



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON CABINET AFFAIRS

ON THE

**NATIONAL INSTITUTE OF PUBLIC ADMINISTRATION (AMENDMENT)
BILL, N.A.B NO. 9 OF 2021**

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON CABINET AFFAIRS ON THE CONSIDERATION OF THE NATIONAL INSTITUTE OF PUBLIC ADMINISTRATION (AMENDMENT) BILL, N.A.B NO. 9 OF 2021 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Dr M Imakando, MP (Chairperson); Mrs M Chonya, MP (Vice Chairperson); Mr C M Zulu, MP; Mr S Chungu, MP; Dr M Malama, MP; Mr S Tembo, MP; Mr L Kintu, MP; Dr C K Kalila, MP; Ms G Katuta, MP; and Mr K Kampampi, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

The Committee has the honour to present its Report on the consideration of the National Institute of Public Administration (Amendment) Bill, N.A.B No. 9 of 2021, referred to it by the House on 10th February, 2021.

2.0 MEETINGS OF THE COMMITTEE

The Committee held six meetings to consider the National Institute of Public Administration (Amendment) Bill N.A.B No. 9 of 2021.

3.0 PROCEDURE ADOPTED BY THE COMMITTEE

In order to gain insight into the ramifications of the Bill, the Committee sought both written and oral submissions from various stakeholders. The list of stakeholders who made submissions before the Committee is at Appendix II.

4.0 BACKGROUND

The Bill sought to amend the *National Institute of Public Administration Act, No. 15 of 1998*, so as to revise the composition of the Council of the Institute. It had been noted that the appointment of Permanent Secretaries on some councils or technical committees compromised good governance principles as Permanent Secretaries who participated and made decisions at Council or Committee level also provided policy direction to the Council on behalf of Government. This posed a conflict of interest in the execution of the Permanent Secretaries' role. Hence, there was need to amend the provision providing for the appointment of a Permanent Secretary on the National Institute of Public Administration Council.

5.0 OBJECT OF THE BILL

The object of the Bill was to amend the *National Institute of Public Administration Act, No. 15 of 1998*, so as to revise the composition of the Council of the Institute.

6.0 SALIENT PROVISIONS OF THE BILL

Clause 1 – Short title

The clause provided for the short title of the Bill.

Clause 2 – Amendment of section 5

This clause sought to amend section 5(1) of the principal Act so as to revise the composition of the Council by replacing the Permanent Secretary, Public Service Management Division with a representative of the Public Service Management Division, Cabinet Office.

Clause 3 – Amendment of section 23

This clause sought to amend section 23(3) of the principal Act so as to revise the composition of the Disciplinary Committee by replacing the Permanent Secretary, Ministry of Labour and Social Security with a representative of the Ministry of Labour and Social Security.

7.0 SUMMARY OF SUBMISSIONS AND CONCERNS BY STAKEHOLDERS

7.1 General Concerns

All the stakeholders who appeared before the Committee were in support of the Bill, contending that it was a non-controversial Bill. They, however, raised some concerns and recommendations.

7.2 Specific Concerns and Recommendations

The specific concerns of stakeholders are set out hereunder.

Clause 2 – Amendment of Section 5 (1)

With regard to section 5(1) which proposed to delete the Permanent Secretary in paragraph (a) and substitute it with a representative of the Public Service Management Division, Cabinet Office; some stakeholders welcomed the amendment for the following reasons:

- i. The specification of the Permanent Secretary as the officer to be appointed under the current law was very restrictive and inefficient, in that the Permanent Secretary had a very busy schedule due to the responsibilities placed on that office. This normally made the officer unavailable to attend to the needs of the National Institute of Public Administration in an efficient manner, and this tended to derail progress;

- ii. The amendment allowed flexibility to the appointing authority through the use of the word ‘representative,’ unlike having a fixed position; and
- iii. The amendment promoted good corporate governance in that Permanent Secretaries were controlling officers and their being part of the Council brought about conflict of interest and lack of accountability in the performance of their roles.

Some stakeholders were of the view that since NIPA had introduced degree programmes, there was need to also consider having a representative from the ministry responsible for higher education to sit on the Council. Further, stakeholders contended that there was need to have a comprehensive review of the *National Institute of Public Administration Act, No. 15 of 1998* as a number of changes had occurred at the Institute since the Act was enacted, and needed to be incorporated in the legislation.

Amendment of Section 23(3)

Most stakeholders contended that the amendment of section 23 (3) was insufficient to deal with the administration of discipline at the National Institute for Public Administration as the administration of discipline was a preserve of Management which should be an internal process. They proposed that the entire section 23 of the principle Act be amended to allow Management to administer discipline internally and where parties failed to agree, they could then appeal to the Ministry of Labour and Social Services. They contended that NIPA, like any other institution, should be allowed to develop its own codes, policies and disciplinary procedures.

Other stakeholders were of the view that the proposed amendment violated the appeal hierarchy as provided for under Part IX of the *Employment Code Act, No. 3 of 2019*, since it sought to include a representative from the Ministry responsible for Labour and Social Security at that level. It was the considered view of the stakeholders that an autonomous Disciplinary Committee of the Institute should be constituted internally. They further proposed that the composition of the said committee should be at appeal level, for staff who became dissatisfied with the internal processes.

The stakeholders further contended that the proposed amendment in the Bill did not give the Executive Director and his team sufficient room to take disciplinary action against staff, which should be the preserve of Management of the Institute. A provision that vested disciplinary authority in Management would cure the existing constraint associated with administering discipline through a Disciplinary Committee which was remote to the routine/daily operations of the Institute.

The stakeholders, therefore, recommended that the entire Section 23 should be amended to read as follows:

“Management shall, through appropriate committees approved by the Council, be responsible for staff discipline which shall be administered in accordance with

Regulations established in terms of this Act, i.e. the terms and conditions of service and Disciplinary and Grievance Procedure Code.”

8.0 COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS

The Committee supports the proposed amendment Bill as it is progressive. However, it also agrees with the concerns that were raised by stakeholders and highlights its observations and recommendations on the specific provisions as set out hereunder.

With regard to the amendment of clause 5 (1), the Committee welcomes the proposed amendment and considers it progressive because the Permanent Secretary, as the controlling officer for the Government Department under which NIPA falls, oversees its operations. The Committee believes that Permanent Secretaries should not sit on the governing bodies of the agencies they provide oversight on, to ensure that they perform their oversight role without compromise.

With regard to the amendment of clause 23 (3), the Committee agrees with the stakeholders that staff discipline should be the preserve of Management who should constitute disciplinary and grievance procedure codes internally without the involvement of outsiders.

The Committee therefore, agrees with the stakeholders’ recommendation that clause 23 (3) should be amended so as to empower management of the Institute to be responsible for staff discipline.

Further to this amendment, the Committee recommends that Management should be allowed to constitute a Disciplinary Committee of the Institute internally in conformity to the Act.

Further, the Committee notes that, with over twenty years since its inception, a lot of conceptual and operational changes have taken place at the National Institute of Public Administration, such as introduction of degree programmes. In light of this, the Committee recommends that the *National Institute of Public Administration Act, No. 15 of 1998*, be comprehensively reviewed taking into account all these developments.

9.0 CONCLUSION

While supporting the Bill, the Committee urges the Government to take note of the concerns that were raised by stakeholders and the Committee’s recommendations which must be addressed to ensure the smooth running of the National Institute of Public Administration.

The Committee contends that Management of the Institute should be given the mandate to administer staff discipline and any appeal procedure should be forwarded to the relevant ministry to ensure fairness.

The Committee wishes to express its gratitude to all the stakeholders who appeared before it and tendered both oral and written submissions. The Committee wishes to thank you, Mr Speaker, and the Clerk of the National Assembly for the guidance and support services rendered to it throughout its deliberations.

We have the honour to be, Sir, the Committee on Cabinet Affairs, tasked to scrutinise the National Institute of Public Administration (Amendment) Bill N.A.B No. 9 of 2021, for the Fifth Session of the Twelfth National Assembly.

Dr M Imakando, MP
(Chairperson)

Mrs M C Chonya, MP
(Vice-Chairperson)

Mr S Chungu, MP
(Member)

Dr C K Kalila, MP
(Member)

Mr S Tembo, MP
(Member)

Ms G Katuta, MP
(Member)

Mr L Kintu, MP
(Member)

Mr K Kampampi, MP
(Member)

Dr M Malama, MP
(Member)

Mr C M Zulu, MP
(Member)

Appendix I: National Assembly Officials

Ms C Musonda, Principal Clerk of Committees
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)
Mrs C K Mumba, Senior Committee Clerk (FC)
Mrs M K Siwo, Committee Clerk
Ms L Chilala, Typist
Ms I Mwiya, Typist
Mr D Lupiya, Committee Assistant
Mr M Chikome, Committee Assistant
Mr M Kantumoya, Parliamentary Messenger

Appendix II: Witnesses

Ministry of Justice

Ms M Siwiwaliondo, Senior Parliamentary Counsel

Ms M Phiri, Parliamentary Counsel

Ms N Nchito, Parliamentary Counsel

Ministry of Finance

Mr M Chikuba, Permanent Secretary – Economic Management and Finance

Ms B C Sinyangwe, Senior Economist

Ministry of Labour and Social Security

Mr M Bili, Director – Planning and Research

National Institute of Public Administration

Prof R Mukwena, Executive Director

Mr M K Saya, Registrar

Zambia Congress of Trade Unions

Mr C Mukuka, General Secretary

Mr B Phiri, Director – Research

Mr L Makinishi, Director – Workers' Education

Zambia Institute of Human Resources Management

Mr M Silumbu, President

Mr O C Sikatumba, Registrar

Public Service Management Division – Cabinet Office

Mr B Chimbwali, Permanent Secretary

University of Zambia Humanities and Social Sciences

Prof P Bbaala, Head of Department – Political and Administrative Studies

Prof J Moomba, Lecturer

Mr J Ndambwa, Lecturer

Mr N Wamunyima, Lecturer

Ms M Mulunda, Lecturer

Mr A Siwale, Lecturer

Mr T C Nyirenda, Lecturer

Mr E Daka, Lecturer

Former NIPA Executive Director

Dr M C Bwalya