlights that—

(a) no authority, employer, or individual may take detrimental action in retaliation against a whistle-blower;

(b) whistle-blowers or their dependents can file civil proceedings against retaliatory actions within three years of the incident;

(c) engaging, attempting, or conspiring to carry out an unlawful reprisal is strictly prohibited;

(d) violators face penalties of up to level 10 or up to five years imprisonment, or both for individuals and a fine of up to level thirteen for corporations.

This ensures whistle-blower protections by imposing clear legal consequences for retaliatory actions.

*Clause 7* establishes protection against legal actions for whistle-blowers making public interest disclosures.

*Clause 8* establishes protection of personal safety of a whistle-blower and his or her immediate family members by requiring an investigating authority to request the Commissioner-General of Police or head of other security services to provide the necessary protection.

*Clause 9* establishes protection of whistle-blowers from occupational detriment, intimidation, or coercion, with penalties for violations, and employers must consider reasonable requests for personnel changes.

*Clause 10* establishes the presumption of detrimental action if a whistle-blower faces legal proceedings, identification attempts, obstruction, or coercion to withdraw their disclosure.

*Clause 11* allows any person to make a public interest disclosure to an investigating authority, including matters predating the Act, regardless of whether they can identify the individuals involved.

*Clauses 12 and 13* provide for protection of disclosures made to legal practitioners for legal advice and disclosures made anonymously.

*Clause 14* provides for the referral of a public interest disclosure to appropriate investigating bodies and emphasises the need for the public interest disclosure to remain protected.

*Clause 15* provides for disclosure that may be taken to the Auditor-General. This clause empowers a public officer to report any information that shows that an authority or officer of an authority has seriously and substantially wasted public resources contrary to the provisions of the Public Finance Management Act [*Chapter 22:19*].

*Clause 16* provides for the nature of the disclosure that shall be made to the Zimbabwe Anti-Corruption Commission.

*Clauses 17 to 24* constitute Part III, which provides for the duties, powers, actions that investigating authorities have and procedures that the investigating authorities shall follow in the execution of their functions in terms of this Bill.

*Clauses 25 and 26* constitute Part IV and provides for the remedies and liabilities that arise in terms of this Bill. According to clause 25 employees facing occupational detriment due to whistleblowing can seek legal remedies, including compensation and reinstatement, while employers must facilitate relocation if necessary and cover related costs, ensuring protections under the Labour Act. According to section 26 anyone who engages in unlawful reprisals is liable for damages, which can be recovered through legal action in a competent court.

*Clauses 27 and 28* constitute Part VI and relate to general provisions relating to whistle-blowers. According to clause 27 employers must implement procedures within six months to protect employees from reprisals related to public interest disclosures. Clause 28 prevents Employees who knowingly make false disclosures with intent to harm and cause actual harm from enjoying protection under this Bill.

*Clauses 29 and 30* constitute Part VII which establishes a Witness Protection Unit under the National Prosecuting Authority under clause 29 and provides its functions under clause 30.

*Clauses 31, 32, 33, 34, 35, 36, 37 and 38* constitute Part VIII, which provide for a witness protection programme, with components of protective action, application for protection, temporary protection, recommendation by witness protection officer, consideration of application for protection agreement, protection agreement, protection of miner, duration of witness protection, assistance and discharge of witness and establishment of Witness Protection Appeals Tribunal.

*Clauses 39, 40 and 41* provide for protection of witnesses from identification. Clause 40 provides for the application for new identifying documents. Clause 41 empowers the Unit to seek a High Court order to modify birth, marriage, or death records for a witness, with such entries treated as legally valid and cancellable only by the Registrar-General on satisfaction that it is no longer included in the protection programme.

*Clause 42* prohibits any person from disclosing any information relating to a witness under a witness protection programme.

*Clauses 43 and 44* provide for the funding arrangement for the witness protection programme.

*Clauses 45, 46, and 47* are provisions under Part XI (General). The way records relating to witness protection are treated is provided by clause 46. Clause 47 provides for offences and penalties attaching to infringements of provisions of this Bill. Clause 47 requires agencies to collaborate in dealing with issues of witness protection.

*Clause 48* is the regulatory provision of the Minister.

# WHISTLE-BLOWERS AND WITNESS PROTECTION BILL, 2026

ARRANGEMENT OF SECTIONS

## PART I

### Preliminary

*Section*



## PART II

### Public Interest Disclosure and Whistle Blower Protection



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# BILL

AN Act to provide for a framework within which public interest disclosure of conduct adverse to public interest in the public and private sectors shall be dealt with; to protect whistle-blowers; to establish a Witness Protection Unit within the National Prosecution Authority; to provide for a programme for the protection of witnesses; to establish a Witness Protection Appeal Tribunal and to provide for matters incidental to or connected with the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

## PART I

### PRELIMINARY

**1 Short title and date of commencement**

(1) This Act may be cited as the Whistle Blowers and Witness Protection Act, [Chapter...].

(2) This Act shall come into operation on a date to be fixed by the President by a Statutory Instrument.

**2 Interpretation**

In this Act—

H.B. 4, 2026.]

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"business" includes the whole or part of any business, trade, undertaking or service;

"conduct" means an act or an omission;

"consideration" has the meaning assigned to it by section 169 of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];

"Constitution" means the Constitution of Zimbabwe, 2013;

"corrupt" means the soliciting, accepting, obtaining, giving, promising or offering of a gift or consideration by way of bribe, abuse of office or other personal temptation or inducement or reward for a private advantage or benefit, and "corruptly" shall be construed accordingly;

"detriment" includes—

(a) occupational detriment;

(b) injury, damage or loss;

(c) intimidation, bullying or harassment;

(d) discrimination, disadvantage or adverse treatment in relation to career, profession, employment, trade or business; and

(e) criminal proceedings.

"public interest disclosure" means any *bona fide* communication or release of information, regarding any conduct of any person, a public officer or employer made by an employee or worker or any person who has reason to believe that the information shows one or more of the following—

(a) gross mismanagement, wastage, misappropriation, or misuse of public funds or public assets;

(b) bribery as described in section 170 of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];

(c) fraud as described in section 136 of the Criminal Law, (Codification and Reform) Act [*Chapter 9:23*];

(d) corruption as described in sections 171-174 of the Criminal Law; (Codification and Reform) Act [*Chapter 9:23*];

(e) that a person has not complied with a law or is in the process of breaking a law or is likely to break a law which imposes an obligation on that person;

(f) that any person has made an offer, solicitation, or acceptance of any gift or other advantage which might reasonably be seen to negatively influence the exercise of official duties or responsibilities.

(g) that any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.

"employee" means any person who is employed by or works for an employer and who receives or entitled to receive any remuneration in respect of such employment or work;

"employer" means any person who employs or provides work for any person and remunerates that person or expressly or tacitly undertakes to remunerate him or her, and includes the manager, agent or representative of such person who is in charge or control of the work upon which such other person is employed;

"Investigating Authorities" refers to public entities, with designated responsibilities to receive reports and investigate acts of corruption and other infringements of the law;

"Minister" means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"occupational detriment" in relation to the working environment of an employee or worker, means—

(a) being subjected to any disciplinary action; or

(b) being dismissed, suspended, demoted, harassed or intimidated; or

(c) being transferred against the employee's will; or

(d) being refused transfer or promotion; or

(e) being subjected to a term or condition of employment or retirement which is altered or kept altered to the employee's disadvantage; or

(f) being refused a reference or being provided with an adverse reference, from the employer; or

(g) being denied appointment to any employment, profession or office; or

(h) being subjected to any civil claim for the alleged breach of a duty of confidentiality arising out of the disclosure of—

(i) a criminal offence; or

(ii) information which shows or tends to show that a substantial contravention of, or failure to comply with the law has occurred, is occurring or is likely to occur.

"public officer" has the meaning assigned to it by section 169 of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];

"public wastage" means conduct by a public officer that amounts to negligent, incompetent or inefficient management within, or of, any public entity resulting, or likely to result, directly or indirectly, in a substantial waste of public funds or resources;

"unlawful reprisal" means conduct that causes, or threatens to cause, detriment—

(a) to a person directly because that person has made, or may make, a public interest disclosure; or

(b) to a public officer directly because the public officer has resisted attempts by another public officer to involve the officer in the commission of an offence;

"whistle-blower" means a person who discloses information in terms of this Act.

### 3 Objectives and scope of application

(1) The objects of this Act are—

(a) to promote integrity and accountability in both the public and private sector;

(b) to protect whistle-blowers and witnesses from being subjected to any form of detriment on account of their participation as whistle blowers and witnesses.

(2) This Act applies to any disclosure made after the date on which it comes into operation, irrespective of whether the impropriety occurred before or after that date.

(3) For the avoidance of doubt and unless any other provision herein says otherwise, this Act applies to both the public sector and the private sector.

(4) Any provision in a contract of employment or other agreement between an employer and an employee or worker is void in so far as it—

(a) purports to exclude any provision of this Act, including an agreement to refrain from instituting or continuing any proceedings under this Act or any proceedings for breach of contract; or

(b) purports to preclude the employee or worker; or has the effect of discouraging the employee or worker, from making a public interest disclosure.

(5) This Act does not limit the protection given by any other law to a person who makes a public interest disclosure or prejudice any other remedy available to the person under that law.

(6) Nothing in this Act shall be taken to entitle a person to disclose information which would otherwise be the subject of legal professional privilege.

## PART II

### PUBLIC INTEREST DISCLOSURE AND WHISTLE BLOWER PROTECTION

#### 4 Protection of public interest disclosure and whistle blowers

(1) Any public interest disclosure shall be protected and any whistle blower who communicates a public interest disclosure shall be protected in terms of this Act.

(2) Any person or investigating authority who receives a public interest disclosure and is of the opinion that the matter would be dealt with more appropriately by another person or investigating authority, shall render such assistance to the whistle blower as is necessary to enable that whistle blower to furnish the disclosure to the appropriate authority.

#### 5 Mitigation and remission of culpability

(1) If the public interest disclosure leads to the detection of a crime perpetrated by the whistle-blower, the punishment of the whistle blower may be mitigated or remitted.

(2) Where an employer, while conducting disciplinary action against an employee, discovers a public interest disclosure from the employee during investigations arising from the employee's conduct, the employer is prohibited from acting until such time as the investigations on the subject matter of the public interest disclosure completed.

(3) In the event that the public interest disclosure by the employee is *bona fide* the employer shall mitigate or remit the disciplinary action.

(4) In the event that a public interest disclosure contains confidential work-related information, the whistle-blower shall be deemed not to have violated his or her professional confidentiality obligation, notwithstanding the provisions of some other Act or private contract or agreement.

#### 6 Protection against reprisals

(1) An investigating authority, employer, principal officer or any other person is prohibited from taking any detrimental action that is in reprisal for a public interest disclosure.

(2) A whistle-blower or his or her dependents may institute civil proceedings in respect of detrimental action taken against them by a government agency or an employer at any time within three years after the detrimental action is alleged to have been committed.

(3) A person shall not engage or attempt or conspire to engage in an unlawful reprisal.

(4) Any person who contravenes subsection (1) and (3) shall be guilty of an offence and liable, upon conviction—

(a) if he or she is a natural person, to a fine not exceeding level 10 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; or

(b) if the offender is a body corporate, to a fine not exceeding level 13.

### 7 Protection against actions

(1) A person is not subject to any liability for making a public interest disclosure in good faith and no action, claim or demand shall be taken or made of or against the person for making the public interest disclosure.

(2) Notwithstanding the Official Secrets Act [*Chapter 11:09*], this section shall prevail with respect to a public interest disclosure.

(3) A person who makes a false and malicious disclosure is not protected by this Act.

### 8 Protection of Personal Safety

(1) A whistle-blower, and or his or her immediate family members may request for protective measures for their personal safety from the investigating authority which is investigating or prosecuting due to the disclosure that has been made.

(2) The investigating authority must consider such request and if deemed necessary or where the whistle-blower has faced or is likely to face danger, must request the Commissioner-General of Police or head of other security services to provide the necessary protection as may be required.

(3) Upon such request as contemplated in subsection (2), the personal protective measures must be provided without undue delay.

### 9 Prohibition of occupational detriment

(1) No person within any organisation shall subject a whistle-blower to any occupational detriment.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable—

(a) if he or she is a natural person, to a fine not exceeding level 10 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; or

(b) if it is a juristic person, to a fine not exceeding level 13.

(3) A person who threatens or intimidates a whistle blower to withdraw a public interest disclosure 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.

(4) Where a whistleblower who is an employee or worker requests personnel action including—

(a) change of position; or

(b) transfer; or

(c) other measure that changes the location of the employee or worker;

then his or her employer shall consider the requests if deemed reasonable.

**10 Presumption of occupational detriment**

(1) Detrimental action will be presumed to have taken place in contravention of this Act if certain events occur which include—

(a) instituting criminal or civil proceedings against a whistle-blower; or

(b) attempting to identify the whistle-blower; or

(c) obstructing a whistleblower from making a public interest disclosure; or

(d) forcing a whistleblower to withdraw his or her disclosure.

**11 Public interest disclosure**

(1) Any person may make a public interest disclosure to an investigating authority.

(2) Without limiting the generality of subsection (1), a person may make a public interest disclosure—

(a) about conduct in which a person is engaged, or about matters arising before the commencement of this Act; and

(b) whether or not the person is able to identify any person that the information disclosed concerns.

**12 Protected disclosure to legal practitioner**

Any disclosure made to a legal practitioner with the object of, and during, obtaining legal advice, is a protected disclosure.

**13 Anonymous Disclosures**

(1) A person may make an anonymous disclosure in accordance with this section and the disclosure is protected by this Act.

(2) Investigating authorities and employers may set up measures that facilitate anonymous disclosures.

(3) A whistle-blower who makes a public interest disclosure may, without disclosing his or her identity, have a legal practitioner file a public interest disclosure on his or her behalf. In such case, personal information of the whistle-blower shall be substituted by that of the legal practitioner.

(4) The investigating authority shall maintain confidentiality when examining a matter referred in accordance with this section.

(5) An investigating authority shall subject any anonymous disclosure to the preconditions set out in section 18.

**14 Referred disclosure**

(1) A public officer or investigating authority to whom a public interest disclosure has been made may refer any such public interest disclosure to an appropriate investigating authority and such appropriate investigating authority shall investigate the matter.

(2) A public interest disclosure referred in terms of subsection (1) shall be protected by this Act.

### 15 Disclosure to Auditor General concerning serious and substantial waste

A public officer may report to the Auditor-General any information that shows or tends to show that an authority or officer of an authority has seriously and substantially wasted public resources contrary to the provisions of the Public Finance Management Act [*Chapter 22:19*], and such disclosure shall be protected by this Act.

### 16 Disclosures to Zimbabwe Anti-Corruption Commission

To be protected by this Act, a disclosure by an employee or worker or any person to the Anti-Corruption Commission shall be made in accordance with the Anti-Corruption Commission Act [*Chapter 9:22*] and be a disclosure of information that shows or tends to show that any person or public entity has engaged, is engaged or intends to engage in corrupt conduct.

## PART III

## INVESTIGATING AUTHORITIES

### 17 Duty to inform whistle-blower

(1) An investigating authority that receives a public interest disclosure in terms of section 11 must, as soon as reasonably possible, but in any event no later than 7 days from the date of receipt of the public interest disclosure—

(a) in writing, acknowledge receipt of the public interest disclosure and inform the whistle-blower of the decision to either—

(i) investigate the matter, and where possible, the time-frame within which the investigation will be completed; or

(ii) refer the public interest disclosure to some other investigating authority if that disclosure can be investigated or dealt with more appropriately by that other investigating authority;

(b) not to investigate the matter and give the reasons for such decision.

(2) The person or investigating authority to whom a disclosure is referred as contemplated in subsection (1)(a)(ii) must, subject to subsection (3), as soon as reasonably possible, but in any event within 7 days after such referral—

(a) decide whether to investigate the matter or not; and

(b) in writing inform the reporting person of the decision—

(i) to investigate the matter, and where possible, the timeframe within which the investigation will be completed; or

(ii) not to investigate the matter and the reasons for such decision.

(3) The person or body, referred to in subsection (1) or (2), who is unable to decide within ten (10) days whether a matter should be investigated or not, must—

(a) in writing inform the reporting person—

(i) that he, she or it is unable to take the decision within ten (10) days; and

(ii) on a regular basis, at intervals of not more than fifteen (15) days at a time, that the decision is still pending; and

(b) as soon as reasonably possible, but in any event within two months after the protected disclosure has been made or after the referral has been made, as the case may be, in writing inform the reporting person of the decision—

(i) to investigate the matter, and where possible, the time-frame within which the investigation will be completed; or

(ii) not to investigate the matter and the reasons for such decision.

(4) The person or investigating authority, referred to in subsection (1) or (2), must, at the conclusion of an investigation, inform the reporting person of the outcome thereof within seven days of arriving to that outcome.

(5) The person or investigating authority, referred to in subsection (1) or (2), does not have to comply with subsection (1)(b), (2)(b), (3) or (4) if that person or investigating authority does not know the identity and contact details of the reporting person who has made the disclosure.

**18 Investigation**

(1) An investigating authority shall investigate a public interest disclosure received by it if the disclosure relates to—

(a) its own conduct or conduct of a public officer in the employee of the investigating authority; or

(b) a matter, or the conduct of any person, that the investigating authority has a function or power to investigate; or

(c) the conduct of a person, other than a public officer, performing services for or on behalf of the investigating authority.

(2) Where an investigating authority investigates a matter in accordance with subsection (1) and is unable to investigate the matter impartially or without a conflict of interest, the authority shall refer the matter to another investigating authority.

(3) A disclosure may be referred before or after the matter has been investigated and whether or not any investigation of the matter is complete or any findings have been made.

(4) An investigating authority may communicate to another investigating authority, any relevant information which has been obtained during the investigation of any matter under this Act.

(5) An investigating authority which has investigated a matter under this Act may recommend what actions should be taken by another investigating authority.

(6) Notwithstanding section 14 an investigating authority shall not refer a public interest disclosure to another investigating authority if it reasonably believes that referring the matter to another investigating authority may result in—

(a) a serious risk that a whistle blower would be subjected to detrimental action; or

(b) the proper investigation of the public interest disclosure being prejudiced.

**19 Action by investigating authority**

(1) Where after investigation, an investigating authority is of the opinion that a public interest disclosure has revealed—

(a) that a person has engaged, is engaging, or intends to engage, in disclosable conduct; or

(b) public wastage; or

(c) that a person has engaged, is engaging, or intends to engage, in an unlawful reprisal; or

(d) that a public officer has engaged, is engaging, or intends to engage, in conduct that amounts to a substantial and specific danger to the health or safety of the public, the investigating authority shall take such action as is necessary and reasonable to—

(i) prevent the conduct or reprisal continuing or occurring in future; or

(ii) discipline any person responsible for the conduct or reprisal; or

(iii) bring an action in court or prosecute any person responsible for the conduct or reprisal.

### 20 Joint action

(1) If more than one investigating authority is required by this Act or any other Act, to act on a public interest disclosure, the investigating authorities may enter such arrangements with each other as are necessary and reasonable to—

(a) avoid duplication of action; or

(b) allow the resources of the authorities to be efficiently and economically used.

### 21 Non- disclosure of whistle-blower's identity

(1) An investigating authority, an officer of an investigating authority or a person to whom a public interest disclosure is made or referred is prohibited from disclosing information that might identify a person who has made any public interest disclosure unless—

(a) the person consents in writing to the disclosure of that information; and

(b) it is essential, having regard to the principles of natural justice, that the identifying information be disclosed.

(2) Where personal information about a whistle-blower, or the identity of the whistle-blower, is disclosed or publicised, in violation of subsection (1), the investigating authority must investigate how such personal information, or the identity ended up disclosed or publicised and must take all necessary measures to ensure deterrence of such conduct.

(3) A person who discloses or publicises to any third-party personal information concerning the whistle-blower or other facts that infer the identity of the whistle-blower, in violation of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 13 or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### 22 Frivolous and vexatious disclosures

(1) An investigating authority may decline to act on a vexatious public interest disclosure it receives where it considers that—

(a) the disclosure is malicious, frivolous, vexatious or made in bad faith; or

(b) the disclosure is misconceived or lacking in substance; or

(c) the disclosure is trivial; or

(d) the disclosure has already been dealt with adequately.

(2) Where a public interest disclosure is made against any person and the person is suspended or any other administrative action is taken against that person

by the employer pending investigation into the matter, and the investigating authority determines that the disclosure falls under subsection (1), the person shall be entitled to—

(a) reinstatement by the employer;

(b) compensation for any detriment suffered as a result of the disclosure made;

(c) re-location, if so requested, to another position of equivalent level of salary and duties,

in the employing agency; or

(d) any other action to remedy any detriment caused to the person by the disclosure.

### 23 False or misleading information

(1) A person shall not knowingly or recklessly make a false or misleading statement, orally or in writing, to any investigating authority with the intention that it be acted on as a public interest disclosure.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable, if the offender is a natural person, to a fine not exceeding level seven or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, or if the offender is a body corporate, to a fine not exceeding level twelve (12).

### 24 Procedures by investigating authorities on public interest disclosures

(1) An investigating authority shall, within twelve months after the commencement of this Act, establish procedures—

(a) to facilitate the making of public interest disclosures; and

(b) to deal with public interest disclosures where it is the proper authority to receive them.

(2) The procedures to be established under subsection (1) shall include procedures dealing with the following—

(a) making public interest disclosures;

(b) assisting and providing information to a person who is considering making or who makes a public interest disclosure;

(c) protecting a person who makes a public interest disclosure from unlawful reprisals; and

(d) acting on public interest disclosures.

## PART IV

## REMEDIES

### 25 Occupational detriment

(1) Any employee or worker who has been subjected, is subjected or may be subjected, to any occupational detriment in contravention of section 9, or any person acting on behalf of an employee or worker who is not able to act in his or her name may—

(a) apply to any court having jurisdiction, including the Labour Court for appropriate relief; or

(b) pursue any other process allowed or prescribed by any law.

(2) If the court is satisfied that an employee or worker has been subjected to or will be subjected to an occupational detriment on account of a protected disclosure, it may make such appropriate order that is just and equitable in the circumstances, including—

(a) payment of compensation by the employer to that employee or worker; or

(b) payment by the employer of actual damages suffered by the employee or worker; or

(c) an order directing the employer to take steps to remedy the occupational detriment.

(3) For the purposes of the Labour Act [*Chapter 28:01*], including the consideration of any matter emanating from this Act by the Labour Court—

(a) dismissal of a whistle blower is deemed to be an unfair dismissal as contemplated in section 12B of the Labour Act, and any dispute arising from such dismissal shall be dealt with in accordance with the procedures set out by that Act or by any other process to recover damages in a competent court; and

(b) any other occupational detriment in breach of section 9 is deemed to be an unfair labour practice as contemplated in the relevant paragraphs of section 8 of the Labour Act, and any such dispute shall be dealt with in accordance with the procedures set out in that Act.

(4) Where a whistleblowing employee applies, in writing to the employer for relocation due to victimisation, security or safety concerns, the employer shall, as far as practicable, plan for relocation of the employee or worker.

(5) Where an employee or worker is relocated in accordance with subsection (3), the employer shall—

(a) meet all reasonable relocation expenses; and

(b) take all reasonable steps to ensure that the employee is placed in a position of equivalent level of salary and duties.

(6) Subsection (3) does not authorise the relocation of an employee or worker in relation to an employer to another position in the organisation without the consent of the employee or worker.

### 26 Liability in damages

(1) A person, employer or other employee who engages in an unlawful reprisal is liable in damages to any person who suffers detriment as a result of the unlawful reprisal.

(2) The damages referred to under subsection (1) may be recovered in an action in any court of competent jurisdiction.

## PART V

## General Provisions

### 27 Employer to protect employees

Within six months of the commencement of this Act, an employer shall establish procedures to protect its employees and workers from reprisals that are, or may be, taken.

### 28 Disclosure of false information by employee or worker

(1) An employee or worker who intentionally discloses false information—

(a) knowing that information to be false or who ought reasonably to have known that the information is false; and

(b) with the intention to cause harm to the affected party and where the affected party has suffered harm because of such disclosure;

shall not be protected by this Act.

## PART VI

## ESTABLISHMENT OF WITNESS PROTECTION UNIT

### 29 Establishment of Witness Protection Unit

(1) There is hereby established a Witness Protection Unit within the National Prosecuting Authority of Zimbabwe established in terms of the National Prosecuting Authority Act [*Chapter 7:20*].

(2) The Unit shall be headed by an Officer of the National Prosecuting Authority of the grade equivalent of the Deputy Head of the National Prosecuting Authority and shall consist of—

(a) such other members of staff as may be designated from among members of the National Prosecuting Authority,

(b) seconded members from the Anti-Corruption Commission and Zimbabwe Republic Police; and

(c) any other officers with specialised skills who may be seconded from time to time within the Public Service.

### 30 Functions of Unit

(1) The functions of the Unit shall be to—

(a) provide protection to witnesses and related persons, including pre-trial protection, and related services in accordance with this Act;

(b) establish and maintain witness protection programmes whenever and wherever necessary;

(c) determine the criteria for admission to and removal of persons from witness protection programmes;

(d) determine the type of protection measures to be applied in witness protection programmes;

(e) advise any Government Ministry, department, agency or any other person on the adoption of strategies and measures on witness protection;

(f) summon a public officer or other person to appear before it or to produce a document, thing or information which may be considered relevant to the functions of the Unit within a specified period and in such manner as it may specify;

(g) investigate allegations of threats and harassment;

(h) provide for psycho-social support to victims and witnesses; and

(i) perform such other functions as may be necessary for the better carrying out of the purpose of this Act.

(2) In the exercise of its functions the Unit may—

(a) carry out the administrative duties relating to the protection of witnesses and related persons;

(b) enter into agreements with persons, bodies, institutions or organisations to enable it to achieve its witness protection mandate;

(c) regulate the procedure and determine the way the provisions of this Act shall be carried out by any branch Unit;

(d) designate places to be utilised as places of safety.

(3) The Head may—

(a) either generally or specifically and in writing delegate any power, function or duty conferred upon him or her by or under this Act to any other member of the Unit, and the delegation of any power, function or duty shall not prevent the Head from exercising, performing or carrying out that power, function or duty by himself or herself;

(b) at any time in writing withdraw such delegation.

PART VII

Witness Protection Programme

### 31 Protective action

(1) The Unit shall establish and maintain a witness protection programme and shall take such action as may be necessary and reasonable to protect the safety and welfare of the protected persons to include—

(a) physical and armed protection;

(b) relocation;

(c) change of identity; or

(d) any other measure necessary to ensure the safety or security of a protected person;

(2) Notwithstanding Part XIVA of the Criminal Procedure and Evidence Act [*Chapter 09:07*], the Unit may request the courts, in support of the programme, to implement protection measures during court proceedings which measures may include—

(a) holding in camera or closed sessions;

(b) the use of pseudonyms;

(c) the redaction of identifying information;

(d) reporting restrictions;

(e) the use of information communication or digital technology or virtual methods; and

(f) employing measures to obscure or distort the identity of the witness.

### 32 Application for protection

(1) Any witness who has reason to believe that his or her safety or the safety of any related person is or may be threatened by any person or group or class of persons, whether known to him or her or not, by reason of him or her being a witness, may report such belief—

(a) to the investigating officer in the proceedings concerned;

(b) to any person in charge of a police station;

(c) if he or she is in prison, to the person in charge of the prison where he or she is being detained;

(d) to the public prosecutor; or

(e) to any member of the Unit; and

apply in the prescribed manner that he or she or any related person be placed under protection.

(2) If a witness is for any reason unable to make a report or to make an application for protection as contemplated in subsection (l), any person or the investigating officer concerned, who has reason to believe that the safety of the witness or any related person is or may be threatened as contemplated in subsection (l), may make such a report or application on behalf of the witness.

(3) A minor may apply for protection with the consent of his or her parent or guardian. Subject to section 36(2), an application for protection of a minor may be made by or on behalf of the minor without the consent of his or her parent or guardian.

(4) Any person to whom a report is made, as contemplated in subsection (1), must assist the applicant in the making of an application for protection and, unless he or she is the Head, must forthwith—

(a) inform the Head of the application within 48 hours of receipt; and

(b) submit the application to the Head or a witness protection officer.

(5) The Head may, whenever he or she deems it necessary, refer an application for protection submitted to him or her, to a witness protection officer for evaluation and the submission of a recommendation as contemplated in section 34(1).

(6) All law enforcement agencies involved in cases where the safety of any witness or related person is or may be threatened by any person or group or class of persons, whether known to him or her or not, by reason of him or her being a witness shall advise witnesses in such cases of their right to seek protection in terms of this Act.

**33 Temporary protection**

(1) The Head or a witness protection officer—

(a) to whom a report referred to in section 32(1) has been made; or

(b) who has been informed of an application for protection or to whom a written application for protection has been submitted as contemplated in section 32(4)(b); or

(c) who is aware that a report or an application referred to in section 32 is to be made, may, pending the finalisation of an application for the protection of a witness or related person, place the witness or related person concerned under temporary protection as prescribed for a period not exceeding 14 days, if he or she deems it necessary for the safety of such witness or related person:

Provided that—

(i) if a report or an application has been made as contemplated in section 32(2), the witness or related person may only be placed under temporary protection if he or she has consented thereto; and

(ii) no minor shall be placed under temporary protection without the consent of his or her parent or guardian, unless the Head is of the opinion that exceptional circumstances exist which do not warrant such consent.

(2) If a witness protection officer places a witness or related person under temporary protection as contemplated in subsection (1), he or she must report such placement within 48 hours to the Head.

### 34 Recommendation by witness protection officer

(1) A witness protection officer must consider the merits of an application for protection submitted or referred to him or her in terms of section 32 and must—

(a) as soon as possible after the receipt of such application, but not later than 14 days thereafter; or

(b) if the person has been placed under temporary protection as contemplated in section 33(1), before the expiry of such temporary protection, recommend thereon to the Head.

(2) The recommendation referred to in subsection (1) must include—

(a) personal details of the witness;

(b) facts of the case and or personal circumstances of the witness;

(c) reasons for granting or refusal of protection; and

(d) nature of protection, the expected duration to be granted; and

(e) any other factors which in the opinion of the witness protection officer should be considered.

### 35 Consideration of application for protection

(1) When considering an application for protection the Head must have due regard to the recommendations made by the witness protection officer, or any person by whom the application was made and have regard of—

(a) the nature and extent of the risk to the safety of the witness or any related person;

(b) the interests of the community in which the witness is resident;

(c) the importance, relevance and nature of the evidence given or to be given by the witness in the proceedings concerned;

(d) the probability that the witness or any related person will be able to adjust to protection having regard to the personal characteristics, family circumstances or other relationships of the witness;

(e) the cost likely to be involved in the protection of the witness or any related person;

(f) whether the offence in respect of which a witness seeks protection is specified in Schedule three of the Criminal Procedure and Evidence Act [*Chapter 09:07*]; and

(g) any other factor that the Head deems relevant.

(2) In order to enable him or her to make a proper evaluation of an application for protection, the Head must be afforded immediate and full access to any police docket and statement of a witness and to any evidence given in any proceedings, and he or she is entitled to obtain copies of any such statement or of such evidence or any part thereof.

(3) After having considered an application for protection, the Head may—

(a) pending the approval or refusal of an application in terms of paragraph (b) or (c), make any interim arrangements with the witness or related person relating to his or her protection in terms of this Act;

(b) approve the application and thereupon place the witness or any related person under protection in accordance with the protection agreement entered by or on behalf of the witness or related person and the Head;

(c) refuse the application and, where applicable by written notice to the witness revoke any temporary protection under which he or she or any related person has been placed in terms of section 33(1).

## 36 Protection agreement

(1) Subject to subsection (2), the Head must, before he or she places any witness or related person under protection—

(a) enter into a written protection agreement with such witness, and where the witness has any disability, or is illiterate, ensure the witness is assisted by a person of his or her choice to enter into such agreement;

(b) where applicable, enter into a separate written protection agreement with each related person, setting out the obligations of the Head and those of the witness or related person in respect of his or her placement under protection.

(2) The Head shall—

(a) enter into a protection agreement with the parent or guardian of—

(i) a minor: or

(ii) a person who is otherwise not competent to enter into a legally binding agreement; or

(b) enter into a draft protection agreement with a minor in terms of section 37(2).

(3) If the Head has entered into a protection agreement as contemplated in subsection (2) he or she may, as soon as possible after the protected person concerned becomes competent to enter into a legally binding agreement, require the protected person to enter into a new protection agreement.

(4) A protection agreement must set out the reciprocal obligations of the Head and the protected person as set out in the Schedule of this Act.

(5) A protection agreement must contain a provision informing the witness of his or her right to complain to the Head about the conduct of any member of the Unit in relation to the matters dealt with in the protection agreement.

(6) A protection agreement shall be signed by or on behalf of the witness in the presence of the Head or a member of the Unit designated by the Head for the purposes of this section.

(7) A witness or related person becomes included in the programme when the Head or a member of the Unit designated by him signs the protection agreement.

(8) The Head shall, as soon as practicable after a protection agreement is duly signed, notify the relevant witness that it has been signed.

## 37 Protection of minor

(1) A minor shall be placed under witness protection with the consent of his or her parent or guardian.

(2) Notwithstanding subsection (1), the Head shall apply to the High Court for consent to place the minor under witness protection where—

(a) the minor is a witness in respect of proceedings against his or her parent or guardian, in which the parent or guardian is a suspect;

(b) the minor has no identifiable parent or guardian, notwithstanding reasonable efforts to find them; or

(c) the parent or guardian cannot or is unreasonably withholding or is unable to give his or her consent and if the Head is of the opinion that it is necessary to do so for the safety of the said minor.

(3) The Head shall be the *curator ad idem* of a minor who, without the consent of his or her parent or guardian, has been placed under protection as contemplated by the provisions of this Act.

(4) If a judge of a High Court in an *ex parte* application, made to him or her in chambers by the Head, is satisfied that the safety of a minor who is under protection might be endangered by the exercising by anyone of his or her right of access to that minor the judge may:—

(a) suspend such right of access; or

(b) make any order he or she deems appropriate regarding the exercising of such right.

### 38 Duration of witness protection, assistance and discharge thereof

(1) The Head, after making consultations with the Board may discharge any protected person by written notice if he or she is of the informed opinion that—

(a) the safety of the person is no longer threatened;

(b) satisfactory alternative arrangements have been made for the protection of the person;

(c) the person has failed to comply with any obligation imposed upon him or her by or under this Act or the protection agreement;

(d) the witness, in making application for placement under protection, willfully furnished false or misleading information or particulars or made a statement which is false or misleading in any material respect or wilfully failed to disclose any information or particulars material to his or her application;

(e) the behaviour of the person has endangered or may endanger the safety of any protected person or the integrity of a witness protection programme under this Act; or

(f) the person has wilfully caused serious damage to the place of safety where he or she is protected or to any property in or at such place of safety.

(2) Upon receipt of a written notice given by the witness protection officer concerned that evidence of a witness is no longer required in the proceedings concerned or that such proceedings have been concluded, the Head may, by written notice, discharge such witness and all related persons from protection.

(3) If a witness protection officer reasonably believes—

(a) any of the circumstances for discharge referred to in subsection (1)(a) or (b) exist; or

(b) a protected person is performing or has performed any act referred to in subsection (l)(c) to (f), he or she must forthwith make a written report of the matter to the Head.

(4) The Head must, before he or she discharges a protected person from protection, take reasonable steps to notify in the prescribed manner—

(a) the protected person; or

(b) if he or she is a minor, his or her parent or guardian;

of the contemplated discharge in terms of subsection (1) and must allow the protected person, and, where applicable, his or her parent or guardian, to make written representations to him or her within the prescribed period and in the prescribed manner in relation to the matter regarding such discharge.

(5) Any protected person remains under protection until he or she is discharged from protection in terms of subsection (1) or (2).

(6) The Head may not discharge a minor referred to into section 37(2) from protection in terms of this section without the prior approval of a judge in chambers.

(7) The Head may, upon an application by—

(a) a protected person;

(b) the parent or guardian of a minor; or

(c) a minor referred to in section 37(2), who is to be discharged from protection in terms

of subsection (2), if he or she is of the opinion that the safety of such protected person is still being threatened after the conclusion of the proceedings concerned; extend the protection of such person for as long as it may in his or her opinion be necessary:

Provided that the protection of a minor referred to in section 37(2), may not be extended without the prior approval of a judge in chambers.

## 39 Establishment of Witness Protection Appeals Tribunal

(1) There is hereby established a Witness Protection Appeals Tribunal for purposes of this Act.

(2) The Tribunal shall consist of—

(a) a person qualified to hold or who has held the office of a Judge of the High Court appointed by the President on the recommendation of the Board;

(b) two other members to be assessors who have expert knowledge in security matters appointed by the Board.

(3) Members of the Tribunal shall hold office for a period not exceeding four years.

(4) The Tribunal shall review and determine grievances by persons not satisfied with the decisions or orders of the Unit relating to admissions or discharge to the programme.

(5) The procedure for noting and hearing appeals to the Witness Appeal Tribunal in terms of this Act shall be as informal as possible and shall be as prescribed or as may be determined from time to time by the Tribunal, provided that the Witness Appeal Tribunal shall ensure that any appellant is given a reasonable opportunity, to put his or her case before the Tribunal.

(6) If the Tribunal considers that it would be in the interests of justice for any appellant to have legal assistance in the preparation or conduct of his or her appeal, the Tribunal may certify that the appellant should have such legal assistance, and thereupon the provisions of any enactment regarding the grant of legal assistance to persons in criminal and civil cases in the High Court shall apply, *mutatis mutandis*, in relation to that appellant.

(7) In an appeal in terms of this Act, the Witness Appeal Tribunal shall have the power, subject to this Act, to order—

(a) that the appeal be dismissed;

(b) that the appeal is upheld;

(c) any other order for the just and expeditious determination of the appeal.

(9) The removal of the member of a Tribunal shall be in terms of the process of removal of judges in the Constitution of Zimbabwe.

(10) The Authority shall ensure a secretariat is designated to the Tribunal.

(11) The members of the Tribunal shall be paid such allowances and be reimbursed for such expenses as may be determined by the Authority

(12) The decision of the Tribunal shall be final.

PART VIII

PROTECTING WITNESSES FROM IDENTIFICATION

**40 Identifying Documents**

The Head may apply, or facilitate applications for any documents necessary—

(a) to allow a witness or related person to establish a new identity;

(b) to restore a former protected person or related person's former identity.

**41 Application for court order**

(1) The Unit, through the Head, may, in a manner to be prescribed by rules of court, apply to the High Court for an order causing the Registrar-General—

(a) to make a new entry in a register of births, or a register of marriages in respect of a witness; or

(b) to issue in the witness's new identity a document of a kind previously issued to the witness; or

(c) to make a new entry in a register of deaths in respect of a witness or a relative (by blood or marriage) of a witness.

(2) An entry made under this Act in a register of births, deaths or marriages has effect as if it were a valid entry made in accordance with the law governing the registration thereof.

(3) An entry made under this Act in a register of births, deaths or marriages can only be cancelled by the Registrar-General or an appropriate registrar of the High Court, after an application for cancellation by a designated member of the Unit has been made, and after being satisfied that the witness is no longer included in the relevant programme.

(4) The Unit shall maintain records showing details of the original birth, death or marriage of each person in respect of whom an entry is made under subsection (1).

**42 Confidentiality and non-disclosure of information**

(1) No person shall disclose any information which he or she has acquired in the exercise of his or her functions or carrying out of the duties conferred upon, assigned to or imposed upon him or her by or under this Act or during the performance of any functions relating to the provisions of this Act except—

(a) for the purpose of giving effect to the provisions of this Act;

(b) when required to do so by any competent court;

(c) in terms of subsection (2).

(2) The Head, after consideration of the relevant factors and, after conducting a threat assessment, with the written consent of the witness, may disclose any information in respect of a protected person if the disclosure is in the public interest:

Provided that the Head may not disclose any information in respect of a minor referred to in section 37(2) without the prior approval of a judge in chambers.

(3) No person shall disclose any information referred to in this section—

(a) which came into his or her possession; or to his or her knowledge which was disclosed to him or her, in contravention of the provisions of this section; or

(b) if he or she ought to have reasonably suspected that such information was disclosed to him or her in contravention of the provisions of this section.

PART IX

FINANCIAL PROVISIONS

### 43 Source of funding

(1) The funds of the Unit shall consist of—

(a) moneys appropriated by an Act of Parliament for the purpose of this Act;

(b) any donations, grants, bequests made to the Unit and accepted by the Unit with the approval of the Board; and

(c) any other moneys that may vest in or accrue to the Unit, whether in terms of this Act or otherwise.

(2) The Unit shall apply the funds referred to in subsection (1) to the fulfilment of its functions.

(3) The accounting officer of the Authority shall be accountable for funds of the Unit.

### 44 Victims Compensation Fund

(1) There is hereby established a fund to be known as the Victims Compensation Fund (hereinafter referred to as “the Fund”) which shall vest in and be operated by the Unit with oversight from the Board.

(2) There shall be paid into the Fund such moneys as may be provided pursuant to section 44 for the purposes of the Fund;

(3) There shall be paid out of the Fund—

(a) compensation for the death of a witness arising as a direct result of a crime committed by any person during a period when such witness was being protected under this Act, or to the family of the deceased witness;

(b) compensation for injury to a witness or loss or damage to property or assets arising because of being a witness;

(c) any moneys required to meet expenses relating to any other matter incidental to or connected with the matters stated in paragraphs (a).

PART X

GENERAL

### 45 Records of Witness Protection Unit

(1) The Unit shall keep all records of all persons who have applied for witness protection and these shall include—

(a) records of those accepted into the programme—

(i) on a temporary basis;

(ii) permanently; and

(iii) those that have received any other services in relation to their protection;

(b) records of those that have been rejected; and

(c) any other records or information pertaining to the witness protection programme.

(2) The location and details of records referred to in subsection (1) shall be confidential and the Head of the Unit shall only be required to report statistics when reporting to the Board.

## 46 Offences and Penalties

(1) Any person who wilfully or negligently—

(a) allows any unauthorised person to gain access to any protected person;

(b) discloses, in contravention of any provision of this Act—

(i) the identity of any protected person;

(ii) information that a particular protected person is under protection;

(iii) the place of safety or location where any person is under protection or has been relocated in terms of this Act;

(iv) any information which could lead to the identification of any such person or any such place of safety;

(v) any information which undermines or compromises or could undermine or compromise the integrity of a witness protection programme in terms of this Act; or

(vi) any information relating to the relocation or change of identity of a protected person;

(c) wilfully or negligently contravenes any provision of section 42;

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding level 14 or imprisonment for a period not exceeding twenty-five years or both such fine and such imprisonment.

(2) Any person who—

(a) wilfully interferes with, or hinders or obstructs the Head or any other member of the Unit in the exercise, performance or carrying out of any of his or her powers, functions and duties contemplated in this Act; or

(b) with intent to gain for himself or herself or for any other person protection in terms of this Act, makes any false statement or furnishes information that he or she knows to be untrue or misleading, shall be guilty of an offence and on conviction be liable to a fine not exceeding level 14 or to imprisonment for a period not exceeding five years or both such fine and such imprisonment.

(c) Upon the conviction of any person for an offence referred to in paragraph (b) the public prosecutor must, if the State has suffered any loss as a result of such offence, apply for an order for the payment of compensation in terms of section 362 and 363 of the Criminal Procedure and Evidence Act [*Chapter 9:07*].

## 47 Inter-agency collaboration

(1) Notwithstanding any other laws, the Zimbabwe Republic Police, the National Prosecuting Authority, the Judicial Service Commission and any other security services shall set up guidelines that deal with witness and related persons protection in accordance with this Act.

(2) All Departments of State must render such assistance as may be reasonably required in the exercise, performance or carrying out of the powers, functions and duties conferred upon, the Head by or under this Act.

## 48 Regulations

(1) The Minister may make regulations relating to—

(a) the placing of witnesses or related persons under protection;

(b) the protection of the identity of protected persons;

(c) the regulation of access to places of safety where persons are being kept or relocated in terms of this Act;

(d) the assistance to be rendered or functions to be performed by any Department of State, person, body, institution or organisation for the purpose of giving effect to the provisions of this Act;

(e) the information to be furnished by, or any steps to be taken in respect of, a witness or related person whose application for placement under protection is being considered;

(f) the terms and conditions that must be included in protection agreements or in other agreements or arrangements entered or made under this Act;

(g) the procedure for the relocation or change of identity of a protected person;

(h) the way and the conditions where under any decision of or steps taken by the Head or any person acting on behalf of the Head under a provision of this Act, may be subjected to review by the Minister;

(i) the powers, functions and duties of witness protection officers and security officers;

(j) mechanisms to be put in place to monitor the circumstances under which a person is kept under protection;

(k) specific offences in respect of which, a witness or related person may be placed under protection;

(l) any other matter that is required or permitted to be prescribed, or which the Unit deems necessary or expedient to be prescribed for carrying out or giving effect to this Act.

Schedule (*Sections 36 and 48*)

*Obligations of the parties to a Protection Agreement*

1. Obligations of the Head—

(a) to take such reasonable steps as are necessary to provide the protected person with the protection and related services, as referred to in the protection agreement concerned; and

(b) refrain from keeping a protected person under protection in any prison or police cell, unless otherwise agreed upon; and

(c) any other steps that it may deem necessary.

2. Obligations of the witness or the related person include—

(a) where applicable, to give the evidence as required in the proceedings to which the protection relates;

(b) to meet all financial obligations incurred by him or her that are not payable by the Head in terms of the protection agreement;

(c) to meet all legal obligations expected of him or her, including any obligations regarding the custody and maintenance of children and taxation obligations;

(d) to refrain from activities that constitute a criminal offence;

(e) to refrain from activities that might endanger his or her safety or that of any other protected person;

(f) to accept and give effect to all reasonable requests and directions made or given by any member of the Unit in relation to the protection provided to him or her and his or her obligations; to inform the Head of any civil proceedings which have or may be instituted by or against him or her or in which he or she is otherwise involved:

(g) to inform the Head of any proceedings in which he or she was or may be involved, either as a witness or accused or otherwise; and

(h) not to endanger the security or any other aspect of the protection of witnesses and related persons or related services or any other matter relating to a witness protection programme provided for in this Act.