

Act No. 21 of 2004.
Published and into force on Friday 7th January, 2005.

ACT

To amend the Access to Information and Protection of Privacy Act [*Chapter 10:27*]; and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Access to Information and Protection of Privacy Amendment Act, 2004.

2 Amendment of section 40 of Cap. 10:27

Section 40 ("Appointment and composition of Media and Information Commission") of the Access to Information and Protection of Privacy Act [*Chapter 10:27*] (Act No. 5 of 2002) (hereinafter called "the principal Act") is amended in subsection (2) by the deletion of "and an association of media houses" and the substitution of "or an association of media houses, or both".

3 Amendment of section 83 of Cap. 10:27

Section 83 ("Prohibition against practice by or in association with an unaccredited journalist") of the principal Act is amended—

- (a) in subsection (1) by the insertion "journalist" where it occurs for the second time of ", whether by himself or herself or in partnership or association with any other person,";
- (b) in subsection (2) by the deletion of "ceased to be an accredited journalist as a result of the deletion of his name from the roll, or who has been suspended from practising as a journalist, shall, while his name is so deleted, or is so suspended, continue to practise directly or indirectly as a journalist, whether by himself or in partnership or association with any other person, nor shall he except with the written consent of the Commission, be employed in any capacity whatsoever connected with the journalistic profession" and the substitution of "been suspended from practising as a journalist, shall, while so

suspended, continue to practise directly or indirectly as a journalist, whether by himself or herself or in partnership or association with any other person";

(c) by the insertion after subsection (2) of the following subsection—

"(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable 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."

4 Amendment of Fourth Schedule to Cap. 10:27

The Fourth Schedule ("Provisions applicable to Media and Information Commission") of the principal Act is amended by the repeal of paragraph 4 and the substitution of—

"Dismissal or suspension of members of Commission

4. (1) For the purposes of subparagraphs (5) and (6) there shall be a committee, hereafter in this section referred to as "the Independent Disciplinary Committee", consisting of—

- (a) a person, not being a member of the Commission, appointed by the Minister from a list of three registered legal practitioners recommended by the Attorney-General, who shall be the chairperson of the Committee; and
- (b) a member of the Commission chosen by the Minister from a panel of three members of the Commission nominated by the Commission; and
- (c) a person chosen by the Minister from a list of not less than three names submitted by the portfolio committee of Parliament responsible for the media, who shall not be members of Parliament.

(2) The Independent Disciplinary Committee shall reach its decisions by consensus or, failing consensus, by a vote of the majority of its members.

(3) A member of the Commission shall vacate his or her office if the member—

- (a) has, subject to subparagraph (5), been found to have conducted himself or herself in a manner that renders him or her unsuitable as a member, including a contravention of paragraph 9; or
- (b) has failed to comply with any term or condition of his or her office fixed by the Minister in terms of subparagraph (3) of paragraph 1; or
- (c) is mentally or physically incapable of efficiently carrying out his or her functions as a member; or
- (d) has been absent without the permission of the Commission from two consecutive meetings of the Commission of which he or she was given at least seven days' notice, and there was no just cause for the member's absence.

(4) The Minister may suspend a member of the Commission—

- (a) whom he or she suspects on reasonable grounds of having been guilty of conduct referred to in subparagraph (a) of subparagraph (3); or
- (b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed;

and while that member is so suspended he or she shall not carry out any functions as a member.

(5) A member suspended in terms of subparagraph (a) of subparagraph (4) shall be given notice in writing of the grounds for the suspension and may, within fourteen days of being so notified, make written representations to the Independent Disciplinary Committee showing cause why no finding of misconduct rendering him or her unsuitable to be member of the Commission should be made.

(6) The Independent Disciplinary Committee shall require a member suspended in terms of subparagraph (a) of subparagraph(4) to vacate his or her office if—

- (a) no representations are made by the member in terms of subparagraph (5); or
- (b) it finds that the member is guilty of the misconduct alleged, upon receiving the written representations of the member referred to in subparagraph (5) and after affording such member, the Minister and any other person whom it considers to have any interest or knowledge in the matter to make such further representations to it, written or oral, as it deems necessary:

Provided that if it finds that the member is not guilty of the misconduct alleged, the suspension of the member shall immediately be rescinded."